

MINUTES
COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY
August 17, 2022
Special Meeting
44 West Bridge St.
Oswego, NY

PRESENT: Canale, Greco, Schick, and Toth

Absent/Excused: Stahl and Trimble

Also Present: Kevin C. Caraccioli, Kevin LaMontagne and L. Michael Treadwell

Vice Chair Canale convened the special meeting at 3:00 p.m. at the IDA office in Oswego, NY.

NOTICE OF MEETING

Meeting notices were posted at the Oswego County Building, the IDA Office Building and on the IDA website. A notice was sent to The Palladium Times on August 16, 2022.

HAWTHORN HOLDINGS, LLC (HIGHLAND ANIMAL HOSPITAL)

Mr. Treadwell provided an overview of the reasons why a Special Meeting was needed due to unanticipated delays associated with the closing on the financing. Legal counsel advised the use of a meeting to adopt a resolution to authorize a temporary sales tax exemption to allow the utilization on eligible purchases.

On a motion by Mr. Schick, seconded by Mr. Greco, a Resolution approving the execution and delivery of a Preliminary Project Agreement with regards to the acquisition, construction and equipping of a certain facility for Alex Hawthorn DVM, P.C. and Hawthorn Holdings, LLC was approved. The Temporary Sales Tax Exemption Resolution is attached.

ADJOURNMENT

On a motion by Mr. Schick, seconded by Mr. Greco, the meeting was adjourned at 3:05 p.m.

Respectfully Submitted,

H. Leonard Schick
Secretary

TEMPORARY SALES TAX EXEMPTION RESOLUTION

A special meeting of the County of Oswego Industrial Development Agency was convened in public session on August 17, 2022, at 3:00 p.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by The Chair and, upon the roll being duly called, the following members were:

PRESENT: Nick Canale, Jr., H. Leonard Schick, Marc Greco, and Gary T. Toth

ABSENT: Tim Stahl and Barry Trimble

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and L. Michael Treadwell

The following resolution was duly offered and seconded:

RESOLUTION OF THE COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE EXECUTION AND DELIVERY OF A PRELIMINARY PROJECT AGREEMENT WITH REGARD TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY FOR ALEX HAWTHORN DVM, P.C. AND HAWTHORN HOLDINGS, LLC

WHEREAS, the County of Oswego Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 234 of the Laws of 1973 of the State, as amended from time to time (collectively, the “*Act*”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to grant “financial assistance” (as defined in the Act) in connection with the

acquisition, construction, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, Alex Hawthorn DVM, P.C. (the “**Operating Company**”) and Hawthorn Holdings, LLC (the “**Real Estate Holding Company**”), submitted an application to the Agency on or about July 20, 2021 (“**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency undertake a project (the “**Project**”) consisting of: the acquisition of a leasehold interest (or sub-leasehold interest) in approximately 1.5 acres of real property located on Gertrude Drive, consisting of all or a portion of the current Tax ID Nos. 276.11-01-03.04, 276.11-01-03.05 and 276.11-01-03.06, in the Village of Central Square, Town of Hastings, Oswego County, State of New York (the “**Land**”) and the existing approximately 3,000 square foot building located on the Land (the “**Existing Facility**”) and the construction of an approximately 7,200 square foot building (the “**New Facility**” and, collectively with the Existing Facility, the “**Facility**”); (ii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various fixtures, machinery, equipment, and other tangible personal property (collectively the “**Facility Equipment**”) (the Land, the Facility and the Facility Equipment being collectively referred to as the “**Company Facility**”), which Company Facility is to be leased and subleased by the Agency to the Real Estate Holding Company and further subleased by the Real Estate Holding Company to the Operating Company; and (iii) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “**Equipment**,” and together with the Company Facility, the “**Project Facility**”), such Project Facility to be used as an Veterinary Hospital and Urgent Care Center; (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Real Estate Holding Company to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Facility Equipment and the Equipment pursuant to one or more bills of sale from the Real Estate Holding Company and the Operating Company; the sublease of the Project Facility back to the Real Estate Holding Company pursuant to a sublease agreement; and the lease of Equipment to the Operating Company; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Project had been subject to an environmental review resulting in the issuance of a Negative Declaration by the Agency by resolution dated March 9, 2021 (the “**SEQRA Resolution**”); and

WHEREAS, on March 9, 2022 the Agency adopted a Resolution (the “**Inducement Resolution**”) agreeing to undertake the Project and appointing the Company as its agent for purposes of completing the Project Facility; and

WHEREAS, on March 9, 2022 the Agency adopted a PILOT Resolution (the “**PILOT Resolution**”) and a Final Approving Resolution authorizing the Project (the “**Final Approving Resolution**”)

WHEREAS, pursuant to correspondence received July 20, 2022 (the “**Request**”), the Real

Estate Holding Company and the Operating Company requested that the Agency increase the amount of the State and local sales and use tax exemption by \$88,315 (the “*Additional Sales Tax Exemption*”) and increase the amount of the mortgage recording tax exemption by \$11,685 (the “*Additional Mortgage Recording Tax Exemption*”) and, collectively with the Additional Sales Tax Exemption, the “*Additional Financial Assistance*”) due to the significant impact of inflation on the cost of labor, materials and equipment required to the construction, reconstruction, acquisition and installation of the Project Facility; and

WHEREAS, on July 28, 2022 the Agency adopted a Resolution (the “*Additional Financial Assistance Resolution*”), and together with the SEQRA Resolution, the Inducement Resolution, the PILOT Resolution and the Final Approving Resolution, the “*Approving Resolutions*”) authorizing the granting of the Additional Financial Assistance with respect to the Project; and

WHEREAS, in order to begin the construction of the Project Facility and the acquisition of Equipment prior to the execution and delivery of final documents and agreements in connection with the Project, the Company has requested the temporary appointment of the Company as agent of the Agency for sales and use tax purposes; and

WHEREAS, in connection with the temporary appointment of the Company as agent of the Agency for sales and use tax purposes, the Agency and the Company will enter into a preliminary project agreement and certain related documents (the “*Interim Documents*”) with respect to the Project; and

WHEREAS, simultaneously with the execution of the Interim Documents, the Agency will file with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “*Thirty-Day Sales Tax Form*”); and

WHEREAS, for purposes of exemption from New York State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight;

NOW, THEREFORE, be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

Section 1. For purposes of providing the terms and conditions for which the Company will receive the benefit of certain temporary State and local sales and use tax exemptions in connection with the Project, the Interim Documents in such form as the Chairman (or Vice Chairman) or Chief Executive Officer of the Agency shall (with the advice of Agency counsel) deem advisable, be, and the same are, hereby approved; and the Chairman, Vice Chairman and Chief Executive Officer of the Agency are each hereby authorized and directed to execute, acknowledge and deliver the Interim Documents in the name of the Agency. The execution and delivery of the Interim Documents shall be conclusive evidence of due authorization and approval of the Interim Documents in their respective final form. The Company’s appointment as temporary agent of the Agency shall expire on

October 31, 2022 unless either (a) the Agency and the Company have entered into a “straight-lease” transaction (as defined in the Act) prior to such date; or (b) the Agency has agreed to an extension of such date.

Section 2. The Agency hereby delegates to the Company, as agent of the Agency, the authority to designate (following the execution and delivery of the Interim Documents), agents and sub-agents of the Agency (each, a “***Sub-Agent***”) for purposes of utilizing the Agency temporary sales and use tax exemption with respect to the acquisition, reconstruction and installation of the Project Facility; provided that any such sub-agency designation shall become effective only upon submission to the Agency within fifteen (15) days of such agency and sub-agency designation: (1) an executed sub-agent appointment agreement (in a form approved by the Agency) and (2) a completed Form ST-60 of the New York State Department of Taxation and Finance (IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes). Such agents and sub-agents may include contractors and subcontractors involved in the acquisition, construction, equipping and installation of the Facility.

Section 3. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 4. The Interim Documents shall be deemed the obligations of the Agency, and not of any member, officer, agent or employee of the Agency in his/her individual capacity, and the members, officers, agents and employees of the Agency shall not be personally liable thereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The Interim Documents shall not constitute or give rise to an obligation of the State of New York or the County of Oswego, New York and neither the State of New York nor the County of Oswego, New York shall be liable thereon, and further, such agreement shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency.

Section 5. The Chief Executive Officer is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 6. This Resolution shall take effect immediately.

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

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>	<u>Recuse</u>
Nick Canale, Jr.	X				
Marc Greco	X				
Tim Stahl				X	
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble				X	

The resolution was thereupon declared duly adopted.

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

I, the undersigned Chief Executive Officer of the County of Oswego Industrial Development Agency, **DO HEREBY CERTIFY** that (i) I have compared the annexed extract of the minutes of the meeting of the County of Oswego Industrial Development Agency (the “*Agency*”) held on August 17, 2022, 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 the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency on August 17, 2022.

L. Michael Treadwell
Chief Executive Officer

(SEAL)