

**MINUTES**  
**COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY**  
**December 18, 2020**  
**Virtually Recorded Open Conference Call**  
**Oswego County, NY**

**PRESENT:** Canale, Schick, Sorbello, Stahl, Trimble and Toth

**Absent/Excused:** Kells

**Also Present:** Kevin C. Caraccioli, Kevin LaMontagne, L. Michael Treadwell, Austin Wheelock, and Teresa Woolson

Chair Toth convened the meeting at 8:10 a.m.

Mr. Caraccioli reviewed the Governor's Executive Order 202.1 adopted back in March to suspend the in-person public meeting law requirement, which was extended to January.

Mr. LaMontagne introduced the staff. Mr. Schick took Board Member Roll Call.

**APPROVAL OF MINUTES**

On a motion by Mr. Sorbello, seconded by Mr. Toth, the minutes of November 19, 2020 were approved.

**NOTICE OF MEETING**

Meeting notices were posted at the Oswego County Building, the IDA Office Building and on the IDA website. A notice was published in The Palladium Times on December 3, 2020.

**TREASURER'S REPORT**

On a motion by Mr. Stahl, seconded by Mr. Schick, the Financial Statements for the period ended August 31, 2020, were approved.

**Performance Measures Report**

Following a review and discussion, on a motion by Mr. Trimble, seconded by Mr. Schick the Performance Measures Report for FY Ended 7/31/20 was approved and authorized to file with the State.

**22 Crossroads, LLC**

Mr. LaMontagne provided an update on the project, company is requesting an extension of the sales and use tax exemption due to delays in construction, the amount remains the same. On a motion by Mr. Canale, seconded by Mr. Sorbello, a Resolution Approving Extension of Sales and Use Tax Exemption to June 30, 2021 was approved. The Resolution is attached and made an official part of the minutes.

**M&A Holdings of CNY, LLC**

Mr. Caraccioli reported on a request to consent to refinancing for the Gardens By Morningstar. He noted that the project is converting to HUD Financing and recommended a favorable consideration. Mr. Treadwell noted that this was always part of their long-term plan. On a motion by Mr. Schick, seconded by Mr. Canale, it was approved to consent to refinancing for M&A Holdings of CNY, LLC for the Gardens by Morningstar project.

**Fulton Thermal**

Mr. Treadwell noted that the IDA received a proposed subpoena request for information regarding Bond Financing for Fulton Thermal. Mr. Caraccioli noted that a lawsuit is being brought against the large commercial bond lenders regarding an artificial interest rate on the bonds. The IDA had one transaction in 2010 which was a refinancing of 2000 Bonds for Fulton Thermal. If the motion is granted, we would be obligated to respond. He noted no liability and no impact to the business. Mr. Caraccioli noted he will keep the board updated.

**EXECUTIVE SESSION**

Mr. Caraccioli reported that due to matters involving the financial history of a business/organization and individuals and pending and current contractual matters, on a motion by Mr. Trimble, seconded by Mr. Stahl, it was approved to go into Executive Session at 8:44 a.m.

On a motion by Mr. Sorbello, seconded by Mr. Schick, Executive Session ended at 10:16 a.m.

**Delinquent Loan Report**

On a motion by Mr. Toth, seconded by Mr. Stahl, the Delinquent Loan Report for November 30, 2020, was approved.

**PILOT EDF Report**

Following a discussion in Executive Session, the Report Status as of November 30, 2020 was accepted.

**Performance Evaluations**

Following discussion in Executive Session, on a motion by Mr. Canale, seconded by Mr. Schick, the Performance Evaluations for the CEO and CFO were accepted.

**Next Meeting**

January 20, 2021 at 9:00 a.m. was scheduled.

**Adjournment**

On a motion by Mr. Toth, seconded by Mr. Sorbello, the meeting was adjourned at 10:25 a.m.

Respectfully Submitted,

H. Leonard Schick  
Secretary

**RESOLUTION APPROVING EXTENSION OF  
SALES AND USE TAX EXEMPTION**

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session, remotely by conference call or similar service pursuant to Executive Order 202.1 (as amended and extended), on December 18, 2020 at 9:00 a.m. local time.

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, Morris Sorbello, Tim Stahl,  
Gary T. Toth and Barry Trimble

**ABSENT:** Tom Kells

**ALSO PRESENT:** Kevin C. Caraccioli, Kevin LaMontagne, L. Michael  
Treadwell, Austin Wheelock and Teresa Woolson

The following resolution was duly offered and seconded:

**RESOLUTION AUTHORIZING THE EXTENSION OF THE  
SALES AND USE TAX EXEMPTION FOR 22  
CROSSROADS, LLC AND DETERMINING OTHER  
MATTERS IN CONNECTION THEREWITH.**

**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 of New York, 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**, on March 20, 2019 and September 26, 2019, the Agency duly adopted resolutions (collectively, the “**Approving Resolution**”) in which it authorized the Agency to undertake a project (the “**Project**”) on behalf of 22 Crossroads, LLC, a New York limited liability company (the “**Company**”), on behalf of themselves and/or entities formed or to be formed on behalf of the foregoing, consisting of: (A)(i) the acquisition of a leasehold interest (or sub-leasehold interest) in real property located at 147-149 West First Street, 151-155 West First Street and 157 West First Street in the City of Oswego, State of New York (Tax ID # 128.55-02-01, 128.55-02-26 and 128.55-02-25 (collectively, the “**Land**”); (ii) the demolition of the existing approximately 3,237 square foot building located at 147-149 West First Street; (iii) the renovation and reconstruction of the existing approximately 8,800 square foot building located at 157 West First Street, including the construction of underground parking (the “**Renovated Facility**”); (iv) construction of a new building containing approximately 5,000 square feet of retail space, approximately 32 apartments and approximately 26 underground parking spaces (the “**New Facility**” and, collectively with the Renovated Facility, the “**Facility**”); and (v) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax, mortgage recording tax (except as limited by Section 874 of the Act) and real property tax (collectively, the “**Financial Assistance**”); and (C) the lease of the Land and Facility by the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

**WHEREAS**, by the Approving Resolution, the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of October 1, 2019 (the “**Lease Agreement**”) between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the “**Basic Documents**”); and

**WHEREAS**, simultaneously with the execution and delivery of the Lease Agreement (the “**Closing**”), (A) the Agency granted Financial Assistance in the form of a sales and use tax exemption (the “**Sales Tax Exemption**”) related to the construction, reconstruction, renovation, installation and equipping of the Project Facility and (B) the Agency filed with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator 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 Report**”); and

**WHEREAS**, the Sales Tax Exemption expired on October 31, 2020; and

**WHEREAS**, there have been unanticipated delays in the acquisition, construction, reconstruction, renovation, installation and equipping of the Project Facility due to the COVID-19 pandemic; and

**WHEREAS**, the Company have requested that the Agency extend their appointment as temporary agent of the Agency for State and local sales and use tax purposes until June 30, 2021; and

**WHEREAS**, the Company acknowledges that costs expended after October 31, 2020 and prior to the date hereof, are not eligible for the exemption from any New York State or local sales and use tax otherwise granted under the Approving Resolution; and

**WHEREAS**, in connection with the extension of the appointment of the Company as agent of the Agency for sales and use tax purposes, the Agency and the Company will enter into an Amendment to the Project Agreement (the “**Amendment**”);

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “**SEQR Act**”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “**SEQRA**”), the Agency must determine the potential environmental significance of the extension of the appointment of the Company as agent of the Agency for sales and use tax purposes in connection with the Amendment (the “**Transaction**”);

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

**Section 1.** Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(23) of the Regulations, the Transaction is a “Type II action” (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

**Section 2.** 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) The extension of the appointment of the Company as temporary agent of the Agency for sales and use tax purposes until June 30, 2021 will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of the County of Oswego, New York and the State of New York and improve their standard of living.

**Section 3.** In consequence of the foregoing, the Agency hereby determines to extend the appointment of the Company as temporary agent of the Agency for sales and use tax purposes until June 30, 2021. The Agency is hereby authorized to do all things necessary or appropriate for the accomplishment of the foregoing, and all acts heretofore taken by the Agency with respect to the Project are hereby approved, ratified and confirmed.

**Section 4.** The Agency is hereby authorized to execute and deliver the Amendment and such other documents as may be necessary to effectuate the extension of the appointment of the Company as temporary agent of the Agency for sales and tax purposes until June 30, 2021 (the “**Sales Tax Documents**”). The form and substance of the Amendment and the Sales Tax Documents, in substantially the forms presented to this meeting and which, prior to the execution and delivery thereof, may be redated, are hereby approved.

**Section 5.** 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 New York State sales and use exemptions benefits.

**Section 5.** (A) The Chairman (or Vice Chairman) and the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Amendment, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the form thereof presented to this meeting with such changes, variation, omissions and insertions as the Chairman (or Vice Chairman) or the Chief Executive Officer shall approve, the execution thereof by the Chairman (or Vice Chairman) or the Chief Executive Officer to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) and the Chief Executive Officer of the Agency are hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

**Section 6.** 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 or provided for by the provisions of the Amendment and the Sales Tax Documents, and to execute and deliver all such additional 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Amendment and the Sales Tax Documents binding upon the Agency.

**Section 7.** Neither the members nor officers of the Agency, nor any person executing the Amendment and the Sales Tax Documents on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof or the transaction contemplated thereby.

**Section 8.** 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				
Tom Kells				X	
Tim Stahl	X				
H. Leonard Schick	X				
Morris Sorbello	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 December 18, 2020, 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), as modified by New York State Executive Order 202.1 (as amended and extended), 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 December 18, 2020.

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L. Michael Treadwell, CEO

(SEAL)