

**Cayuga County Industrial Development Agency**

**Special Meeting**

**2 State St, Auburn, NY 13021**

**December 8<sup>th</sup>, 2021 @ 4pm**

Mr. Lockwood called the meeting to order at 4:01pm, noting the presence of a quorum.

**ROLL CALL:**

Present: Ray Lockwood, Herb Marshall, Gina Speno, John Latanyshyn, Andrew Rindfleisch, Paul Lattimore

Absent: Ben Vitale

Others Present: Danielle Szabo, Taylor Symes (CEDA), Riccardo Galbato (Galbato Law Firm), Mark Chambers (C&S Companies), David Bottar (CNYRPDB)

**REVIEW OF EDA APPLICATION FOR SEWER DISTRICT:**

Ms. Szabo announced the purpose of the special meeting is to review the final draft of the EDA application for the sewer district. Mr. Bottar from CNY Regional Planning Development Board has been invited to the meeting to walk the board through the application and to answer any questions. Mr. Bottar has been the main point person in writing the EDA application on behalf of the CCIDA. In reviewing the final application, Ms. Szabo emphasized to the board when reviewing the application to pay attention to the proposed timeline, the phase II scope of work, and the increased budget.

Ms. Szabo handed over the mouse for Mr. Bottar to present and asked him to give a brief overview of CNYRPDB. Mr. Bottar explained CNYRPDB is a regional public agency that was formed by the five member counties in 1966. Cayuga, Cortland, Madison, Oswego, and Onondaga counties. CNYRPDB economic programming was setup years ago to access federal resources through the Economic Development Association (EDA). CNYRPDB has a relationship with EDA in which the agency works with regional partners to identify projects that would be eligible for EDA grant funding. In addition to identifying projects, CNYRPDB will also help prepare the project application on behalf of the applicant or at times will be the project applicant, if necessary. Upon completion and submission of the application CNYRPDB will also be an advocate on behalf of the applicant to express to the EDA committee how the project will have great merit or impact to the region, county, and community. Preparing grant applications at CNYRPDB is a routinely process across the organization's six programs. The organization will write and submit applications to state, federal (primarily EDA) funding opportunities. CNYRPDB is very familiar with the EDA grant application process and has had a lot of luck with securing funding. Mr. Bottar expressed the EDA grant application is highly competitive and CNYRPDB "batting average" for securing funding is about 25%, which is pretty good.

Mr. Bottar acknowledge the board has been aware of the EDA application for several months and that Ms. Verrier reached out to CNYRPDB office back in 2019. Mr. Bottar, Ms., Verrier, and Mr. Ed Hummel (who also works out of the EDA office) took a tour of Cayuga Milk Ingredients in December 2019. Mr. Bottar goes on to explain Mr. Ellis was in the CMI meeting as well and went over the company's expansion plans. A lot of time has gone by since the initial CMI meeting, regardless the sewer

district project still remains eligible for funding. Mr. Bottar explained in order to be competitive with EDA the project needs to be pretty well defined at the time of application. Going into 2020, there were still many questions around phase I (sewer improvement) and phase II (force main) and questions around the actual expansion plans around CMI. CMI was met with some marketing uncertainty as well as trade war/ tariff issues, which questioned whether the company was going to move ahead with the expansion plans. The impact on the business was huge which lead this EDA application to sit on the “back burner” for a while.

By the end of 2020/early 2021 the project started to take shape from both CCIDA and CMI perspective and was in a position to move forward. Mr. Bottar expressed timing was everything and that he and Ms. Verrier were trying to submit the EDA application at a moment when EDA would have funding. EDA only gets \$350 million dollars a year to fund projects nationwide and typically only fund one or two projects in the Upstate New York a year. Mr. Bottar recalls the sewer project details were not really finalized until Jan/February 2021, which is five months into the EDA fiscal year. Mr. Bottar and Ms. Verrier had several conversations at the time as to whether or not to submit the application then. During this time there was a prospect EDA would be receiving additional funding from Congress. Congress was providing a lot of funding at the time for economic projects, which EDA announced that in July 2021 it received additional funds. EDA received \$3 billion dollars in funding. Although EDA announced the additional funding in July 2021, they were not in a position to receive application until October 2021. Fast forward to now, EDA has the money, the application window is open, and the CCIDA application is ready for submission per the approval of the board. Mr. Bottar goes on to explain the original budget submitted by Probst Group in 2018 was outdated and Mr. Chambers worked to make the necessary adjustments.

Mr. Chambers explained Highlander submitted a bid of \$830,000 for phase II work. Mr. Marshall asked to clarify the date the board received Highlander’s bid in which Mr. Chamber’s responded February 2021. Mr. Marshall asked when did the board accept the project bids. Ms. Szabo clarified the excel document presented was the bid result sheet, which would have been February 2021. Mr. Marshall responded the time line Mr. Bottar laid out did not align with when the board approved the bid results. Ms. Symes confirmed the board approved the bid results in February and held a special meeting on March 9<sup>th</sup>.

Mr. Chambers continued on to explain Highlander \$830k bid was selected for phase II. Due to the pandemic, the project start date had been pushed back several times. Highlander has been faced with issues of accessing materials and prevailing wage. As a result, Mr. Chambers stated they are seeing bids come in 15-20% higher than usual. Mr. Chambers asked Highlander to submit a report of the impacts the project would see in terms of construction cost due to the results of the pandemic. Mr. Chambers did not hear back from Highlander in a timely manner and developed his own projected cost estimate, which is listed on the sheets for review. Mr. Chamber explained when creating the updated project cost he used the price sheets from highlander’s bid which would remain accurate if the company is able to get the materials for the same cost. After Mr. Chambers submitted the updated project cost, he heard back from Highlander and they gave him an increase of \$120k for labor and material cost. Which is roughly a 10% increase from the original bid. Mr. Chambers proposed estimate was a bit higher than Highlanders (\$980k) coming in around \$1.2 million. Mr. Chambers explained he built a cushion into the estimate, as there is only one shot for the EDA grant funding. Mr. Chambers took the \$980k estimate and added a 20% contingency to bring it up to \$1.2 million. Mr. Chambers believes this estimate is more current with the bids he is currently seeing and would allow some cushion if needed in the bid orders.

Mr. Lattimore asked about the availability of materials. Mr. Chamber responded he has been getting calls every three or four days from Highlander asking when can they order materials as there is a four month

lead time on pumps. Mr. Galbato asks what is the board's responsibility under the contract? There has been a delay to proceed with phase II but the board is not responsible for purchasing materials. Mr. Chambers stated there has been no notice to proceed with the project. The contractor is not going to order the materials unless there is confirmation of the project moving forward. Highlander is aware the board is seeking grant funding. Highlander will start ordering materials when the funding has been secured.

Mr. Rindfleisch responded that did not answer the question and wants to know what the board responsibility is in terms of the contract. Mr. Chambers responded as far as the contract end of things, the contractor has 45 days from when the bid is received to notice to proceed. The contractor will hold their price for that window. The alternative for the board would be to do a rebid if the contractor is no longer able to do it for the initial bid.

Mr. Bottar explains EDA will cover 80% of the project cost and the IDA will need to provide the 20%. The grant ask will be for \$1.3 million. 80% of the project cost up to \$1million. If the project cost come in at less than the original grant amount, EDA will readjust the grant amount to reflect "80% of the project amount". There is nothing wrong to put the application in with a project cost of \$1.3 million and have the project come in less. The IDA share is 20% so if the project cost increase the local match goes up. If the cost comes in less than the local match would be less.

Mr. Marshall continues on to explain his frustration about the application process and states it is bad business to put a project out to bid, accept a bid, and then wait five months to apply for grant funding.

Mr. Bottar explained when the IDA accepted the bids on March 9<sup>th</sup> 2021, EDA did not have any money. The second issue was the EDA program they were going to apply for in March was a 50/50 match. The IDA would be on the hook significantly for more money. Mr. Marshall responded the boards had several conversations about the 50/50 match and the board was ready to pay whatever was needed. Mr. Marshall explained the frustration was there were no updates for months as to why the grant application was not being submitted to December.

Mr. Chambers asked would the EDA application require additional paperwork for the contractor for the additional increase. Mr. Bottar responded not to his knowledge but he did not see the initial bidding documents. There is a prevailing wage and MWBE requirements.

Mr. Latanyshyn asks the question would the EDA allow them to prepare for materials such as "lock in the cost of the pump price". Mr. Bottar stated the application needs to be filed and have internal review before the project an incur cost.

Mr. Chambers asked to Mr. Bottar will it be an issue the project has already completed the bidding process? Mr. Bottar responded he is unsure and EDA may come back stating the bids are outdated. Mr. Galbato asked could the board and contractor create an MOU reaffirming the bid and acceptance with the revised numbers? Mr. Bottar said that would be the best response.

Mr. Marshall makes the motion to accept and approve the EDA application for submission, Mr. Latanyshyn seconds the motion.

Ms. Szabo asks for the board to confirm the proposed timeline April 2022 to March 2023 is still a reasonable timeline. Mr. Bottar states the proposed start date can be changed to December 2021 so any incurred cost can be included in the project.

Mr. Bottar is in the process of setting up an initial review call with EDA to discuss the application and will ask the question about the incur cost as to whether it will be covered or the board will need to proceed at their own risk.

Mr. Galbato asked who needs to sign the application and Mr. Bottar the interim executive director can sign the application.

Mr. Bottar continues with the application review and states scope of work is a key element in EDA's application review as well as job creation on a regional level. Mr. Bottar stated applicant capability would not be an issue and the board has strong resources in CEDA and CNYRPDB to manage the grant if awarded.

Mr. Latanyshyn asked a question about the proposed time schedule to include bidding timeline. Mr. Bottar commented he will go back and edit question B.7 to remove the bidding timeline as it is not a requirement to include in the answer.

Mr. Marshall expressed the contractor bid's is very good and wants to maintain the quote. Mr. Chambers stated it is a good sign the contractor backed up the updated estimates and bless that is "good insurance" on the quote. Mr. Lockwood states his biggest concern is material availability.

Mr. Bottar continues with application review and explains he will be working with the EDA staff to point out key elements of the application and verbally reiterate regional, county, and industry impact the project will have.

Mr. Bottar stated it is critical to make sure contractors are paying prevailing wage, and not overlook this detail. Mr. Chambers stated with each pay application during phase I contractors' submitted certified payrolls, which will continue during phase II. Mr. Chambers continued on to explain they do pay wage interviews to workers on the job during the project to confirm hourly wage to make sure it is the same wage listed on the state site. Mr. Chamber reassures Mr. Marshall he will be in charge of confirming prevailing wage and will submit proper documentation.

Mr. Bottar explained to the board there will be a condition in the EDA grant award that CCIDA will be financially obligated to complete the project regardless of any mishaps to occur. If CCIDA does not complete the project the board will be obligated to pay back EDA grant funds.

Mr. Bottar goes on to explain if the grant is approved the numbers written in to the budget are the amounts the board has to work with for the project. They can move budget lines around but would require an approval process through the EDA.

After the application has been submitted to EDA the next steps would be for Mr. Hummel to review and make sure the application is complete. Mr. Hummel will add his thoughts to the project, as he has been familiar with the project since 2019. Afterwards the application will go to the regional investment committee for review, which is located in PA. Three senior staff from the investment committee reviews applications on a monthly basis, which Mr. Bottar nor Mr. Hummel are allowed in the room for. After the review, the senior staff will make a project recommendation to the regional director. Mr. Bottar anticipates the application to be in review by the senior staff in January, and recommended to the regional director some time in February. Upon approval, the regional director will send it to the national EDA's office located in Washington for the final grant approval, which would be in March.

Mr. Bottar believes the CCIDA application is strong and has a good possibility of being awarded but told the board to keep in mind it will be competing against other applications within the 12 state area.

Mr. Lockwood asked Ms. Symes to do a roll call vote:

Roll Call Vote:

	Yea	Nay	Abstain	Absent
Raymond Lockwood	X			
Herb Marshall	X			
Gina Speno	X			
John Latanyshyn	X			
Andrew Rindfleisch	X			
Paul Lattimore	X			
Ben Vitale				X

All members present and via zoom voted in favor; motion was carried.

**ADJOURNMENT:**

Mr. Marshall motioned to adjourn at 5:26pm, seconded by Mr. Latanyshyn. All members voted in favor; motion was carried.