

**Cayuga County Industrial Development Agency
Regular Meeting
First Floor Conference Room
2 State St.
Auburn, NY
February 21, 2017 at 4:00pm**

Chairman Ray Lockwood called the meeting to order at 4:06pm, noting that a quorum was present.

ROLL CALL

Present: Ray Lockwood, Paul Lattimore, Herb Marshall, Carol Contiguglia, Gina Speno

Excused: Joe Runkle, John Latanyshyn

Others Present: Tracy Verrier (CEDA); Bruce Sherman (CEDA); Joe Sheppard (CEDA); Kevin Ellis (Cayuga Milk Ingredients)

MEETING MINUTES

Mr. Marshall moved to approve the minutes of the January 17, 2017 Regular Meeting; seconded by Mr. Lattimore. All members present voted in favor, motion carried.

BILLS AND COMMUNICATIONS:

Mr. Sheppard presented bills from Bergmann Associates, CEDA and NYSEG totaling \$12,985.13. The board discussed the Bergman Associates bills and studies.

Mr. Lattimore asked if the NYSEG bill paying for the streetlights at the Aurelius Industrial Park was always going to be their responsibility. Ms. Verrier stated that the intention was that once there were multiple tenants in the park the lighting would be paid for by a co-op, but since that has not happened they will need to continue to pay for the lighting until an agreement is in place. Mr. Lattimore asked if CCIDA could receive a discounted rate as the park is an economic development zone. Ms. Verrier stated that NYSEG and National Grid do still offer some funding for economic development, but it is usually project based and those programs aren't as generous as they used to be. She continued by stating that staff will look into discounts, but that she did not believe there was anything available in terms of ongoing rate discounts.

Mr. Lattimore moved to pay the bills, seconded by Ms. Contiguglia. All members present voted in favor; motion carried.

REPORT OF THE TREASURER

Mr. Sheppard reviewed the budget report as well as the current PILOT Invoice and Disbursement Report. Mr. Sheppard noted that payments had been received from A1 Pumping and Lebrun and that they would be disbursed following this meeting. Ms. Verrier noted that the Town of Aurelius taxes came in much lower than budgeted this year, \$2,500 as opposed to the \$6,500 that was budgeted.

Mr. Lattimore moved to accept the Report of the Treasurer; seconded by Ms. Contiguglia. All members present voted in favor, motion carried.

UNFINISHED BUSINESS:

Cayuga Milk Ingredients: Ms. Verrier explained that the CCIDA had received a notice of termination from the town in regards to the bulk water and sewer rate MOU, noting that the termination was likely a response to an ongoing issue with the sewer line servicing the park and an oversight related to the installation of a meter on the sanitary sewer line at CMI. Ms. Verrier stated that she believed an agreement had been reached on next steps and that the Town had agreed not to move forward with the termination at this time, however they would likely

review the maintenance charges outlined in the MOU. Mr. Ellis from CMI provided additional background regarding the missing sewer meter and blockages in the sewer lines. Blockages are likely being caused by a buildup of bacteria, partly because the slope of the line isn't large enough and waste isn't moving fast enough through it. The meter was not installed by the original construction company, and CMI was not aware that it was missing since a certificate of occupancy was issued by the Town. Currently CMI is cooperating with the Town to resolve both of these issues, including possibly adding some chemicals to the production output to stop the bacteria buildup and installing the sanitary meter that had been missed during construction.

Mr. Lattimore asked if CMI was the only facility using that sewer line. It was explained that other businesses also utilize that Town's line, but that CMI is the largest user. Mr. Ellis noted that production waste and sanitary waste are separate in the facility's lines, but mix together and with other waste in the Town's line.

Mr. Marshall expressed his concern that notice was sent stating that the MOU would be terminated without any discussion. Ms. Verrier noted that up to this point staff had been focused on the relationship between CMI and the Town as the issue with the MOU couldn't be resolved without addressing those issues, but that CCIDA and the Town should certainly be communicating more.

Mr. Lockwood asked if the addition of Grober's waste into the line would assist in speeding up the flow. Ms. Verrier stated it was possible, but it isn't yet clear how much output they will have. She continued by stating that if there is additional infrastructure added at the park they will certainly need to have engineers look at the sewer line. Mr. Marshall asked who originally installed the sewer line. Ms. Verrier stated that she was unsure, but the Town claims that the line was installed by the IDA when the access road was installed in the late 1990's. Mr. Lattimore expressed his belief that this issue should be at the top of the list to address. Ms. Verrier stated that we would likely need to address this problem sooner rather than later as the line is supposedly reaching capacity. Mr. Marshall asked if Grober would be utilizing the waste from CMI and helping to remove some of the materials from the system. Mr. Ellis noted that the waste product Grober will be taking is currently being shipped off site, not going into the sewer. Mr. Lattimore asked if a force main would help to increase the flow through the line. Mr. Ellis stated that there is one in place and that it is utilized. Mr. Marshall expressed his belief that the engineering of the sewer line in the park is a major issue that we should continue to discuss. Mr. Lockwood stated that this is a unique problem with the type of waste being sent down the line and that if CMI can generate a solution to the problem, then it should solve the problem in the long-term.

Mr. Lockwood inquired about the state of the business. Mr. Ellis explained some of the opportunities and challenges facing the milk industry, and added that they may be looking to expand the business. The Board thanked Mr. Ellis for his time and he departed at 4:46pm.

Mr. Lattimore asked if there were any legal opinions to back up what the town did. Ms. Verrier explained that the Town had used the "injunctive relief" clause to issue the termination based on the additional costs for jetting the sewer line and the lack of the sanitary meter. She noted that Justin Miller had recommended filing a stay if it came to that, but that she would follow up with legal counsel to learn more about each party's rights.

CEDA Staff Update:

Mr. Sherman provided an update on some of the projects that he is working on. He stated that he has been having productive meetings with the Springside Inn, and to expect them to come for CCIDA assistance later this year. He also told the board to expect to see some activity from Inns of Aurora as they move forward with their spa expansion. Ms. Speno asked about the Holiday Inn project that had just been before AIDA. Mr. Sherman explained that is a \$5.3 million investment into the facility to provide for room and amenity upgrades to keep the hotel within the Holiday Inn brand standards. Mr. Sherman provided an update on the Nolan Block redevelopment project, which was also seeking assistance from AIDA. He concluded by noting that the CIDEDEC project was moving forward quickly and that he was recently out at the site with a representative from ESD.

Ms. Verrier provided an update on other CEDA activities, including the workforce development taskforce, the Economic Forecast luncheon, and some business projects Ms. Riester has been working on.

Mr. Lattimore asked if the Tessy Plastics project had been completed. Ms. Verrier stated that yes the project had gone through and that they have already done a great deal of work out at the location and should be moving product into the facility very soon. She continued by stating that McQuay was still leasing space in the building from Tessy.

Upcoming Committee Meetings:

Ms. Verrier explained that the audit committee would need to meet prior to the next meeting to discuss the 2016 Financial Audit. She continued by stating that presently Mr. Marshall, Mr. Lockwood, and Mr. Lattimore are on the committee.

NEW BUSINESS:

Ms. Verrier presented an application for assistance to the board from All Ways Concrete for Sales and Use Tax Exemption to assist them with the purchase of two telebelts, a mobile telescopic belt conveyor system that assists with the movement of concrete and other materials to hard to reach construction sites. Ms. Speno asked if this was equipment that they already own. Ms. Verrier stated that yes, they do already own this piece of equipment, but are purchasing additional pieces to allow for additional business. Ms. Speno asked what the cost of the equipment would be. Ms. Verrier stated that the new units would cost \$1.1 million. Mr. Marshall stated his belief that there was a resolution passed by CCIDA that stated that assistance would only be given for new equipment. Ms. Verrier explained that this equipment meets that stipulation. Ms. Speno asked what the estimate of jobs created would be. Ms. Verrier stated that it would create about 3 FTE jobs. Mr. Lattimore asked if we have found out if they have created the jobs that they estimated they would have from the last project. Ms. Verrier explained that the contract for the last project was approved in September and that we may not know if those jobs had been created yet as they had just purchased the trucks that were part of that project. Ms. Speno asked what the total amount of incentive would be for the Sales and Use tax exemption. Ms. Verrier stated that it would be \$88,000 and the fee attached would be \$8800 or 10% of the total benefit. Mr. Marshall expressed his desire to verify that jobs had been created from the last project that was incentivized.

RESOLUTION: Project Authorizing Resolution for All Ways Concrete:

A resolution was then presented to the Board, which read in part (Full Resolution Attached):

RESOLUTION OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF ALL WAYS CONCRETE PUMPING, LLC (THE "COMPANY") WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); (ii) AUTHORIZING THE UNDERTAKING OF THE PROJECT AND APPOINTING THE COMPANY AS ITS AGENT TO UNDERTAKE SAME; (iii) AUTHORIZING THE PROVISION OF FINANCIAL ASSISTANCE (AS MORE FULLY DEFINED BELOW) TO THE COMPANY; (iv) MAKING FINDINGS WITH RESPECT TO THE PROJECT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT AND FINANCIAL ASSISTANCE AGREEMENT AND RELATED DOCUMENTS.

Mr. Marshall made a motion to approve the resolution but verify the creation of jobs as part of the last project; seconded by Ms. Speno. The resolution was put to a roll call vote and recorded as follows:

	Yea	Nay	Absent	Abstain
Paul Lattimore	X			
Carol Contiguglia	X			
John Latanyshyn			X	
Raymond Lockwood	X			
Herb Marshall	X			
Gina Speno	X			
Joseph Runkle			X	

The motion carried. The Resolution was duly adopted.

Upcoming Events:

Ms. Verrier provided information on upcoming events.

Board Updates:

Mr. Marshall asked if Mr. Runkle was still a member of the Board. Mr. Lockwood stated that the Board has not changed because legislative appointments have not been made yet. Mr. Marshall asked why the nominating committee met prior to the time when appointments were made by the legislature, stating that it does not make sense and should be changed in the future. Ms. Verrier stated that in the future legislative appointments should be made earlier and through better communication we should have a better idea of those appointments prior to selecting officers.

Mr. Lattimore, asked for an update on Project Marinara, which Ms. Riester provided. She noted that they were looking for a new site for the project due to challenges at the original site. Mr. Lattimore asked how much had been invested by the IDA on the project, Ms. Riester and Ms. Verrier confirmed that all that had been invested were time and legal fees incurred.

Motion to adjourn made at 5:35 pm by Mr. Marshall, seconded by Ms. Speno. All present voted in favor, motion passed.

Respectfully submitted,
Joseph Sheppard

Next regularly scheduled meeting: Tuesday, March 21, 2017 at 4:00pm

PROJECT AUTHORIZING RESOLUTION
(All Ways Concrete Pumping, LLC – 2017 Project)

A regular meeting of Cayuga County Industrial Development Agency was convened on Tuesday February 21, 2017 at 4:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 02/17 - _____

RESOLUTION OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF ALL WAYS CONCRETE PUMPING, LLC (THE “COMPANY”) WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); (ii) AUTHORIZING THE UNDERTAKING OF THE PROJECT AND APPOINTING THE COMPANY AS ITS AGENT TO UNDERTAKE SAME; (iii) AUTHORIZING THE PROVISION OF FINANCIAL ASSISTANCE (AS MORE FULLY DEFINED BELOW) TO THE COMPANY; (iv) MAKING FINDINGS WITH RESPECT TO THE PROJECT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT AND FINANCIAL ASSISTANCE AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 688 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the “Act”), the **CAYUGA 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 industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, the Agency previously undertook a certain Project (the “2011 Project”) for the benefit of **A1 PUMPING LLC** and **REPAIR PLUS, LLC** consisting of: (A) the acquisition of by the Agency of fee title to or other interest in an approximately 13-acre parcel of land located at 2682 Turnpike Road in the Town of Sennett, Cayuga County, New York (the “Land”); (B) the construction of an approximately 14,500 square-foot building to be used for (i) construction vehicle storage and maintenance, and (ii) as a truck repair facility (the “2011 Improvements”); (C) the acquisition and installation in and around the Improvements of certain machinery, equipment and other items of tangible personal property (the “Equipment” and collectively with the Land and the Improvements, the “2011 Facility”); and (D) through a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), lease the Facility back to the Company (the “Straight Lease Transaction”); and

WHEREAS, in furtherance of the Straight Lease Transaction, the Agency and the Company entered into a Lease Agreement, Leaseback Agreement and PILOT Agreement and related documents each dated as of September 15, 2011 (collectively, the “2011 Agency Documents”), wherein the Agency acquired a leasehold interest in the 2011 Facility and

provided certain financial assistance to the Company; and

WHEREAS, in 2015, the Agency also undertook a certain project (the “2015 Project”) for the benefit of A1 Pumping and Repair Plus, LLC consisting of (A) the appointment by the Agency of A1 Pumping and Repair Plus, LLC as agents to improve and equip the 2011 Facility, including the planning, design, construction by the Company of an approximately 2,000 square foot addition to the 2011 Improvements for use as customer space (the “2015 Improvements”); and (C) the acquisition and installation in and around the 2011 Improvements and 2015 Improvements of certain machinery, equipment and other items of tangible personal property (the “Equipment” and collectively with the Improvements, the “2015 Facility”); and

WHEREAS, **All Ways Concrete Pumping, LLC** (herein, the “Company”), being an related entity of A1 Pumping LLC and Repair Plus, LLC and occupant of the 2011 Facility and 2015 Facility, previously submitted an Application for Financial Assistance to the Agency (the “2016 Application”) requesting assistance with a certain project (the “2016 Project”) consisting of: the appointment by the Agency of the Company as agent to acquire and operate two (2) concrete pumping vehicles and related accessories to be housed primarily in and around the 2011 Improvements and 2015 Improvements (the “Equipment” and collectively, the “2016 Facility”); and

WHEREAS, in furtherance of the 2016 Application and 2016 Project, and pursuant to a Project Authorizing Resolution adopted by the Agency on September 20, 2016, the Company and Agency previously entered into a certain Agent and Financial Assistance and Project Agreement, dated as of September 20, 2016 (the “2016 Agent Agreement”) and the Company undertook the 2016 Project as agent of the Agency; and

WHEREAS, the Company has submitted an Application for Financial Assistance to the Agency (the “2017 Application”) requesting assistance with a certain project (the “2017 Project”) consisting of: the appointment by the Agency of the Company as agent to acquire and operate two (2) concrete conveyor vehicles and related accessories to be housed primarily in and around the 2011 Improvements and 2015 Improvements (the “Equipment” and collectively, the “2017 Facility”); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring Equipment and operating same as the 2017 Project, (ii) negotiate and enter into an Agent and Financial Assistance and Project Agreement (the “Agent Agreement”), and (iii) provide financial assistance (the “Financial Assistance”) to the Company in the form of a sales and use tax exemption for purchases and rentals related to the acquisition of the Equipment; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the 2017 Project and the Financial Assistance, with such Financial Assistance to not exceed \$100,000; and

WHEREAS, the Agency has identified the 2017 Project as a “Type II” action pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental

Conservation Law and its implementing regulations at 6 NYCRR Part 617 (collectively referred to as “SEQRA”), for which no formal review is required; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution authorizing (i) the acceptance of the Application; (ii) the undertaking of the 2017 Project and appointing the Company to undertake same as agent of the Agency; (iii) the provision of the Financial Assistance to the Company; and (iv) the execution and delivery of the Agent Agreement, along with related documents.

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

Section 1. The Company has presented the Application and related information in a form acceptable to the Agency. Based upon the representations made 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 undertaking the 2017 Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act, that the Financial Assistance shall not exceed \$100,000, and that no public hearing is required to be conducted pursuant to the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the 2017 Project, thereby increasing employment opportunities in Cayuga 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 facility or 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 2017 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 2017 Project is reasonably necessary to discourage the 2017 Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the 2016 Project occupants in their respective industries; and

Section 2. The Agency hereby accepts the 2017 Application and authorizes the undertaking of the 2017 Project, including the provision of the Financial Assistance to the Company. The Chairman, Vice Chairman, and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agent Agreement with such changes as shall be approved by the Chairman, Vice Chairman and/or the Executive Director upon execution; provided, the Agent Agreement includes payments of all costs incurred

by the Agency arising out of or related to the 2017 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 2017 Project.

Section 3. Subject to (i) the Company executing the Agent Agreement, and (ii) 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 and equipping of the 2017 Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct 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 2017 Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Agent Agreement shall expire on June 30, 2017 (*unless extended for good cause by the Executive Director of the Agency*).

Section 4. Based upon the representation and warranties made by the Company the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the 2017 Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to approximately **\$1,100,000.00**, which result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed **\$88,000.00**. 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, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).

Section 5. Pursuant to Section 875(3) of the Act, 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 2017 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 2017 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 2017 Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the 2017 Project; (iv) the Company has made a material false statement on its application for financial assistance; (v) 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 2017 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 2016 Project; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and 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 2017 Project (collectively, items (i) through (vi) hereby defined as a “Recapture Event”).

As a condition precedent of receiving sales and use tax exemption benefits and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the 2017 Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by 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 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 7. 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:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Paul Lattimore	[]	[]	[]	[]
Carol Contiguglia	[]	[]	[]	[]
John Latanyshyn	[]	[]	[]	[]
Raymond Lockwood	[]	[]	[]	[]
Herb Marshall	[]	[]	[]	[]
Gina Speno	[]	[]	[]	[]
Joseph Runkle	[]	[]	[]	[]

The Resolution was thereupon declared duly adopted.

