

**RESOLUTION**  
*(Repair Plus, LLC Project)*

A regular meeting of Cayuga County Industrial Development Agency was convened on Tuesday, June 14, 2011 at 3:00 p.m.

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

Resolution No. 04/2010 - 01

RESOLUTION OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF REPAIR PLUS, LLC WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); IN CONNECTION WITH A CERTAIN PROJECT (AS MORE PARTICULARLY DESCRIBED HEREIN); (ii) APPOINTING THE COMPANY AS ITS AGENT TO UNDERTAKE THE PROJECT; (iii) AUTHORIZING THE NEGOTIATION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT AND RELATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT; (iv) PROVIDING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; *PROVIDED HOWEVER*, THAT FINANCIAL ASSISTANCE PROVIDED BY THE AGENCY SHALL NOT EXCEED \$100,000 IN THE AGGREGATE UNTIL A PUBLIC HEARING IS HELD AND A SUBSEQUENT RESOLUTION IS ADOPTED; (v) ADOPTING A NEGATIVE DECLARATION RELATING TO THE PROJECT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; AND (vi) AUTHORIZING THE CONDUCT OF A PUBLIC HEARING WITH RESPECT TO THE PROJECT, ALONG WITH THE EXECUTION AND DELIVERY OF AN AGENT 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, (hereinafter collectively called the "Act"), the **CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, civic, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, **REPAIR PLUS, LLC**, for itself or on behalf of an entity to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting that the Agency consider undertaking a Project (the "Project") 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 “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 “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, it is contemplated that the Agency will hold a public hearing and (i) negotiate and enter into an agent agreement (the “Agent Agreement”), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, constructing and equipping the Facility, (ii) negotiate and enter into a lease agreement (the “Lease Agreement”), leaseback agreement (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement (the “PILOT Agreement”), (iii) take title to or a leasehold interest in the Land, the Improvements, Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of a mortgage recording tax exemption, sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility and a partial real property tax abatement structured within the PILOT Agreement (collectively, the “Financial Assistance”); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance, such Financial Assistance as authorized herein to not exceed \$100,000 until the Public Hearing is held and a subsequent authorizing resolution is adopted by the Agency; and

WHEREAS, the Town Board of the Town of Sennett (the “Town”) previously reviewed the proposed Project pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQRA”) and related Short Environmental Assessment Form (“EAF”) and adopted a negative declaration (the “Negative Declaration”, dated May 23, 2011) a copy of which along with the EAF are attached hereto as **Exhibit A**; and

WHEREAS, the Agency desires to approve the undertaking of the Project, appoint the Company agent of the Agency to undertake same.

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

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

(D) 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 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 facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(E) Based upon a review of the Application, the EAF and the Negative Declaration adopted by the Town and submitted to the Agency, the Agency hereby:

(i) consents to and affirms the status of Town as Lead Agency for the SEQRA review relating to the Facility, within the meaning of, and for all purposes of complying with SEQRA;

(ii) determines that the proceedings undertaken by the Town as Lead Agency under SEQRA with respect to the acquisition, construction and equipping of the Facility satisfy the requirements of SEQRA; and

(iii) ratifies such proceedings by the Town as Lead Agency;

(iv) determines that all of the provisions of SEQRA that are required to be complied with in order to approve and undertake the Straight Lease Transaction and provide the Financial Assistance contemplated by the Agency with respect to the Project have been undertaken and satisfied. This determination constitutes a negative declaration for purposes of SEQRA and no further SEQRA review is necessary.

Section 2. The Agency hereby authorizes the scheduling, notice and conduct of a public hearing in compliance with the Act.

Section 3. Subject to the Company executing the Agent Agreement attached hereto as **Exhibit B** 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, construction and equipping of the 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 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 December 31, 2011 (unless extended for good cause by the Executive Director of the Agency). The Agency hereby authorizes the Chairman, Vice Chairman, and/or the Executive Director of the Agency, on behalf of the Agency, to execute and deliver the Agent Agreement and related sales and use tax exemption materials.

Section 4. The Chairman, Vice Chairman, and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate, but not execute: (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, and (C) the PILOT Agreement, and (D) related documents associated with the Straight Lease Transaction (and collectively, the "Straight Lease Documents"); provided (i) 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 (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with. The final form of the proposed Straight Lease Documents shall be subject to approval by the Agency in a subsequent resolution to be held following the Public Hearing (the "Project Authorizing Resolution")

Section 5. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate, but not execute or deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents by any lender identified by the Company (the "Lender") to undertake the Project and/or finance equipment and other personal property and related transactional costs (hereinafter, with the Straight Lease Documents, collectively the "Agency Documents"), provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

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><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Paul Lattimore	[ ✓ ]	[ ]	[ ]	[ ]
Carol Contiguglia	[ ✓ ]	[ ]	[ ]	[ ]
John Latanyshyn	[ ✓ ]	[ ]	[ ]	[ ]
Raymond Lockwood	[ ✓ ]	[ ]	[ ]	[ ]
Herb Marshall	[ ✓ ]	[ ]	[ ]	[ ]
Gina Speno	[ ✓ ]	[ ]	[ ]	[ ]
Vijay Mital	[ ✓ ]	[ ]	[ ]	[ ]

The Resolution was thereupon declared duly adopted.

**EXHIBIT A**  
**EAF AND NEGATIVE DECLARATION**

617.20  
**Appendix C**  
**State Environmental Quality Review**  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
**For UNLISTED ACTIONS Only**

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

1. APPLICANT/SPONSOR All Ways Concrete Pumping	2. PROJECT NAME Turnpike Road property
3. PROJECT LOCATION: Municipality <u>Town of Sennett</u> County <u>Cayuga</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>State Route 34 and Turnpike Road Intersection.</u>	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>Proposed re-zone from Agricultural Transition to Planned Development District (PDD) including a 3 lot subdivision of 118-acre parcel into proposed 13-acre parcel. New construction of a 14,000 square foot building for the vehicle service and storage operations of All Ways Concrete Pumping &amp; tractor trailer service by Repair Plus.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>118</u> acres    Ultimately <u>-3.0</u> acres (current project)	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly <u>Proposed project use required re-zone to Planned Development District (PDD) consistent with the Town of Sennett's pending update of their zoning</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <u>Primarily Agricultural and, to a lesser extent, residential and commercial (motel).</u>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <u>Cayuga County Department of Transportation - Driveway permit</u> <u>Cayuga County Department of Health (CCDOH) - Wastewater permit</u>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>All Ways Concrete Pumping</u> Date: <u>4/11/11</u> Signature: <u>[Handwritten Signature]</u>	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**



**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? if yes, coordinate the review process and use the FULL EAF.

Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? if No, a negative declaration may be superseded by another involved agency.

Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

NO

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

NO

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

NO

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

NO

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

NO

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

NO

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

NO

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

Yes  No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes  No If Yes, explain briefly:

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Sennett Town Board  
Name of Lead Agency

May 23, 2011  
Date

Jeffrey Herrick  
Print or Type Name of Responsible Officer in Lead Agency

Town Supervisor  
Title of Responsible Officer

Jeffrey Herrick  
Signature of Responsible Officer in Lead Agency

Penelope Dennis  
Signature of Preparer (if different from responsible officer)





**EXHIBIT B**  
**FORM OF AGENT AGREEMENT**

THIS AGREEMENT, made as of the \_\_\_ day of \_\_\_\_\_, 2011, by and between the **CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 160 Genesee Street, Auburn, New York 13021 (the "Agency") and **REPAIR PLUS, LLC**, a limited liability company duly organized and validly existing under the laws of the State of New York with offices at 2760 Trombley Road, P.O. Box 1122, Weedsport, New York 13166 (the "Company").

W I T N E S S E T H :

WHEREAS, the Agency was created by Chapter 688 of the Laws of 1970 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, **REPAIR PLUS, LLC**, for itself or on behalf of an entity to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting that the Agency consider undertaking a Project (the "Project") 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 "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 "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, by Resolution dated June 14, 2011 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing and equipping the Facility subject to the Company entering into this Agent Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to (i) acts reasonably related to the acquisition, construction and equipping of the Facility; and (ii) so that the financial assistance provided to the Company by the Agency shall not exceed \$100,000 until a public hearing is held and a subsequent resolution is passed. The right of the Company to act as agent of the Agency shall expire on December 31, 2011, unless extended as contemplated by the Resolution. The aggregate amount of work performed as Agent for the Agency shall not exceed the amounts

described in the Application of the Company in this matter. All contracts entered into as agent for the Agency shall include the following language:

“Except to the extent of bond proceeds (to the extent bonds are issued by Agency with respect to the Project), the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.”

2. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Facility:

(a) The Company is a limited liability company duly organized and validly existing under the laws of the State of New York, has the authority to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no

investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents, representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Agency upon demand, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the County of Wayne, except for temporary periods during ordinary use.

3. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, rehabilitating, renovation, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

4. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative

to the above requirements (including the requirement of periodic appraisal), the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well.

(b) Worker's compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable worker's compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

5. Additional Provisions Respecting Insurance. (a) All insurance required by Section 4(a) hereof shall name the Agency as a named insured and all other insurance required by Section 4 shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days prior written notice of the cancellation thereof to the Company and the Agency.

(b) All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency on the date hereof. Prior to expiration of any such policy, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

6. This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

7. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: Cayuga County Industrial Development Agency  
County Office Building  
160 Genesee Street, 5<sup>th</sup> Floor  
Auburn, New York 13021  
Attn: Stephen F. Lynch, Executive Director

With copies to: Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Justin S. Miller, Esq.

To the Company: Repair Plus, LLC  
2760 Trombley Road, P.O. Box 1122  
Weedsport, New York 13166  
Attn: Diana Sroka

With copies to: TheBersani Law Firm  
224 Harrison Street  
Syracuse, New York 13202  
Attn: Frank Bersani, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the Federal or state courts located in Orange County, New York.

9. The parties are contemplating that, after any applicable public hearings, the Agency will negotiate and enter into a lease agreement ("Lease Agreement"), a leaseback agreement (the "Leaseback Agreement") and a payment-in-lieu-of-tax agreement ("PILOT Agreement") with the Company. The Company agrees not to take title to any real property as agent for the Agency until the Lease Agreement and PILOT Agreement have been executed and delivered. At any time prior to the execution of the Lease Agreement, Leaseback Agreement and PILOT Agreement, the Agency can transfer title to the Company of all assets acquired by the Company as agent for the Agency. Additionally, at any time prior to execution of the Lease Agreement, Leaseback Agreement and PILOT Agreement, the Company can demand that the Agency transfer title to the Company with respect to all assets acquired by the Company as agent for the Agency, provided all amounts owed the Agency have been paid current.

10. By executing and acknowledging this Agent Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (1) legal services,

including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, and (2) other consultants retained by the Agency in connection with the Project; with all such charges to be paid by the Company at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore.

The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (1) the applicant's withdrawal, abandonment, cancellation or failure to pursue the Project; (2) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (3) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CAYUGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name:  
Title:

REPAIR PLUS, LLC

By: \_\_\_\_\_  
Name:  
Title:

**SECRETARY'S CERTIFICATION**

STATE OF NEW YORK     )  
COUNTY OF CAYUGA    ) SS:

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

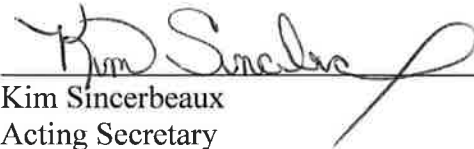
That I have compared the annexed extract of minutes of the meeting of the Cayuga County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on June 14, 2011, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related 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 such 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 affixed the seal of said Agency this 14<sup>th</sup> day of JUNE, 2011.

  
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Kim Sincerbeaux  
Acting Secretary

[SEAL]