



MINUTES

July 31st, 2023

Herkimer County Industrial Development Agency Board of Directors Meeting

STAFF

JOHN J. PISECK, JR.
Chief Executive Officer

VICTORIA L. ADAMS
Operations Manager

JENNIFER L. YOUNG
Administrative Office
Assistant

ERIN E. SPINA
Marketing & Communications
Specialist

BOARD OF DIRECTORS

VINCENT J. BONO
Chairman

CORY ALBRECHT
Vice Chairman

JOHN SCARANO
Secretary

MICHAEL WERENCZAK
Treasurer

ANN GAWORECKI
Director

TIM DAY
Director

ALANA BASLOE
Director

COUNSEL

ANTHONY G. HALLAK, Esq.
Felt Evans, LLP

The Herkimer County Industrial Development Agency held a special meeting of the Board of Directors on Monday, July 31st, 2023 at 1:30 PM. The meeting was held electronically via zoom conference as well as a public meeting open for the public to attend in person. Members of the public were invited to join the meeting virtually by going to www.zoom.com or by dialing (929) 205-6099 and entering meeting ID: 886 8128 8098 and passcode: 402411. Members of the public were invited to attend the meeting in person in the Herkimer County Chamber of Commerce conference room at 420 E. German Street, Herkimer, NY 13350.

After the Pledge of Allegiance, Chairman Vincent (Jim) Bono called the meeting to order at 1:30 PM.

The following members were present in person and answered the roll call: Alana Basloe, Vincent (Jim) Bono, John Scarano, and Cory Albrecht. (4) **Quorum Present**

Members Absent: Michael Werenczak, Ann Gaworecki, and Timothy Day

Staff Present: John Piseck, Victoria Adams, Jennifer Young, Erin Spina, and HCIDA Intern Joe Bono

Also Present in Person: Chuck Malcom (Hodgson and Russ)

Also Present Virtually: Lorie Phillips (Office of Assemblywoman Buttenschon) and Jim Wallace (County Administrator)

Mission Statement: Mr. Joseph Bono read the Agency's Mission Statement.

Colucci Trucking, LLC:

Application for Financial Assistance and Cost Benefit Analysis: The agency received an amended application for financial assistance and cost benefit analysis from Colucci Trucking, LLC. Colucci Trucking proposes a trucking terminal and offices on a vacant parcel of land in the Town of Schuyler. **Following review and discussion, John Scarano moved, seconded by Alana Basloe to approve the application for financial assistance and cost benefit analysis for Colucci Trucking, LLC. The motion carried with 4 ayes and 0 nays.**

Resolution: 073123-01

Inducement Resolution: An amended Inducement Resolution was provided to the board for Colucci Trucking, LLC. After further review and discussion, **Cory Albrecht made the following motion:**
420 E. German Street, Box 1 Suite 101A, Herkimer, NY 13350 315-866-3000

"This institution is an equal opportunity provider, employer and lender."

RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "AGENCY") TAKING OFFICIAL ACTION APPROVING AN AMENDED PROJECT APPLICATION AND EXTENDING THE APPOINTMENT OF COLUCCI TRUCKING LLC (the "COMPANY"), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A SUBLEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AND PROJECT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

Seconded by Alana Basloe, the motion carried with 4 ayes and 0 nays. The official resolution is attached to the original minutes.

Resolution 073123-02

Public Hearing: The board was presented with a request to move forward with a public hearing for Colucci Trucking, LLC. **Cory Albrecht moved, seconded by John Scarano to move forward with scheduling the public hearing. The motion carried with 4 ayes and 0 nays.**

Resolution 073123-03

Mr. Bono welcomed comments from attendees.

No comments were made.

Project Updates/ Other Business:

Mr. Piseck made note that the next regular scheduled board of directors meeting will be held on Tuesday, August 29th, at 8:00 AM.

Being no other business, John Scarano moved, seconded by Cory Albrecht to adjourn at 1:36 PM. The motion carried with 4 ayes and 0 nays.

Respectfully Submitted,



Jennifer Young
Administrative Assistant

**AMENDED
INDUCEMENT RESOLUTION
073123-02**

At a special meeting of the Herkimer County Industrial Development Agency held at 420 East German Street, Herkimer, New York on July 31, 2023 at 1:30 P.M.

The meeting was called to order by the Chairman, and, upon the roll being called, the following were

PRESENT: Vincent J. Bono, Cory Albrecht, John Scarano, Alana Basloe

ABSENT: Timothy Day, Michael Werenczak, Ann Gaworecki

ALSO PRESENT: John Piseck, Victoria Adams, Jennifer Young, Erin Spina

The following resolution was offered and seconded with the members voting:

AYE

NAY

All

None

RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “AGENCY”) TAKING OFFICIAL ACTION APPROVING AN AMENDED PROJECT APPLICATION AND EXTENDING THE APPOINTMENT OF COLUCCI TRUCKING LLC (the “COMPANY), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A SUBLEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AND PROJECT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, the Herkimer County 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 Chapter 410 of the Laws of 1970 and Chapter 158 of the Laws of 1981 of the State (collectively, the "Act") to promote, develop, encourage and assist in the constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, pollution control, commercial, research and recreation facilities for the purpose of promoting, attracting developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York (the "State"); to improve their 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 provide assistance in the construction and equipping of one or more "Projects" (as defined in the Act); and

WHEREAS, the Company presented an application (the "Application") to the Agency on May 5, 2023, which application was amended and received by the Agency on July 25, 2023 (the "Amended Application"), copies of which were presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking; (i) to provide assistance through sales tax and mortgage tax incentives for the constructing, equipping, and financing of the above described project Facility and real property tax relief in the form of a Payment in Lieu of Tax Agreement (the "Assistance"), (ii) to acquire, construct, equip, and finance the Facility or to cause the Facility to be constructed, equipped, and financed; and (iii) to lease and/or sublease (with an obligation to leaseback) or sell the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Facility will consist of the acquisition, construction, and equipping of a trucking terminal, maintenance garage and office space located at Drive In Road in the Town of Schuylers, Herkimer County, State of New York, known as Tax Map No(s). 105.3-2-8 (part of), 105.3-2-10 and 105.3-2-11. The Project has an estimated cost of One Million Six Hundred Five Thousand and 00/100 Dollars (\$1,605,000.00) (the "Project Costs"); and

WHEREAS, the Agency has given due consideration to the Amended Application and to representations by the Company; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto the Department of Environmental Conservation of the State Department of Environmental Conservation of the State (collectively "SEQR"), the Agency constitutes a State Agency; and

WHEREAS, the Agency has considered its environmental assessment form and related forms (the questionnaire submitted by the Company) the requisite criterion to determine whether the proposed action or the Project will have a significant effect on the environment; and

WHEREAS, if required by the Act, a public hearing will be duly noticed and had with respect to the Facility and the Assistance.

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

1. Based upon the application and other representations made by the Company to the Agency and the Agency's due deliberation, the Agency hereby makes the following findings and determinations:

A. The Facility constitutes a "Project" within the meaning of the Act.

B. The Assistance will induce the Company to locate the Facility in the County, thereby maintaining and increasing employment opportunities within the State of New York and otherwise furthering the purposes of the Agency as set forth in the Act.

C. Except as is permitted by law, the Facility will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Facility from one area of 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 Facility located in the State.

2. The form and substance of the proposed agreement in substantially the draft form presented to this meeting between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to providing of the Assistance (the "Agreement") are hereby approved. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agreement in substantially the form presented to this meeting, with such changes in terms and form as the Chairman, Vice Chairman or the Executive Director shall approve. The execution thereof by the Chairman, Vice Chairman or Executive Director shall constitute conclusive evidence of such approval.

3. Subject to the conducting of a public hearing, if required, pursuant to Sections 859-a and 862 of the Act and subject to the conditions set forth in the Agreement, the Company is hereby authorized to proceed with the acquisition, construction, equipping, and financing of the Facility and to advance such funds as may be necessary to accomplish such purposes.

4. Subject to the conducting of a public hearing, if required, pursuant to Sections 859-a and 862 of the Act and subject to the conditions set forth in the Agreement, the Company in accordance with the Agreement and where applicable its tenant or tenants, are appointed the true and lawful agents of the Agency (i) to acquire, construct, equip, and finance the Facility, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and the same validity as the Agency could do if acting in its own behalf.

5. This Project shall not proceed until it has conformed with all requirements of SEQR, conditions (if any) imposed by the Town of Schuyler, this Agency has adopted the Negative Declaration of the Town of Schuyler or County of Herkimer as Lead Agency in the SEQR process, the Company has provided adequate proof that the Project permits are duly transferable and the

leases and/or subleases are approved by the Agency, and the Company has provided sufficient proof of its ability to finance the Project.

6. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases or otherwise benefit from the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project if determined that: (i) the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the 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, subleasee's or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the 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 Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

7. The Chairperson, Vice Chairperson, and/or Administrative Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (a) the Lease Agreement whereby the Company conveys a leasehold interest in the Project to the Agency, (b) the related Leaseback Agreement leasing the Project back to the Company, (c) the Project Benefits and Recapture Agreement, and (d) the PILOT Agreement; provided (1) the rental payments under the Leaseback Agreement include payment 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.

A copy of this resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours and notices of this negative declaration shall be filed, posted and published as shall be necessary to conform with the requirements of SEQR.

8. This Resolution shall take effect immediately.

STATE OF NEW YORK)
) ss.:
COUNTY OF HERKIMER)

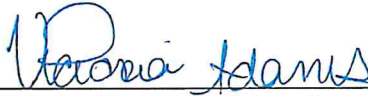
I, the undersigned Assistant Secretary of the Herkimer County Industrial Development Agency, do hereby certify that I have compared the foregoing extract of the minutes of the Herkimer County Industrial Development Agency (the "Agency") held on July 31, 2023 with the original thereof of file in my office, and that the same is a true and correct copy of the original and of the whole of the original insofar as the same relates to the subject matters therein referred to.

I, FURTHER CERTIFY that (i) all members of the Agency had due notice of the meeting, (ii) the meeting was in all respects duly held, (iii) pursuant to Section 99 of the Public Officers Law (Open Meetings Law), the meeting was open to the general public, and public notice of the time and place of the meeting was duly given to the public and news media in accordance with Section 99 and (iv) there was a quorum of the members of the Agency present throughout the 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 and rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 31st day of July, 2023.

**HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Victoria Adams, Assistant Secretary