

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

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A special meeting of the Counties of Warren and Washington Industrial Development Agency was held on Wednesday, June 13, 2022 at 4:45 pm via Zoom.

The following were:

PRESENT:	Dave O'Brien	Chair
	Nick Caimano	Member
	Chuck Barton	Member
	Craig Leggett	Vice Chair
	Dan Bruno	Park Chair
	Ginny Sullivan	Member

ABSENT:	Mike Wild	Member
	Brian Campbell	Member
	Michael Bittel	Member
	Mary King	Member

The following were also present:

Kara Lais, Esq.	FitzGerald Morris Baker Firth, PC
Mike Ostrander	Executive Director, WWIDA
Tim Robinson	WWIDA CFO
Susan Nixon	Attorney for Aviation Hospitality

Minutes were taken by: Alie Weaver Office Administrator

Roll call was taken, and a quorum was confirmed.

Approval of Videoconferencing Resolution – Mr. Bruno made a motion to approve the Videoconferencing Resolution as proposed at the Public Hearing that was held before this Special Meeting. Mr. Caimano seconded and all voted in favor by voice vote.

Aviation Hospitality Refinance – Ms. Lais stated that the Aviation Hospitality project commenced in August 2017 with a mortgage of 9.7 million. They are refinancing their current principal of \$8,972,867.16 with an additional \$1,187,132.83 to total \$10,160,000. They are requesting mortgage tax exemption, equaling \$14,839, on the additional money to be financed. She noted that they are not in default with the IDA, or their lender and they are scheduled to close tomorrow.

Discussion ensued on the purpose of the IDA granting this mortgage tax exemption. With the time constraint and questions about the utilization of the additional money being financed, Ms. Nixon, attorney for the customer, was invited to the Zoom meeting.

Ms. Nixon stated that there is a separate 3-acre parcel across the street from Aviation Hospitality that they will be purchasing for \$800,000 with this additional money. She noted that she couldn't speak to the intended purpose of this property.

The Board discussed how this mortgage tax exemption did not qualify as an economic development as it was unclear what the new property will be used for and does not expand or increase capacity on their current project with the IDA.

Mr. Leggett made a motion to authorize the refinancing of mortgage minus the mortgage tax exemption and Mr. Bruno seconded. All voted in favor by voice vote.

Canalside Land Maintenance RFP's – Mr. Ostrander addressed questions from the last meeting concerning the Canalside Land Maintenance RFP:

He noted that Grasshopper Gardens is fully insured and licensed to apply herbicide. New Growth Lawn Care and Maintenance does not currently have the herbicide license but would be able to receive one via a DEC online class within two weeks of bid award.

Mr. Ostrander stated that Grasshopper Gardens would be able to start the project in four weeks and would take one week to complete.

He noted that Grasshopper Gardens would shred as much refuse as possible on site and remove larger debris at no extra cost. New Growth Lawn Care and Maintenance would remove larger debris at an additional cost.

Mr. Ostrander stated that Grasshopper Gardens' bid came in at \$18,400 and New Growth Lawn Care and Maintenance's bid came in at \$20,000.

Mr. Leggett made a motion to award Grasshopper Gardens the bid for Canalside Land Maintenance and Mr. Bruno seconded. All voted in favor by voice vote.

Executive Session and Adjournment – Mr. O'Brien stated that they will be going into Executive Session regarding Attorney/Client discussion and will adjourn out of Executive Session as no action will be taken.

Resolution No. _____

**COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT
AGENCY**

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the Counties of Warren and Washington Industrial Development Agency (the Agency) to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the AGENCY to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring "that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend"; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting "unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting"; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the AGENCY webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the AGENCY authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the AGENCY shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

Procedures for Member Videoconferencing Pursuant to Public Officers Law § 103a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the AGENCY, following a public hearing, authorized by resolution on [insert date] the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. AGENCY members shall be physically present at any meeting of the AGENCY unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify The President or Chair prior to the scheduled meeting that they have an extraordinary circumstance that precludes them from attending from a physical public location as noticed.
4. If there is a quorum of members participating at a physical location(s) open to the public, the AGENCY may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public *shall not* count toward a quorum of the AGENCY but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL § 105, the AGENCY shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
8. The AGENCY shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the AGENCY website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
9. If members of the AGENCY are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the AGENCY shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The AGENCY shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Open meetings of the AGENCY conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, "disability" shall have the meaning defined in Executive Law § 292.
11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law if the AGENCY determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the AGENCY to hold an in person meeting.
12. These procedures shall be conspicuously posted on the AGENCY website.

Canalside RFP

Business- New Growth Lawn Care and Maintenance

Everett Scully Jr.

Soul Proprietor/No employees

Cell#-518-769-3747

Estimated cost for job/Price quote-\$20,000

Price includes the following

- Weed spraying
- Weed whacking
- Tree removal
- Brush cutting
- Mowing
- Equipment fee
- Supplies needed
- Hours of labor

Grasshopper Gardens Inc.
Proposal

Description	Quantity	Rate Per Unit	Amount
2022 Brush Cutting along fence and buildings (Per Time) Includes: Cutting of brush in areas listed, shredded and left in place <ul style="list-style-type: none">• (3) fenced-in areas• Fence Lines and sides of existing buildings	1	3200.00	3200.00

2022 Initial Weed Spraying (Per Time) Areas to be treated: Vegetation growing within a large concrete pad up to 1,121,663 sq. ft. Designated areas will be sprayed with a non-selective herbicide to limit weed population. This herbicide is designed to kill on contact, it will not prevent new weeds from growing. Typical results include weeds curling and browning after 3-4 days but may take up to 7-10 days.	1	8400.00	8400.00
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Field / Open Areas Brush - Grass Cutting with Machine (Per Time) Includes small shrub/bark material and grass (shredded in place) Approximate Square Footage: 200,000 Areas Included: <ul style="list-style-type: none">• (4) fenced-in areas• Close to Fence Lines and sides of existing buildings• Roadsides as highlighted on map	1	6800.00	6800.00
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****Does not include removal of clippings/debris**

Prices are valid until: 5/1/2022

Estimate # 80990

Accepted: The attached contract specifications, conditions, provisions, and prices are hereby accepted. Grasshopper Gardens Inc. is authorized to do the work as specified. Any changes made to this contract may result in price adjustments. I certify that I have read and agree with the contract provisions

Date: _____

Signature: _____

Alie Weaver
25 Newton Ln
Hudson Falls, NY 12839

Payments

Payments :

There will be a 50% deposit required before scheduling or material purchasing will take place.
Periodic billing may occur for projects lasting longer than 1 calendar month
Final payment will be made upon completion of the work

**I certify that I am the owner/owners agent of the listed property

**I certify that I have read and agree with the contract provisions, see provisions sheet and provisions below.

**The contractor is not responsible for any erosion or washout due to excessive weather conditions.

**Prices based on acceptance of entire estimate, selection of individual project(s) may result in price alteration of proposed items

**Plant Warranty- The above plants are under warranty for one year from the original date of installation.

The homeowner/agent is responsible for all watering.

The warranty will be voided if plants die due to lack of watering, due to damage from deer, animals, insects or rodents, or damage from severe weather or acts of God.

**Transplanted plants are not under warranty.

**Working near or around trees, shrubs, plants, etc. may cause root damage or damage to the plant.

Although the contractor works very hard not to cause any damage to existing landscape plants or structures, sometimes damage does occur. Contractor will not be responsible for any damage that may occur.

**Any additional work performed that is not outlined or specified in this contract, will be billed at an additional cost to the homeowner/agent.

**Any additional work resulting directly or indirectly from the proposed work, that is not specified in this contract, that was unidentified by the contractor, will be billed at an additional cost to the homeowner/agent.

**Agent/customer is responsible to obtain any permits necessary for project.

General Contract Provisions

A. All work will be done only with quality workmanship, equipment, materials, and methods. Any additional work performed that is not outlined in this contract, will be billed at an additional cost to the agent/customer.

B. Agent/customer maintains the responsibility for monitoring and inspecting premises. Services of contractor are deemed to be satisfactory unless agent/customer notifies contractor of a problem within 24 hours of the services being performed.

C. It is the responsibility of the agent/customer to notify the contractor of any underground or hidden lines for irrigation, cable, electrical, etc. The agent/customer must make these areas clearly visible to the contractor to avoid any damage by the contractor. Any damage to underground lines, wires, cable, pipes or irrigation lines is not the responsibility of the contractor.

D. In the event of severe storm conditions where excessive damage has been created by the weather, the contractor will be made available to clean or correct any relating problems, upon request by the agent/customer. ***THIS IS NOT INCLUDED IN THIS CONTRACT, BUT MAY BE NEGOTIATED AS THE NEED ARISES. ADDITIONAL COSTS WILL BE CHARGED.

E. This contractor does not assume responsibility for any injury or accident resulting from adverse weather or job site conditions, it is the responsibility of the agent/customer to notify the contractor of any adverse conditions that need attention.

F. It is both the goal and desire of this contractor to provide the highest level of service needed to obtain quality results. The client should bring any concern to the attention of the contractor to resolve any difficulties or complaints that may arise.

- G. CONTRACT CANCELLATION - it would be the expectation that if the work is not performed adequately, the contract would be canceled for nonperformance. In fairness to all parties, monies earned up to the point of cancellation are required to be paid at the rates stated for the work. The contractor does not assume nor agree to a price differential due to the agent/customer inability to secure a replacement contractor at above or below the original contracted amounts nor assumes any liability for such exposure. Cancellation notice must be given in written form.
- H. The prices in this contract are valid for thirty days. These prices are valid only if the contract is accepted as a whole. Any changes made to this contract may result in a price adjustment.
- I. Finance charges will be added at a rate of 1.5% a month (18% per annum) on all amounts not paid within 30 days of when bill is rendered. Minimum charge is .50 cents.
- J. A \$50.00 fee will be charged in addition to any bank fees for any returned checks.
- K. The contractor reserves the right to use pictures of property for advertising, marketing or training purposes.
- L. The contractor has the right to retract the estimate from a project at any time prior to start date of work.
- M. The contractor does not assume any responsibility for damage incurred to concrete or asphalt driveways as a result from delivery of material or maneuvering of equipment or materials. The contractor will take necessary precautions to avoid any impact on hard surfaces, however unforeseen base conditions, weather induced situations or declining condition of surfaces can alter finish of surfaces.
- N. Time/Materials proposals will be subject to a minimum labor rate of \$75 per man, per hour and any additional materials cost will be subject to billing.
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Resolution No. _____
Adopted June 13, 2022

Introduced by _____
who moved its adoption.

Seconded by _____

**RESOLUTION APPROVING A MORTGAGE AND CONSOLIDATION AGREEMENT WITH
BERKSHIRE BANK IN CONNECTION WITH AVIATION HOSPITALITY, LLC AND
AUTHORIZING EXECUTION AND DELIVERY OF THE SAME**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Section 890-c of the General Municipal Law of the State of New York (collectively, the ("Act")), the Counties of Warren and Washington Industrial Development Agency (the "Agency") was created and granted the authority to enter into agreements for the purpose of acquiring, constructing and equipping certain industrial facilities; and

WHEREAS, the Agency approved a "Project" to be undertaken at 524 Aviation Road in the Town of Queensbury, County of Warren, State of New York by Aviation Hospitality, LLC (the "Company"), as more specifically described in the Closing Documents; and

WHEREAS, on August 15, 2017, the Agency entered into a Lease Agreement and Leaseback Agreement with the Company in connection with the Project; and

WHEREAS, on August 15, 2017 a certain Mortgage and Security Agreement was entered into by and between Berkshire Bank (the "Mortgagee"), the Agency and the Company and recorded in the Warren County Clerk's office on August 16, 2017 in Book 5609 of Mortgages at Page 54, as Instrument # 2017-5646 in the principal amount of \$9,300,000.00; and

WHEREAS, the Company is seeking to refinance said mortgage in the current outstanding principal amount of \$8,972,867.17 and consolidate said mortgage with new monies in the amount of \$1,187,132.83 for a total outstanding principal amount of 10,160,000.00; and, consequently, the Company will be required to execute a mortgage and consolidation agreement on the property known at 524 Aviation Road in the Town of Queensbury, County of Warren, State of New York, in which the Agency has a leasehold interest; and

WHEREAS, the Company has requested that the Agency execute a mortgage and consolidation agreement by and between the Company, Berkshire Bank and the Agency in connection with the above-described property and financing; and

WHEREAS, the Company has requested that a mortgage tax exemption be provided on the Agency in connection with the new monies which results in a mortgage tax exemption of \$14,839.00; and

WHEREAS, the Company is not in default of any of the terms of the Leaseback Agreement or

the PILOT Agreement.

NOW, THEREFORE, BE IT RESOLVED

1. That the Agency does hereby approve of the execution of a Mortgage and Consolidation Agreement by and between the Agency, Aviation Hospitality, LLC and Berkshire Bank as described herein and further determines that said Modification and Extension Agreement shall be entitled to a mortgage tax exemption from the Agency upon filing in the Warren County Clerk's Office as it does relate to the Project.
2. That the Company shall be responsible for any expenses relating to this transaction, including legal fees of the Agency and County recording fees.
3. That the Agency does hereby authorize the Chairman or the Chief Executive Officer of the Agency, or in the absence of the Chairman or the Chief Executive Officer, the Vice Chairman, upon advice and consent of Agency Counsel, to execute and deliver on behalf of the Agency any documents necessary to consummate the transaction.
4. This Resolution shall take effect immediately.