

**Counties of Warren and Washington
Industrial Development Agency**

Special Meeting Announcement/Agenda

**Wednesday, October 4, 2023 at 9:00 AM
68 Warren Street, Glens Falls NY**

Members of the public may also listen/view/comment via the livestreaming on YouTube under Warren Washington IDA.

Minutes of this Warren Washington Industrial Development Special Meeting will be transcribed and posted on the WWIDA website.

Agenda

Call to Order, Roll Call and Quorum Confirmation

Approval of Minutes of the September 6th, 2023 IDA Executive Park Meeting

Report of Committees

Canalside Master Plan update
Airport Industrial Park updates

Unfinished Business

New Business

Native Development Project Resolution

Other

Public Comments

Adjourn

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

5 Warren Street, Suite 210
Glens Falls, New York 12801

Tel. (518) 792-1312
Warren-WashingtonIDA.com

The Executive Park Meeting for Warren Washington Industrial Development Agency was held on Wednesday, September 6th, 2023 at 9:00 at 68 Warren Street, Glens Falls NY. The following members were:

<i>PRESENT:</i>	Dave O'Brien	Chair
	Craig Leggett	Vice Chair
	Tim Robinson	Sec/Treasurer
	Juan Gonzales	At-Large
	Dan Bruno	Park Chair
	Chuck Barton	CEO

The following were also present:

Kara Lais, Esq.	FitzGerald Morris Baker Firth, PC
Mark Smith	Member
Bob Holmes	RU Holmes Engineering
<i>Minutes were taken by:</i> Alie Weaver	Office Administrator

Roll call was taken and a quorum was confirmed.

Approval of Minutes: Mr. Bruno made a motion to approve the June 7th, 2023 IDA Executive Park meeting minutes and Mr. Leggett seconded. All voted in favor by voice vote.

Canalside Master Plan Update: Mr. Bruno stated that the preliminary Water/Wastewater Basis of Design Report from LaBella was expected to be ready by September 1st but has not received it yet.

He noted that the IDA is considering a 400,000-gallon water tank that the Village of Fort Edward has offered.

Mr. Bruno also stated that he will be assisting Mr. Holmes with the Request for Proposal on final plans for the construction and the RFPs will not go out until the IDA receives approval from the FAST NY grant program. He estimated the construction costs to be around \$3 million.

Discussion ensued on the advantages and disadvantages of having a different engineering company hired for the construction phase.

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

5 Warren Street, Suite 210
Glens Falls, New York 12801

Tel. (518) 792-1312
Warren-WashingtonIDA.com

New Leaf Update: Mr. Barton stated that the Phase II deed restrictions for solar farms on wetlands are currently hindering progress on New Leaf's interest in installing a solar farm in the Airport Industrial Park.

Ms. Lais stated that the Army Corps of Engineers is referring to the original deed restrictions, versus the revised deed restrictions, as there is no language stating that the revised version supersedes the original. She also stated that the restricted property may include the entirety of each lot, versus just the wetland portion of the lots.

Mr. Holmes stated that the survey map and written descriptions of the delineation specify the wetland portions only.

Mr. O'Brien stated that the ACOE has a new engineer researching these lots and is currently reviewing the former engineer's data and will be in contact with the IDA when more information is available.

Discussion ensued on the usage options of the undeveloped lots in Phase II.

Boats by George Update: Mr. Holmes provided a preliminary site evaluation map of parcel #137.-2-23 in Phase II that Mr. Pensel of Boast by George is interested in purchasing for outdoor boat storage.

Discussion ensued on the map's wetland areas and options of usage. It was decided to have a conversation with Mr. Pensel regarding the site evaluation for his feedback.

Adjournment: There being no further business, Mr. O'Brien adjourned the September Executive Park meeting at 9:49 AM.

Counties of Warren and Washington Industrial Development Agency

Resolution No. _____
Adopted October 4, 2023

Introduced by _____
who moved its adoption.

Seconded by _____

**RESOLUTION TAKING ACTION TOWARD UNDERTAKING A CERTAIN PROJECT,
AS DEFINED HEREIN, APPOINTING NATIVE DEVELOPMENT ASSOCIATES LLC
(THE "COMPANY"), AS AGENT OF THE AGENCY FOR THE PURPOSE OF
CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED
HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PROJECT
AGREEMENT AND LEASE AGREEMENT AND RELATED DOCUMENTS, BY AND
BETWEEN THE AGENCY AND THE COMPANY**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, Native Development Associates LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 8 Lupine Lane, Wilton, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain manufacturing project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at 32 Native Drive in the Town of Queensbury, County of Warren, New York and being known as tax map parcel number 308.20-1-9.22 (the "Land"); (ii) the planning, design, construction and maintenance by the Company of an approximately 25,000 square foot facility to be leased to Specialty Sales LLC to operate the facility to manufacture and install footbath systems and supply proprietary reagents/solutions to commercial dairies in the Northeast (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the "Act"), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project, as the Act authorizes the Agency to promote, develop, encourage and assists projects such as this

Project and to advance job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by lease, and construct the Project Facility and the Agency will lease the Project Facility to the Company; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, a lease agreement (the "Lease Agreement") with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Company has submitted to the Agency, and the Agency has reviewed information needed to determine whether or not the Project will have a significant impact on the environment; and

WHEREAS, the construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing on August 14, 2023 pursuant to Article 18-A of the New York State General Municipal Law (the "Law") before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a "project", as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general

prosperity and economic welfare of the citizens of the State of New York and the Counties of Warren and Washington and improve their standard of living; and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York;

(D) It is in the public interest for the Agency to undertake this commercial Project on behalf of the Company as this Project will promote employment opportunities and will prevent economic deterioration in the area. The Agency hereby makes this determination concerning the Project due to the Findings Statements, a copy of which is incorporated herein and attached hereto by reference;

(E) The location of the site of the Project is acceptable to the Agency;

(F) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the Town of Queensbury and all regional and local land use plans for the area in which the Facility shall be located;

(G) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the Town of Queensbury; and

(H) The Project is a "Unlisted Action" under SEQRA for which the Town of Queensbury Planning Board (the "Planning Board") has acted as lead agency. On or about September 19, 2023, the Planning Board reviewed the Project Site Plan Application submitted on behalf of the Company and approved said Site Plan, and issued its Negative Declaration finding that the Project will not have a significant impact on the environment; and (ii) the Agency has thoroughly reviewed the environmental assessment form, negative declaration and related supporting information presented to the Agency within the Company's Application for Assistance in order to determine whether the Project might have any potential significant adverse impacts upon the environment. After conducting this review, the Agency has determined that the acquisition, construction and equipping of the Project Facility are consistent with social, economic and other essential considerations and will not result in any significant adverse impacts on the environment. The Agency hereby ratifies the findings and Negative Declaration of the Town of Queensbury Planning Board. In doing so, the Agency satisfies the requirements of Part 617 of Title 6 of the New York Code of Rules and Regulations and no further SEQRA review is required for the Project; and

(I) This section is intentionally left blank.

(J) The Agency further determines that the Project will consist of a private investment of approximately \$3,631,207.00 and the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, for the purposes of monitoring in accordance with the policies and procedures of the Agency; and

(K) Undertaking the Project will lead to the creation of eight (8) full time equivalent job opportunities for the inhabitants of the Counties of Warren and Washington and in the State of New York, the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, in its determination to approve the Project and will require the Company to annually report its job numbers as required by law.

(L) Undertaking the Project will lead to the creation of approximately 20-25 construction jobs that the Company advised will be filled by construction companies employing people primarily in the Counties of Warren and Washington.

SECTION 2. Project Agreement. The proposed project agreement by and between the Agency and the Company (the "Project Agreement"), a copy of which is incorporated by reference and is approved as to substance and form. The proposed agreement outlines the Agency's and the Company's rights and duties with respect to the undertaking of the Project. Subject to such changes as the Chairman of the Agency, upon advice of counsel, may reasonably deem necessary, the Chairman is authorized to execute the Project Agreement. Execution shall be conclusive evidence that the Agency has approved the Project Agreement. Subject to the terms and provisions of the Project Agreement, the Agency shall: (1) acquire an interest in, construct and install the Project Facility and (2) lease the Project Facility to the Company pursuant to an agreement or agreements whereby the Company will obligate itself, among other things, to undertake the Project on behalf of the Agency.

SECTION 3. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agents of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

(D) The Agency hereby authorizes exemptions from State and local sales and use taxes for purchases and rentals related to the undertaking of the Project in an amount not to exceed Ninety Two Thousand Dollars (\$92,000.00), based on eligible Project costs of One

Million Three Hundred Fourteen Thousand Two Hundred Eighty Five Dollars (\$1,314,285.00); which exemption shall expire March 31, 2024.

(E) The Agency hereby approves of the Agent Agreement, a copy of which is incorporated herein by reference, with the Company which shall be subject to the termination and recapture of benefits policy of the Agency. The Agency further authorizes the execution and delivery of the Agent Agreement, the Chairman, and any additional documents relative thereto.

(F) The Agency hereby acknowledges and approves a mortgage tax exemption relating to the Project in an estimated amount of Thirty Three Thousand Seven Hundred Fifty Dollars (\$33,750.00), based on an estimated mortgage amount of Two Million Seven Hundred Thousand Dollars (\$2,700,000.00).

SECTION 4. Payment in Lieu of Tax (PILOT) Agreement. The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture of Benefits Policy.

The following PILOT schedule is consistent with the Agency's uniform policy is a partial real property tax abatement through a PILOT Agreement pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions for a term of 10 years with an 100% exemption of real property taxes on the value of the improvements for years 1 through 5 and a 50% exemption of real property taxes on the value of the improvements for years 6 through 10.

The total Base Value for the parcel shall be \$135,000.00 for the term of the PILOT.

At all times, including during the term of the PILOT Agreement, the Company shall be responsible for the full payment of water and sewer assessments, as may be applicable and any other special district assessments.

The estimated real property tax benefit during the term of the PILOT Agreement is \$482,656.00.

SECTION 5. Administrative and Legal Fees. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's Application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$375.00 per hour for attorney's time and \$125.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of all of the Project documents, the Company will pay to the Agency an administrative fee (the "Administrative Fee") of \$32,681.00 based upon an estimated Project cost of \$3,631,207.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

Up to First \$10,000,000 0.90%

Next \$10,000,000	0.65%
Next \$30,000,000	0.40%
Portion over \$50,000,000	0.25%

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

SECTION 6. Insurance. The Company shall deliver to the Agency a certificate of insurance, complying with the requirements as required by the Agency, and indicating that:

(a) The Company maintains insurance with respect to the Facility providing the coverage against the 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 with respect thereto, and mandated by the Agency, including, but not necessarily limited to the following:

(i) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property. The parties agree that for purposes of this Project the Company will be responsible for providing builders risk insurance.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which 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 Project Facility and for all contractors and subcontracts.

(iii) Insurance protecting the Company and the Agency 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 a single combined limit of not less than \$2,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000.00 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(iv) If applicable and if it is determined that the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(v) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(b) all policies evidencing such insurance,

(i) name the Company and the Agency as insureds, as their interests may appear, and

(ii) provide for at least thirty (30) days' written notice to the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof.

SECTION 7. This section is intentionally left blank.

SECTION 8. Public Inspection. A copy of this resolution and a copy of the Company's Application for Assistance, together with all other application materials not protected under applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 9. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties in order to prepare the documents need to undertake the Project and to effectuate the provisions of this Resolution.

SECTION 10. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 11. Public Hearing. A public hearing for this Project was duly authorized and held on August 14, 2023 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 12. Further Action. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 13. Effective Date. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote by

roll call and was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS:
COUNTY OF WARREN)

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the ____ day of _____, 2023.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this ____ day of _____, 2023.

Alie Weaver
Counties of Warren and Washington
Industrial Development Agency

[SEAL]

Acknowledged and Agreed to

By:
Title: _____ of Native Development Associates LLC