

Date: February 6, 2023

At a meeting of the Town of Riverhead Industrial Development Agency (the "Agency"), held at Town Hall, 200 Howell Avenue, in Riverhead, New York, in said Town, on February 6, 2023 at 5:00 p.m. Prevailing Time.

Present: James B. Farley, Chairman (Virtual Attendance)
Lee Mendelson, Treasurer
Anthony Barresi, Secretary
Doug Williams, Asst. Treasurer

Recused:

Excused: Lori Ann Pipeczynski, Vice Chair

Also Present: Tracy Stark-James, Executive Director
William F. Weir, Esq., Transaction Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest and title to a certain industrial development facility more particularly described below (RD America, LLC d/b/a Restaurant Depot 2023 Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Lee Mendelson
Anthony Barresi
Douglas Williams
James Farley (virtual)

Voting Nay

#08-23 RESOLUTION OF THE TOWN OF RIVERHEAD
INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE
ACQUISITION RENOVATION AND EQUIPPING OF A CERTAIN
INDUSTRIAL DEVELOPMENT FACILITY, AND MAKING
CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT
TO THE FACILITY AND APPROVING THE FORM, SUBSTANCE
AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 624 of the Laws of 1980, the Town of Riverhead Industrial Development Agency was created and is a public benefit corporation and an industrial development agency of the State of New York (the “**Agency**”) having those powers set forth in, and subject to the requirements of, Article 18-A of the General Municipal Law; and

WHEREAS, RD America, LLC d/b/a Restaurant Depot, a limited liability company organized and existing under the laws of the State of Delaware and authorized to transact business in the State of New York, on behalf of itself and/or the principals of RD America, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”) has applied to the Town of Riverhead Industrial Development Agency (the “**Agency**”) for assistance in connection with: the acquisition of an approximately 65,250 square foot portion of an approximately 128,455 square foot building (the “**Demised Premises**”), located on a portion of an approximately 21.89 acre parcel of land located at Riverhead Plaza Shopping Center, 765 Old Country Road, Riverhead, New York 11901 (the Demised Premises are located on portions of SCTM# 0600-104.00-02.00-016.000 and 019.000) (the “**Land**”), the renovation of and equipping of the Demised Premises, located on a portion of the Land (collectively, the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property including, but not limited to a refrigeration and free equipment, racking, telephones, computers, forklifts and other machinery (collectively, the “**Equipment**”; and together with the Demised Premises and the Improvements, the “**Facility**”), which Facility will be leased and subleased by the Agency to the Company for use in its business as a wholesaler of food and restaurant supplies to independent restaurant owners, caterers, delicatessens and not-for-profits (collectively, the “**Project**”); at an estimated project cost of \$6,000,000, and

WHEREAS, the Agency will acquire a leasehold interest in the Demised Premises and the Improvements pursuant to a certain Company Lease Agreement, dated as of February 1, 2023 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the “**Bill of Sale**”), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of February 1, 2023, or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the Company; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of: (i) exemptions from sales and use taxes in an amount not to exceed \$263,580, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (ii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof); and

WHEREAS, in connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the estimated Cost Benefit Analysis (“CBA”) developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D; and

WHEREAS, the real property tax abatement for school, county, town and fire district taxes shall be subject to the payment of a PILOT Payments be distributed by the Agency to such taxing jurisdictions for a period of ten (10) years effective the first tax year immediately following the applicable tax status date, provided real property taxes attributable to special districts including but without limitation public parking, sewer, water, street lighting and business improvement district shall be paid separately to the Tax Receiver of the Town of Riverhead on duly issued tax bill on the assessed value as determined by the Riverhead Board of Assessors, and PILOT Payments shall be paid as set forth in the attached Exhibit C; and

WHEREAS, a public hearing (the “Hearing”) was held on February 6, 2023, so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility, could be heard; and

WHEREAS, notice of the Hearing was given on January 26, 2023, and such notice (together with proof of publication), was substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the report of the Hearing is substantially in the form annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed transaction is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the "Questionnaire") with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; and

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

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(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 Facility constitutes a "project", as such term is defined in the Act; and

(c) The Facility preserves the public purposes of the Act by preserving or increasing the number of permanent private sector jobs in the Town of Riverhead. The Company has represented to the Agency that it expects to retain thirty-three (33) permanent full-time employees within the first two years of operation; and

(d) The acquisition, renovation, and equipping of the Facility and the leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Riverhead, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(e) The acquisition, renovation and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(f) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of the Town of Riverhead, Suffolk County, and all regional and local land use plans for the area in which the Facility is located; and

(g) It is desirable and in the public interest for the Agency to sublease the Demised Premises and the Improvements and to lease the Facility to the Company; and

(h) The Company Lease will be an effective instrument whereby the Agency leases the Demised Premises and the Improvements from the Company; and

(i) The Lease Agreement will be an effective instrument whereby the Agency leases and subleases the Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will describe the circumstances in which the Agreement may recapture some or all of the benefits granted to the Company; and

Section 2. The Agency has assessed all material information included in connection with the Company's application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Demised Premises and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) sublease and lease the Facility to the Company pursuant to the Lease Agreement, and (iv) execute, deliver and perform the Lease Agreement to which the Agency is a party.

Section 4. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 5. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, renovation and equipping of the Facility in the form of: (i) the provision of an exemption from sales and compensating use taxes in an amount not to exceed \$263,580 in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (ii) abatement of real property taxes. In connection with the phase-in of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction (i.e., the school district, county, town and fire district) in accordance with Section 858(15) of the Act. Real property taxes attributable to special districts including but without limitation public parking, sewer, ambulance, water, street lighting (or other subsequently created taxing jurisdiction not affected by an exemption) shall be paid separately to the Tax Receiver of the Town of Riverhead on duly issued tax bill on the assessed value as determined by the Riverhead Board of Assessors. The estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the CBA developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D.

Section 6. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, renovate and equip the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, renovate and equip the Facility. The Agency

hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agent of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency. The aforesaid appointment of the Company as agent of the Agency to acquire, renovate and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company has received exemptions from sales and use taxes in an amount not to exceed \$263,580, in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 7. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company shall be required to agree to the terms of Section 875 pursuant to the Lease Agreement. The Company is further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution is subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement.

Section 8. The form and substance of the Company Lease, and the Lease Agreement, to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 9.

(a) The Chairman, Vice Chairman or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, and the Lease Agreement, to which the Agency is a party, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "**Agency Documents**"). The execution thereof by the Chairman, Vice Chairman any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Vice Chairman of the Agency or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 10. 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 or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 11. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. The Company shall agree to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 12. The provisions of this resolution shall continue to be effective for six months from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 11 hereof).

Section 13. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

<u>James B. Farley</u>	<u>VOTE Aye</u>
<u>Lori Ann Pipczynski</u>	<u>VOTE Absent</u>
<u>Lee Mendelson</u>	<u>VOTE Aye</u>
<u>Anthony Barresi</u>	<u>VOTE Aye</u>
<u>Doug Williams</u>	<u>VOTE Aye</u>

The resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the Town of Riverhead Industrial Development Agency, Suffolk County, New York, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Members of said Agency, including the resolution contained therein, held on February 6, 2023, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

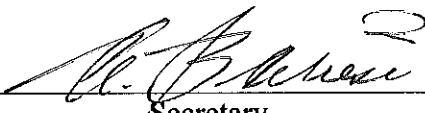
I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

Newspaper and/or other news media	[January 26, 2023]
The News Review	

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s) of posted notice	[February 2, 2023]
Website	

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency on 2/24, 2023.



Secretary

(CORPORATE
SEAL)

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Riverhead Industrial Development Agency (the “**Agency**”) on the 6th day of February, 2023, at 5:00 p.m. local time, at the Town of Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York in connection with the following matters:

RD America, LLC d/b/a Restaurant Depot, a limited liability company organized and existing under the laws of the State of Delaware and authorized to transact business in the State of New York, on behalf of itself and/or the principals of RD America, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”) has applied to the Town of Riverhead Industrial Development Agency (the “**Agency**”) for assistance in connection with: the acquisition of an approximately 65,000 square foot portion of a 128,455 square foot building (the “**Demised Premises**”), located on a portion of an approximately 21.89 acre parcel of land located at Riverhead Plaza Shopping Center, 765 Old Country Road, Riverhead, New York 11901 (the Demised Premises are located on portions of SCTM# 0600-104.00-02.00-016.000 and 019.000) (the “**Land**”), the renovation of and equipping of the Demised Premises, located on a portion of the Land (collectively, the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property including, but not limited to a refrigeration and free equipment, racking, telephones, computers, forklifts and other machinery (collectively, the “**Equipment**”; and together with the Demised Premises and the Improvements, the “**Facility**”), which Facility will be leased and subleased by the Agency to the Company for use in its business as a wholesaler of food and restaurant supplies to independent restaurant owners, caterers, delicatessens and not-for-profits (collectively, the “**Project**”), at an estimated project cost of \$6,000,000. The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes in connection with the construction and equipping of the Facility and abatement of real property taxes consistent with the uniform tax exemption policies (“**UTEP**”) of the Agency.

In accordance with the provisions of the State Environmental Quality Review Act, the Town of Riverhead (the “**Town**”) treated the application as a Type II Action, coordinated review, and adopted a negative declaration. As the Town coordinated review and, acting as Lead Agency, adopted a negative declaration, such negative declaration is binding on the Agency.

A representative of the Agency will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility.

Further information on the proposed Project, including the application for such financial assistance and an economic impact study, is available for public inspection upon scheduled appointment at the office of the Agency located at 542 East Main Street, Suite 1, Riverhead, New York, during normal business hours.

Dated: February 6, 2023

TOWN OF RIVERHEAD INDUSTRIAL
DEVELOPMENT AGENCY

By: Tracy Stark-James
Title: Executive Director

EXHIBIT B

Report of Public Hearing

EXHIBIT C

Proposed PILOT Schedule

RD America, LLC 2023 Facility

Property Address: 765 Old Country Road, Riverhead, New York 11901

Tax Map No.: 0600-104.00-02.00-016.000 and 019.000

Tax Year*	Total PILOT Payment	Portion of PILOT Payment Allocable to 0600-104.00-02.00-016.000	Portion of PILOT Payment Allocable to 0600-104.00-02.00-019.000
1	\$124,116		
2	\$137,074		
3	\$150,501		
4	\$164,410		
5	\$178,815		
6	\$193,730		
7	\$209,171		
8	\$225,152		
9	\$241,688		
10	\$258,796		
11, and thereafter	Full taxation		

Tax Years will be stated as actual years in the execution copy of the Lease Agreement. Year 1 will be the Tax Year following the tax status date immediately following the execution of the Company Lease and Lease Agreement.

EXHIBIT D

Cost Benefit Analysis