

Date: December 19, 2017

At a meeting of the Town of Islip Industrial Development Agency (the “Agency”), held at Islip Town Hall, 655 Main Street, Islip, New York on the 19th day of December, 2017 the following members of the Agency were:

Present: Chairwoman Angie Carpenter
 Councilwoman Trish Bergin Weichbrodt
 Councilwoman Mary Kate Mullen
 Councilman Steve Flotteron
 Councilman John Cochrane

Absent:

Also Present:

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 a certain industrial development facility more particularly described below (Water Lilies Food, Inc. 2017 Facility) and the providing of sales tax exemption benefits.

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

Voting Aye

Voting Nay

Chairwoman Angie Carpenter
Councilwoman Trish Bergin Weichbrodt
Councilwoman Mary Kate Mullen
Councilman Steve Flotteron
Councilman John Cochrane

RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD AUTHORIZING SALES AND USE TAX BENEFITS FOR WATER LILIES FOOD INC. AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF 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 47 of the Laws of 1974 of the State of New York, as may be amended from time to time (collectively, the “**Act**”), the Town of Islip Industrial Development Agency (the “**Agency**”) was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Water Lilies Food Inc., a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Water Lilies Food Inc. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Tenant**”), has applied to the Town of Islip Industrial Development Agency (the “**Agency**”) to enter into a transaction in which the Agency will assist in the acquisition of a leasehold interest in a portion of the existing building located at 1724 Fifth Avenue, Bay Shore, New York 11706 (the “**Building**”), and the renovation and equipping thereof (the “**Equipment**”), to be used by the Tenant as a manufacturing and distribution facility in the Tenant’s business as a manufacturer of gourmet Asian foods (the “**Demised Premises**”); and

WHEREAS, the Agency has previously acquired a leasehold interest in the Building from Suffolk County Industrial LLC, a New York limited liability company (the “**Owner**”), is subleasing the Building to the Owner pursuant to a certain Lease and Project Agreement, dated as of October 1, 2016 (the “**Lease Agreement**”), by and between the Agency and the Owner and will consent to the further subleasing of the Building to the Tenant; and

WHEREAS, in connection with the renovation and equipping of the Demised Premises, the Agency contemplates that it will provide financial assistance to the Tenant in the form of exemptions from sales and use taxes in an amount not to exceed \$422,625, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Demised Premises (the “**Sales and Use Tax Benefits**”); and

WHEREAS, in accordance with Section 859-a(5)(d) of the Act, the Agency notified the chief executive officers of the City of New York and Queens County of the removal of the Tenant’s facility in Astoria, New York and its relocation to the Town of Islip; and

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

WHEREAS, the Agency will lease the Equipment to the Tenant pursuant to a certain Equipment Lease Agreement, dated as of December 1, 2017 or such other date as the Chairman,

the Executive Director or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “**Equipment Lease Agreement**”), by and between the Agency and the Tenant; and

WHEREAS, the Tenant has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction consisting of the renovation and equipping of the Demised Premises by the Tenant and the granting and use of the Sales and Use Tax Benefits.

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 Demised Premises constitutes a “project”, as such term is defined in the Act; and

(c) The Sales and Use Tax Benefits will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Islip and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The Sales and Use Tax Benefits are reasonably necessary to induce the Tenant to maintain and expand its business operations in the Town of Islip and the State of New York; and

(e) Based upon representations of the Tenant and counsel to the Tenant, the Demised Premises conforms with the local zoning laws and planning regulations of the Town of Islip and all regional and local land use plans for the area in which the Demised Premises is located; and

(f) The Equipment Lease Agreement will be an effective instrument wherein the Agency leases the Equipment to the Tenant and appoints the Tenant as its agent in connection with the acquisition, equipping and installation of the Demised Premises; and

(g) The Equipment Bill of Sale will be an effective instrument whereby the Tenant conveys the Equipment to the Agency.

Section 2. The Agency has assessed all material information included in connection with the Tenant’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 Tenant.

Section 3. The Agency hereby approves the following economic benefits to be granted to the Tenant in the form of exemptions from sales and use taxes in an amount not to

exceed \$422,625, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Demised Premises.

Section 4. In consequence of the foregoing, the Agency hereby (i) approves the Sales and Use Tax Benefits, (ii) will execute, deliver and perform the Equipment Lease Agreement, (iii) authorizes the execution and delivery of such other related documents as may be necessary and/or appropriate to effect the provisions of this Resolution.

Section 5.

(a) The Chairman, Executive Director, Deputy Executive Director and all members of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Equipment Lease Agreement in the form the Chairman, Executive Director, Deputy executive Director or any member of the Agency shall approve, and such other related documents respectively, 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 including the Equipment Lease Agreement (hereinafter collectively called the “**Agency Documents**”). The execution thereof by the Chairman, Executive Director, Deputy Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Executive Director, Deputy Executive Director and all members 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 Equipment Lease Agreement).

Section 6. Subject to the provisions of this resolution, the Tenant is herewith and hereby appointed the agent of the Agency to acquire, renovate and equip the Demised Premises. The Tenant 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 Tenant may choose in order to acquire, renovate and equip the Demised Premises. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Tenant as agents of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Demised Premises, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Tenant, as agents of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Demised Premises. This agency appointment expressly excludes the purchase by the Tenant 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 Tenant 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 Tenant, as agent of the Agency. The aforesaid appointment of the Tenant as agent of the Agency to acquire, renovate and equip the Demised Premises 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 Tenant has received exemptions from sales and use taxes in an amount not to exceed \$422,625 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 Tenant if such activities and improvements are not

completed by such time. The aforesaid appointment of the Tenant is subject to the execution of the documents contemplated by this resolution

Section 7. The Tenant hereby agrees to comply with Section 875 of the Act. The Tenant further agrees that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Tenant as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Equipment Lease Agreement.

Section 8. 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 9. Counsel to the Agency and Nixon Peabody LLP, Transaction Counsel to the Agency are hereby authorized and directed to prepare, for submission to the Agency, and all documents necessary to effect the consent to the Sales and Use Tax Benefits described in the foregoing resolution.

Section 10. The Chairman, the Executive Director and any member of the Agency are each hereby authorized and directed (i) to distribute copies of this resolution to the Tenant, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 11. This resolution shall take effect immediately.

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

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 19th day of December, 2017, 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 resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings is in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of December, 2017.

By: 
Assistant Secretary