

TOWN OF RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY

and

331 EAST MAIN STREET, LLC

PROJECT AGREEMENT

Dated as of January 1, 2021

PROJECT AGREEMENT

THIS PROJECT AGREEMENT, dated as of January 1, 2021, is by and between the TOWN OF RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation and an industrial development agency of the State of New York (the "State") duly organized and existing under the laws of the State, having its office at the Town of Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York 11901 (the "Agency"), and 331 EAST MAIN STREET, LLC, a limited liability company qualified to do business in the State of New York, having an office at 36 New York Avenue, Huntington, New York 11743 (referred to herein as the "Company").

WITNESSETH:

WHEREAS, Title 1 of Article 18-A, as amended, of the General Municipal Law of the State (the "Enabling Act") has been duly enacted into law as Chapter 1030 of the Laws of 1969 of the State; and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, improve, maintain, equip and lease or sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery, equipment and other facilities deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, civic, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to enter into an agreement which includes provisions such as those contained herein (this agreement being hereinafter referred to as the "Project Agreement"); and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was created for the benefit of the Town of Riverhead, Suffolk County, New York (the "Town") and the inhabitants thereof by Chapter 624 of the Laws of 1980 (together with the Enabling Act, the "Act"); and

WHEREAS, the Company, as Owner of the Project, and G2D Construction Corp. as Project builder, and G2D Properties Corp. as Facility Manager, have made application to the Agency for Financial Assistance with respect to the elimination of two vacant buildings consisting of vacant retail space on the ground floor and three vacant residential apartments above located at 331 East Main Street, Riverhead, New York (S.C.T.M. No. 0600-129.00-04.00-015.00), with the construction, furnishing, and equipping of a building of approximately 37,385 square feet for the development of a 36 market-rate rental unit apartment community with amenities including approximately 838 square feet of ground floor commercial space and a parking garage at an estimated total project cost of \$13,143,850 (the "Project"); and

WHEREAS, by Resolution, adopted on October 5, 2020 (the "Resolution"), the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of the provision of: (i) a partial exemption from Mortgage Recording Taxes, (ii)-an exemption from Sales and Compensating Use Taxes on certain property, including tangible personal property, and (iii) a partial abatement of real property taxes by granting a real property tax abatement. The Company agrees that it shall make, or cause to be made, PILOT Payments in lieu of Real Estate Taxes to the Agency with respect to the Project in an amount equal to as follows: Since taxable status date is March 1st of each calendar year, all taxes will be billed by the Riverhead Tax Receiver for 2021/2022 tax year based upon the current assessed value of \$81,800. For the 2022/2023 tax year, school, county, town, and fire taxes will be billed and collected by the Agency for full distribution to these governments also based upon the current assessed value of \$81,800. Thereafter, PILOT payments to the Agency shall be as shown on the attached Schedule A. PILOT payments will be based upon a valuation of \$793,400 as has been determined by the Board of Assessors.

WHEREAS, it has been estimated and confirmed by the Company as included within its Application for Financial Assistance that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$5,374,800, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$468,751, (ii) that the mortgage recording tax exemption amount cannot exceed \$67,500 and (iii) that real property tax abatement benefits to be provided to the Company over the 10-year benefit period of the anticipated payment-in-lieu-of tax agreement are estimated to be approximately \$917,070; and

WHEREAS, the Company proposes to lease the Facility to the Agency, and the Agency desires to rent the Facility from the Company pursuant to the terms of a certain Ground Lease Agreement dated as of January 1, 2021 (the "Ground Lease Agreement"), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to sublease the Facility to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions set forth in a certain Lease Agreement dated as of January 1, 2021 (the "Lease Agreement"); and

WHEREAS, in order to define the obligations of the Company regarding payments-in-lieu-of taxes for the Facility, the Agency and the Company will enter into a Payment-in-Lieu-of-Tax Agreement, dated as of January 1, 2021 (the "PILOT Agreement"), by and between the Agency and the Company; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency's sales and use tax exemption benefit as agent of the Agency to acquire, construct, renovate and equip the Facility and to undertake the Project, the Agency and the Company will enter into this Project Agreement and Sales Tax Authorization Agreement, dated as of January 1, 2021 by and between the Agency and the Company; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution and as more particularly described in the PILOT

Agreement, Ground Lease, Lease, Guaranty, Sales Tax Authorization Letter and this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement; and

WHEREAS, in order to finance a portion of the construction costs of the Project, INVESTORS BANK, a New York banking corporation, having an office at 101 JFK Parkway, Short Hills, NJ 07078 (together with its successors and assigns, "Lender"), has agreed to make certain construction loans to the company in the maximum aggregate principal amount of not to exceed \$9,000,000; and

WHEREAS, in order to secure the obligations of the Company to the Lender, the Company and Agency have executed and delivered, among other things, (i) that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (Senior Loan), of even date herewith, given by Company and Agency in favor of Lender, dated as of the date hereof and to be recorded in the Office of the County Clerk of Suffolk County (the "Recording Office") (as the same may be modified, amended, extended, renewed, rearranged or replaced from time to time, the "Senior Loan Mortgage"), (ii) that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (Building Loan), given by Company and Agency in favor of Lender, dated as of the date hereof and to be recorded in the Recording Office (as the same may be modified, amended, extended, renewed, rearranged or replaced from time to time, the "Building Loan Mortgage") and (iii) that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (Project Loan), given by Company and Agency in favor of Lender, dated as of the date hereof and to be recorded in the Recording Office (as the same may be modified, amended, extended, renewed, rearranged or replaced from time to time, the "Project Loan Mortgage"; and collectively with the Senior Loan Mortgage and the Building Loan Mortgage, the "Mortgages"), each encumbering certain real property more particularly described in the Mortgages.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project facility to advance job opportunities, health, general prosperity and economic welfare of the people of Town of Riverhead and to otherwise accomplish the public purpose of the Act. Therefore, the Agency is entering into the Ground Lease Agreement, Lease Agreement, PILOT Agreement, Guaranty, Sales Tax Agent Authorization Letter and Project Agreement.

2. PILOT Agreement. The parties hereto understand and agree that a certain PILOT Agreement, to be entered into, or entered into, by and between the Company and the Agency dated January 1, 2021 which is or shall be contemporaneously recorded with the Suffolk County Clerk and incorporated herein as if fully set forth.

3. Termination, Modification and/or Recapture of Agency Financial Assistance. It is understood and agreed by the Parties hereto that the Agency is entering into the Ground Lease Agreement, the Lease Agreement, the PILOT Agreement, the Sales Tax Authorization Letter and the Project Agreement in order to provide Financial Assistance to the Company for the Facility and to accomplish the public purposes of the Act. The Company hereby makes the following representations and covenants in order to induce the Agency to proceed with the Project/Facility:

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolutions, the Company covenants and agrees that it may be subject to a Recapture Event (as hereinafter defined) resulting in the potential recapture of any and all Financial Assistance, as described below, if the Company receives, or its Subagents receives any Financial Assistance from the Agency, and it is determined by the Agency that:

(1) the Project shall fail to be placed in service no later than five (5) years from the date hereof and shall have received a valid and subsisting Certificate of Occupancy for all structures and uses; or

(2) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(3) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; provided, however, that the foregoing shall constitute a Recapture Event with respect to such excess sales and use tax exemption benefits only. It is further provided that failure to repay the excess sales and use tax exemption benefits within thirty (30) days shall constitute a Recapture Event with respect to the recapture of all Financial Assistance; or

(4) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(5) the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(6) the Company fails to meet and maintain the thresholds and requirements representing certain material terms and conditions, said Investment Commitment, Employment Commitment, and Local Labor Commitment, all as further defined below, being additional purposes to be achieved by the Agency with respect to its determination to provide Financial Assistance to the Project and required by the Agency to be complied with and adhered to, as evidenced by submission, as so required by the Agency, of written

confirmation certifying and confirming on an annual basis beginning in the first year in which Financial Assistance is so claimed, through the conclusion of the later of either (i) two (2) years following the construction completion date or (ii) the calendar year of the termination of the PILOT Agreement (said date hereinafter referred to as the "Project Completion Date" and the time period so referenced being hereinafter defined as the "Material Terms and Conditions Monitoring Period") confirming the following:

(a) Investment Commitment - that the total investment actually made with respect to the Project at the Project's construction completion date equals or exceeds \$11,172,273 (which represents the product of 85% multiplied by \$13,143,851 being the total Project cost as stated in the Company's application for Financial Assistance); and

(b) Employment Commitment - that there are at least 0 existing full time equivalent ("FTE") employees of the Company located at, or to be located at, the Facility as stated in the Company's application for Financial Assistance (the "Baseline FTE"); and that the Company has maintained and created FTE employment at the Facility for the first year of operation equal to 2 FTE employees (representing the sum of 0 Baseline FTE plus the product of 85% multiplied by 2 being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company's Application for Financial Assistance rounded to the nearest whole number) and continue to maintain 2 FTE employment at the Facility for the second year of operation and continue thereafter to maintain 2 FTE employees (representing the sum of 0 Baseline FTE plus the product of 85% multiplied by 2 being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company's Application for Financial Assistance rounded to the nearest whole number) except during the occurrence and pendency of a force majeure event; and

(c) Local Labor Commitment - that the Company adheres to and undertakes or has undertaken construction activities in compliance with the Agency's Local Labor Workforce Policy on an annual reporting basis during the construction period; and

(d) Project Assessment Reporting Commitment – that the Company shall provide, annually, to the Agency, certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project all in accordance with the requirements of Section 6.5 of the Lease Agreement incorporated herein as if fully set forth.

In order to accomplish the foregoing, the Company shall provide annually, to the Agency, a certified statement and documentation: i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or

ranges for categories of jobs retained and jobs created in form as supplied by the Agency and as may be amended from time to time by the Agency.

The findings made by the Agency with respect to Section 3(a)(1), (2), (3), (4) and/or (5) and/or failure to provide the written confirmation as required by Section 3(a)(6) with respect to the thresholds and requirements as identified in Section 3(a)(6), above, and/or failure to meet the thresholds and requirements as identified in Section 3(a)(6) above, may potentially be determined by the Agency, in accordance with the Sales Tax Authorization Letter and Section 6.15 Recapture of Agency Benefits contained in the Lease Agreement and/or a failure to comply with the Agency's policies and Resolutions (collectively, findings and determinations made as described herein with respect to Section 3(a)(1), (2), (3), (4) and/or (5) and/or the failure under Section 3(a)(6) to submit the required certification and/or the failure to meet the required thresholds and requirements as specified in Section 3(a)(6) are hereby defined as a "Recapture Event"). If the Agency declares a Recapture Event, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the New York State and local sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

(b) In accordance with the Resolution the Company further: (i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$5,374,800, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 3(a) of this Agent Agreement, cannot exceed \$468,751.

(c) The Company acknowledges and understands that a Recapture Event made with respect to Section 3(a)(5) of this Project Agreement will, in addition, immediately result in the loss and forfeiture of the Company's right and ability to obtain any and all future Financial Assistance with respect to the Project.

4. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Agreement to the Agency regardless of any investigation made by the Agency.

5. Notices. All notices, certificates and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by Federal Express, addressed as follows or to such other address as any party may specify in writing to the other:

To the Company:

331 East Main Street, LLC
36 New York Avenue

Huntington, New York 11743

With Copy To:

Philip P. Foote, Esq.
General Counsel
G2D Group
36 New York Avenue
Huntington, New York 11743

With Copy To:

Peter L. Curry, Esq.
Farrell Fritz P.C.
400 RXR Plaza
Uniondale, New York 11556

To the Guarantor:

G2D Development Corp.
c/o G2D Group
36 New York Avenue
Huntington, New York 11743

To the Agency:

Town of Riverhead Industrial Development Agency
Town of Riverhead Town Hall
200 Howell Avenue
Riverhead, NY 11901
Attention: Executive Director

Agency and Company shall, at the Company's expense, also deliver simultaneous copies to Lender of any notice given to Company or Agency by such other party at the address for Lender set forth below:

Investors Bank
101 JFK Parkway
Short Hills, NJ 07078

With Copy to:

Moritt Hock Hamroff LLP
Attention: Gary C. Hisiger, Partner
Telephone: 516-873-2000
Email: ghisiger@moritthock.com

6. Amendments. No amendment, change, modification, alteration or termination of this Agreement shall be made except in writing upon the written consent of the Company and the Agency.

7. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Agreement or any part thereof.

8. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.

9. Section Headings. The headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

10. Due Authorizations, Execution and Delivery. The execution and delivery of this Agreement by the Company and the performance by the Company Member of the transactions contemplated hereby have been duly authorized by all requisite corporate, limited liability company, partnership or trust actions or proceedings. The Company is duly organized, validly existing and in good standing under the laws of the state of its formation with power to enter into this Agreement and to consummate the transactions contemplated hereby.

11. Special Lender Provisions. Prior to the Agency exercising any remedy hereunder, Lender shall be afforded notice and the cure rights set forth in Section 10.10 of the Lease Agreement, as if such section were set forth in full herein.

12. Lender Liability. Except after the Lender has succeeded to the interest of the Company in the Project, no liability for any payments to be made pursuant to this Project Agreement or the performance of any other of the Company's covenants and agreements under this Project Agreement shall attach to or be imposed upon the Lender, and if the Lender or its nominee or designee succeeds to the interest of the Company in the Project, the liability of Lender or its nominee or designee shall be limited to its interest in the Project, and all of the obligations and liabilities of the Lender or its nominee or designee shall and terminate upon assignment of the Lease Agreement.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

TOWN OF RIVERHEAD INDUSTRIAL
DEVELOPMENT AGENCY

Dated: 1/21/21

By: [REDACTED]
Thomas Cruso,
Chairman

331 EAST MAIN STREET, LLC
a New York limited liability company

Dated: 1/25/21

By: [REDACTED]
Name: Gregory DeRosa
Title: Manager

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

On the 21st day of January in the year 2021 before me, the undersigned, a notary public in and for said State, personally appeared Thomas Cruso, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



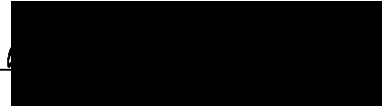
Notary Public

RICHARD A. EHLERS
Notary Public, State of New York
Suffolk County No. 02EH4738288 ²²
Commission Expires February 28, 20__

STATE OF NEW YORK)
)
COUNTY OF SUFFOLK)

ss.:

On the 25 day of January in the year 2021 before me, the undersigned, a notary public in and for said State, personally appeared Gregory DeRosa, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



PHILIP P. FOOTE
Notary Public, State of New York
No. 02FO6203482
Qualified in Nassau County
Commission Expires April 6, 2021

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

Gregory DeRosa, being first duly sworn, deposes and says:

1. That I am the Manager of 331 East Main Street, LLC, and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.

2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

_____  _____

Subscribed and affirmed to me under penalties of perjury
this 25 day of January, 2021.

_____  _____
(Notary Public)

PHILIP P. FOOTE
Notary Public, State of New York
No. 02FO6203482
Qualified in Nassau County
Commission Expires April 6, 2021

EXHIBIT A

Property Description

ALL that certain plot, piece or parcel of land, situate, lying and being at Riverhead, in the Town of Riverhead, County of Suffolk and State of New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of East Main Street where same is intersected by the Easterly line of land now or formerly of Riverhead Public Parking District No. 1, said point being the following three (3) courses and distances Easterly as measured along the Southerly side of East Main Street, from the corner formed by its intersection with the Easterly side of McDermott Avenue:

1. North 78 degrees 27 minutes 00 seconds East, 61.15 feet;
2. North 77 degrees 47 minutes 00 seconds East, 56.00 feet;
3. North 77 degrees 43 minutes 00 seconds East, 154.70 feet;

RUNNING THENCE along the Southerly side of East Main Street, the following two (2) courses and distances:

1. North 77 degrees 43 minutes 00 seconds East, 19.49 feet;
2. North 72 degrees 37 minutes 50 seconds East, 44.67 feet to land now or formerly of William E. Demetriou;

THENCE along said land of Demetriou and continuing along land now or formerly of Riverhead Industrial Development Agency, South 14 degrees 50 minutes 40 seconds East, 250.51 feet to land now or formerly of Riverhead Public Parking District No. 1;

THENCE along the said land of Riverhead Public Parking District No. 1, the following two (2) courses and distances:

1. South 74 degrees 37 minutes 00 seconds West, 61.74 feet;
2. North 15 degrees 23 minutes 00 seconds West, 250.00 feet to the Southerly side of East Main Street and the point or place of BEGINNING.