

RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO P.C RICHARD & SONS, INC AND A.J RICHARD & SONS, INC. IN CONNECTION WITH THE RENOVATION AND EQUIPPING OF OFFICE, TRAINING, WAREHOUSE AND DISTRIBUTION FACILITIES IN THE TOWN OF BABYLON

WHEREAS, the Town of Babylon Industrial Development Agency (the "Agency") is authorized under the laws of the State of New York, and in particular under the provisions of the New York State Industrial Development Agency Act and the Agency's enabling legislation, respectively constituting Article 18-A and Section 907-a of the General Municipal Law (Chapter 24 of the Consolidated Laws of New York), as amended (the "Act"), to assist in providing for manufacturing, warehousing, research, civic, commercial and industrial facilities in the Town of Babylon; and

WHEREAS, representatives of A.J. Richard & Sons, Inc., a corporation organized and existing under the laws of the State of New York (the "Company") have filed or caused to be filed an application with the Town of Babylon Industrial Development Agency (the "Agency") concerning a project (the "Project") consisting of the renovation and equipping of (i) an approximately 625,000 square foot building by the Company, located on that certain approximately 22.85 acre lot, piece or parcel of land generally known as and located at 150 Price Parkway in Farmingdale, New York (the "150 Price Facility") for use by P.C. Richard & Son ("P.C. Richard") as a warehousing, distribution and corporate office facility, (ii) an approximately 267,015 square foot building by the Company, located on that certain approximately 12.20 acre lot, piece or parcel of land generally known as and located at 105 Price Parkway in Farmingdale, New York (the "105 Price Facility") for use by P.C. Richard as a warehousing and office facility, (iii) an approximately 80,000 square foot building by the Company, located on that certain approximately 11.80 acre lot, piece or parcel of land generally known as and located at 200 Price Parkway in Farmingdale, New York (the "200 Price Facility") for use by P.C. Richard as a repair, office and training facility and (iv) an approximately 180,000 square foot building by the Company, located on that certain approximately 8.70 acre lot, piece or parcel of land generally known as and located at 470 Commack Road in Deer Park, New York (the "Commack Road Facility" and, together with the 150 Price Facility, the 105 Price Facility and the 200 Price Facility, the "Facility") for use by P.C. Richard and MT Drop Shipment as a warehousing facility, in the Town of Babylon, New York (the "Town"); and

WHEREAS, the Company, P.C. Richard and its affiliates have prior to the date hereof received financial assistance from the Agency and such financial assistance has expired; and

WHEREAS, representatives of the Company and P.C. Richard have indicated to the Agency that the Company, P.C. Richard and its affiliates annually employ in excess of over 800 employees in the Town; and

WHEREAS, the Company has a facility in Carteret, New Jersey with a warehouse and distribution center, regional corporate offices, a repair center and an employee training center and in conjunction with the Company's retail customer expansion, as well as its growing

business with developers of high rise residential building projects within the Company's builder division, to areas both west and south of the Company's existing footprint, the Company is considering relocating its Long Island warehouse and distribution facilities, as well as its corporate offices and service center, to New Jersey; and

WHEREAS, the Company currently benefits from tax incentives in Carteret and has been offered additional benefits and incentives to expand and relocate its existing Long Island operations to New Jersey and the Company has informed the Agency that it believes that a potential relocation of its primary warehouse and distribution center, corporate office and service center to a facility adjacent to the New Jersey Turnpike would provide easy access for both the receipt of inventory from its manufacturers and the distribution of merchandise to both its customers and its retail stores and a central location in New Jersey would also greatly facilitate the continued expansion of the business of the Company and its affiliates; and

WHEREAS, in order to induce the Company to retain and provide further investment into its existing facilities in the Town and retain jobs in the Town it appears necessary to assist the Company by taking leasehold title to the Facility so as to afford the Company certain relief from mortgage recording taxation, if any, relief from real property taxation, and relief from sales and use taxation for a limited period; and

WHEREAS, it is contemplated that the Company or the current owner of the Facility will cause the transfer or lease of the Facility to the Agency pursuant to a Company Lease Agreement (the "Company Lease") by and between the Company and the Agency and the Agency will assist the Company to undertake the Project and will lease or sublease the Facility to the Company pursuant to a lease agreement (the "Lease Agreement"), by and between the Agency and the Company pursuant to which the Company agrees, among other things, to make lease payments in such amounts as specified in the Lease Agreement and the Company will further sublease the Facility to P.C. Richard pursuant to a Sublease Agreement (the "Sublease Agreement") by and between the Company and P.C. Richard ; and

WHEREAS, pursuant to the Lease Agreement the Company has agreed to make certain payments in lieu of real property taxes with respect to the Facility to the Agency; and

WHEREAS, in connection with the Agency's evaluation of the Project for the provision of financial assistance, the Agency has (i) assessed all material information relating to the project included in the Company's project application (the "Project Application") in order to afford a reasonable basis for the decision of the Agency to provide financial assistance to the Project; and (ii) prepared and reviewed a written cost benefit analysis (the "Cost Benefit Analysis") for the Project in accordance with the Uniform Project Evaluation Criteria Policy of the Agency which identifies the extent to which (A) the Project will create or retain permanent, private sector jobs; (B) the estimated value of any tax exemption to be provided to the Project, (C) the amount of private sector investment generated or likely to be generated by the Project; (D) reviewed the likelihood of accomplishing the proposed project in a timely fashion; and (E) considered the extent to which the Project will provide additional sources of revenue for the Town and the school district where the Facility is located: and

WHEREAS, in connection with the adoption of this resolution the Agency has reviewed the Project Application and the Company has confirmed in such Project Application that as of the date of the Projection Application, the Company is in substantial compliance with the Act; and

WHEREAS, it is desired that the Agency authorize the granting of certain financial assistance to the Company and P.C. Richard in connection with the Project and the Facility including exemption from mortgage recording taxes, if any, real property taxes and sales and use taxes.

NOW, THEREFORE, BE IT DETERMINED, APPROVED AND RESOLVED by the members of the Agency as follows:

Section 1. With respect to the Agency's evaluation criteria for Manufacturing, Warehousing and Distribution Projects the Agency makes the following determinations:

- (a) It has reviewed the information in the Cost Benefit Analysis with respect to the Project.
- (b) The Company proposes a capital investment in soft costs, machinery and equipment and capital improvements in the Facility of approximately \$7,286,000.
- (c) The Project will not have significant impact on local labor construction in the Town.
- (d) Wage rates for the employees of the Company average \$51,781 which is less than the median wage for the region.
- (e) The Company has a positive impact on regional wealth creation due to the fact that a significant portion of the Company's product is sold and shipped to business and residences located outside of the Town and result in revenue inflows into the Town and the Long Island region due to taxes and municipal charges paid by the Company to the Town and Suffolk County, and wages paid by the Company to employees residing in the Town and Suffolk County.
- (f) The Project will not have a significant effect on in-region purchases.
- (g) The Project will not have a significant effect on energy efficiency.
- (h) The Project will not affect existing land use or zoning.
- (i) The Project is critical to retention of a major employer of the Town. The Company employs in excess of 800 full time equivalent employees. The Company is considering relocating significant portions of its operations to existing facilities in New Jersey in order to distribute products significantly faster due to its geographic advantages.

Section 2. Based on the evaluation of the foregoing evaluation criteria, (a) The Agency hereby finds and determines that (i) the Project constitutes a “Project” within the meaning of the Act; (ii) the Project is necessary for the Company and P.C. Richard to preserve its competitive position in its industry; and (iii) the granting of mortgage recording tax abatements, if any, real property tax abatements and sales and use tax abatements (collectively the “Financial Assistance”) by the Agency with respect to the Facility pursuant to the Act, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act.

(b) It is desirable and in the public interest for the Agency to grant Financial Assistance to the Company with respect to the Project.

(c) The Agency shall grant Financial Assistance to the Company in the form of New York State and local Sales and Use Tax abatements as provided in Section 2.4 of the Lease Agreement and in the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of Financial Assistance as provided in Section 2.4 of the Lease Agreement and the Company will sublease the Facility to P.C. Richard pursuant to the Sublease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency shall take legal fee or leasehold title to the Facility pursuant to the Company Lease, assist the Company to undertake the Project and lease the Facility to the Company pursuant to the Lease Agreement and the Company will sublease the Facility to P.C. Richard pursuant to the Sublease Agreement.

Section 4. Pursuant to the Lease Agreement, the Company will make certain payments in lieu of real property taxes (“Pilots”) which would be otherwise due and payable with respect to the Facility.

Section 5. In order to provide the Company with financial assistance with respect to exemption from New York State and local Sales and Use Taxes with respect to the Project the Agency may issue to the Company’s agents and P.C. Richard certain sale tax authorization letters (“Sales Tax Authorization Letters”) which shall be used pursuant to the terms contained therein and in the Lease Agreement.

Section 6. In order to secure amounts to be loaned by a mortgage lender reasonably acceptable to the Chief Executive Officer (“CEO”) of the Agency or any other authorized representative to the Company with respect to the Project, the Agency hereby authorizes the execution of one or more mortgages (collectively, the “Mortgages”) at any time during the term of the Lease Agreement, from the Agency and the Company to any mortgage lender acceptable to the CEO of the Agency or any other authorized representative, in form acceptable to the CEO of the Agency or any other authorized representative and Counsel to the Agency.

Section 7. The form and substance of the Lease Agreement in substantially the form previously approved by the Agency for other “straight lease” transactions is hereby approved.

Section 8. The form and substance of the Company Lease in substantially the form previously executed for other “straight lease” transactions is hereby approved.

Section 9. The form and substance of the Sublease Agreement in substantially the form previously executed for other “straight lease” transactions is hereby approved.

Section 10. The CEO of the Agency or any successor CEO of the Agency or any other authorized representative, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Company Lease, Lease Agreement, Mortgages, Sales Tax Authorization Letters, and any other agreements or certificates consistent herewith (hereinafter collectively called the “Agency Documents”), all in substantially the forms previously executed by the Agency for other “straight lease” transactions acceptable to Agency Counsel, with such changes, variations, omissions and insertions in the Agency Documents as the CEO of the Agency or any other authorized representative of the Agency shall upon advice of counsel approve. The execution thereof by the CEO of the Agency or any other authorized representative shall constitute conclusive evidence of such approval.

The CEO of the Agency or any other authorized representative are further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives including the Chairman, the Secretary or Assistant Secretary of the Agency, to execute any Agency Documents or certificates of the Agency authorized pursuant to this Resolution and determine the terms of the Agency Documents.

The Secretary, Assistant Secretary or Counsel to the Agency is hereby authorized to attest to the CEO’s or any other authorized representative’s signature on the foregoing documents and to impress or affix the seal or facsimile seal of the Agency thereto.

Section 11. The CEO of the Agency or any other authorized representative, the Chief Financial Officer (“CFO”) of the Agency, the Chairman or the Secretary and any member of the Agency (as used in this resolution, the “Authorized Representatives”) are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to cause the transactions as described in the Company Lease, Lease Agreement and the Sublease Agreement to be undertaken and in relation thereto, to execute and deliver any and all papers, instruments, agreements, opinions, certificates, affidavits and other documents, and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution, and the Agency Documents including such changes or revisions in the forms of such documents as may be requested by counsel to the Agency.

Section 12. 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, agreements 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 13. All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, and the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted

by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this resolution, and the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

Section 14. No covenant, stipulation, obligation or agreement contained in this resolution, or the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency or the Town of Babylon in his or their individual capacity and neither the members of the Agency nor any officer shall be liable personally on the Agency Documents or be subject to any personal liability or accountability by reason of the execution thereof.

Section 15. The law firm Katten Muchin Rosenman LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 16. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance to be granted hereunder in excess of \$100,000 to the Company until the Agency has held a public hearing with respect to the grant of financial assistance in accordance with the provisions of the Act.

Section 17. 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:

The resolution was thereupon declared duly adopted.

Adopted: February 7, 2017

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

I, Paulette J. Moses, the duly elected, qualified Secretary of the Town of Babylon Industrial Development Agency (the "Agency"), hereby certify that:

1. The foregoing is a true, correct and complete copy of the record of proceedings of the Agency had and taken at a lawful meeting of the Agency held at the Law Offices of John Braslow, 816 Deer Park Avenue, North Babylon, New York on February 7, 2017, commencing at the hour of 8:00 A.M., as recorded in the regular official book, of the proceedings of the Agency, those proceedings were duly had and taken as shown therein.

2. All members of the Agency and the public were duly notified of that meeting pursuant to law.

IN WITNESS WHEREOF, I have signed this certificate and affixed the seal of the Agency the 7th day of February, 2017.

Paulette J. Moses
Secretary

(SEAL)