

TOWN OF RIVERHEAD

Resolution #

A RESOLUTION AUTHORIZING THE TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY ("CDA") TO MAKE JOINT APPLICATION WITH CALVERTON AVIATION & TECHNOLOGY LLC ("CAT") TO THE TOWN OF RIVERHEAD INDUSTRIAL DEVELOPMENT AGENCY ("IDA") TO TRANSFER TITLE TO ALL OF THE ACREAGE CDA OWNS AT THE ENTERPRISE PARK AT CALVERTON ("EPCAL"), COMPRISING APPROXIMATELY 2,100 ACRES, IN ORDER TO FACILITATE THE SALE AND TRANSFER OF APPROXIMATELY 1,643+/- ACRES AT EPCAL TO CALVERTON AVIATION & TECHNOLOGY LLC (CAT) PURSUANT TO A LEASE AND PROJECT AGREEMENT BY AND BETWEEN CAT AND IDA AND CONSISTENT WITH TERMS OF THE AGREEMENT OF SALE BETWEEN CDA, TOWN OF RIVERHEAD ("TOWN") AND CAT DATED NOVEMBER 19, 2018 (AGREEMENT), EXCEPT AS AMENDED AND AGREED TO AS SET FORTH AND REFLECTED BY THE TERMS OF THIS RESOLUTION AND LETTER AGREEMENT BETWEEN THE CDA/TOWN AND CAT AND AGREEMENT BETWEEN CDA AND IDA FOR TRANSFER OF THE REMAINING PROPERTY

WHEREAS, in accordance with Section 507(2)(d) of the General Municipal Law, the Town of Riverhead Community Development Agency (the "CDA") has entered into an Agreement to sell a certain 1,643+/- acres of property (hereinafter "the Property") to Calverton Aviation & Technology LLC ("CAT") for the purchase price of \$40,000,000.00 for redevelopment in accordance with the Intended Development Plan and the restrictions set forth in the Agreement, which plan includes, among other things, the construction and operation of industrial aviation, aerospace innovation and other technology uses and associated businesses, as well as other synergistic industrial, commercial, environmental, energy and academic uses consistent with the Planned Development ("PD") Development Plan adopted by the Town Board of the Town of Riverhead (the "Town") and in compliance with the Town Zoning Code (the "Project"); and

WHEREAS, as a critical component of the first phase of the Intended Development Plan, CAT must expend and complete not less than \$1,000,000 of infrastructure improvements to the runways on the Property within the first two (2) years and construct at least one million square feet of the approved commercial and industrial space with construction to commence within 18-24 months of receipt of the required approvals and be completed within approximately five (5) years from the date of said approvals; and

WHEREAS, at a work session of the CDA held on June 10, 2021, representatives of CAT and its counsel, Christopher Kent, Esq. advised the CDA that CAT was ready, willing, and able to close upon the acquisition of the Property as soon as practicable and to commence the development of the Project based upon, among other things, the heightened demand in the real estate marketplace for industrial, technology and commercial space as proposed to be developed under the Intended Development Plan, coupled with available economic incentives, government programs and low-interest financing; and

WHEREAS, CAT and its counsel made it clear that while the combination of favorable economic opportunities that are critical for the success of the Project currently exist, such favorable economic conditions cannot be expected to last and the time to move forward on the Agreement and Intended Development Plan is now; and

WHEREAS, by the Town and CDA acting now, the Property will be returned to the tax rolls and the economic benefits of development of the Project to be located on the Property envisioned by the Town will finally be realized; and

WHEREAS, CAT has expressed a willingness to agree to assume the Town's obligation set forth in the Agreement to secure the approvals required for the CDA's proposed eight-lot subdivision map (the "Subdivision") to be filed prior to closing on the fee transfer of the Property so that the parties can move forward now with the development of the Property; and

WHEREAS, the CDA is empowered by General Municipal Law Section 556(4) to make a joint application to the Town of Riverhead Industrial Development Agency (the "IDA") by both the CDA and CAT that would provide for the CDA to convey the remaining acres of the property it owns at EPCAL to IDA in exchange for the following: (i) CAT agreeing to pay the purchase price of \$40,000,000.00 for the Property to CDA, as well as the New York State Transfer Tax, Peconic Community Preservation Fund Tax, together with CDA's costs and expenses incurred in connection with the preparation and processing of the joint application to the IDA, including CDA's reasonably incurred attorney fees; (ii) CAT agreeing to purchase and pay all costs for installation consistent with, as applicable, the Town's Procurement Policy, General Municipal Law, and New York State Prevailing Wage for lighting for the four existing ballfields within six (6) months of the execution of the Lease and Project between CAT and the IDA referenced in subparagraph iv below, and further agreeing to make payment to the CDA for recreational and community benefits in the amount of One Million Five Hundred (\$1,500,000.00) upon completion and occupancy of five hundred thousand (500,000) square feet of new construction at the Property; (iii) CAT agreeing not to interfere or disturb the existing Town bicycle path and to satisfy all other obligations under the Agreement, including, but not limited to, providing assurances satisfactory to the IDA of CAT's financial ability to perform under the terms Section XIII A(4) of the Agreement; ; (iv) the IDA entering into a Lease and Project (the "Lease and Project Agreement") providing for CAT to make payments in lieu of taxes ("PILOT Payment") for the Property and for its commercial development as well as land taxes determined to be due on the developable portion of the Property in accordance with the provisions of the Lease and Project Agreement; (v) the IDA entering into a Lease and Project Agreement with CDA for the remaining 560+/-acres (the "Town-Purposed Lots"), which would call for no taxes or PILOT payments to be paid by the CDA since the Town-Purposed Lots will be for public benefit and uses that would not be subject to real property taxes and provide for improvements to the Town Park (Lot 2 on the Subdivision) in furtherance and enhancement of the public use and enjoyment by the community with the retention of oversight and control by the Town; provided, however, any sub-leases of portions of the Town-Purposed Lots to a commercial developer for commercial development or commercial use shall be required to pay PILOT payments; (vi) CAT diligently pursuing the approval of the Subdivision and the CDA/Town shall provide such assistance deemed appropriate and necessary by CAT; (vii) the CDA operating the Town-purposed lots and maintaining the Pine Barrens Core Parcel (Lot 1

on the Subdivision) as preserved land; (viii) CAT implementing the Intended Development Plan required under the Agreement while the Property is restored to the assessment rolls with CAT paying an amount equivalent to the full vacant land tax on the developed parcels of the Property, plus full sewer, full water, and full special district taxes as to be set forth in the Lease and Project Agreement between CAT and the IDA; (ix) CAT preserving and maintaining 1,000+ acres of the 1,643+/- acres it is acquiring in accordance with the Comprehensive Habitat Plans as same may be amended from time to time by the New York State Department of Environmental Conservation; provided, however, so long as such 1,000+ acres of undeveloped land are subject to the Lease and Project Agreement, the public access to such 1,000+ acres of undeveloped shall be subject to restrictions set forth in the Lease and Project Agreement; (x) CDA agreeing that Lot 1 on the Subdivision and, upon conveyance from the United States Navy to the CDA, Navy Parcels A and B shall be preserved in a manner consistent with the Comprehensive Habitat Plan and, that at such time as the subdivision map is filed, the IDA will convey fee title to: (a) the CDA to the acres that were subject to the Lease and Project Agreement between the IDA and CDA and (b) CAT to the 1,643+/- that were subject to the IDA/CAT Lease and PILOT Agreement, which, notwithstanding the conveyance of fee title, will remain in full effect subject to its terms, and (xi) CAT shall be required to pay all fees and expenses of the IDA and CDA, including, without limitation, attorney fees and expenses, expenses of the IDA's consultants, a cost benefit analysis, feasibility reports, title reports, surveys, Phase 1 and Phase 2 environmental audits, transfer taxes and recording fees and charges; and

WHEREAS, CAT shall file the joint application to the IDA and said application must be accepted and deemed complete by the IDA within six (6) months of the adoption of this Resolution; and

WHEREAS, in addition to the deadline for filing complete application, CAT shall appear before the IDA to request and diligently pursue final authorizing resolution from the IDA approving the Joint Application but in no event shall said diligence period exceed three months from date application deemed complete unless such different time parameter is set by the IDA; and

WHEREAS, the Town shall provide CAT with all information and reasonable assistance in connection with that portion of the Joint Application related to the Lease and Project Agreement between CDA and IDA for the filing and processing of the Joint Application to the IDA; and

WHEREAS, as set forth in the caption of this resolution and more fully recited in the clauses of this resolution, the joint application to the IDA shall require CDA/TOWN and CAT to comply with the terms of the Agreement of Sale between CDA and CAT dated November 19, 2018 (Agreement), except as amended and agreed to as set forth and reflected by the terms of this resolution and Letter Agreement between the CDA/TOWN and CAT, and such other terms or conditions as may be set forth by IDA as applicable to transfer of property to CDA and CAT respectively; and

WHEREAS, the CDA's and CAT's joint application to the IDA and CDA's entry into the Lease and Project Agreement with the IDA is in conformance with the conditions and thresholds established in the Final Generic Environmental Impact Statement (FGEIS) of October 6, 1998, as supplemented by the Final Supplemental Environmental Impact Statement (FSEIS) adopted on March 15, 2016, and with the Supplemental Findings

Statement adopted July 19, 2016, prepared in conjunction with the adoption of the Planned Development (PD) Zoning District adopted on August 16, 2016, the Town of Riverhead Comprehensive Master Plan, as amended on August 2, 2016, and the Town of Riverhead Calverton Enterprise Park Urban Renewal Plan, as amended on August 2, 2016; and

WHEREAS, pursuant to SEQRA regulations (6 N.Y.C.R.R. 617.10(d)(1) no further SEQRA review is required for this action; and

WHEREAS, site specific SEQRA review will be conducted as required in connection with CAT's applications for approvals needed to implement the Intended Development Plan;

NOW, THEREFORE BE IT RESOLVED the Town Board, as governing body of the Town of Riverhead and Community Development Agency, agrees as follows:

RESOLVED, that the Supervisor is authorized to execute Letter Agreement dated March 3rd, 2022; and

RESOLVED, that the CDA is hereby authorized to make joint application to the Town of Riverhead Industrial Development Agency, in conjunction with CAT, consistent with the terms set forth above in this Resolution and, upon the approval of the application by the IDA, execute a Lease and Project Agreement with the IDA, convey title to the Property to the IDA, and any other necessary agreements with the IDA in order to effectuate the terms of this Resolution; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a certified copy of this resolution to Smith, Finkelstein, Lundberg, Isler & Yakaboski, LLP., attn. Frank A. Isler, 456 Griffing Avenue, Riverhead, New York 11901 and Farrell Fritz, P.C., Attn: Christopher E. Kent, 100 Motor Parkway, Suite 300, Hauppauge, New York 11788, and be it further

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.