

7/18/2000minutes

Minutes of a Community Development Agency Meeting held by the Town Board of the Town of Riverhead, at Town Hall, 200 Howell Avenue, Riverhead, New York, on Tuesday, July 18, 2000, at 7:00 P.M.

**Present:**

Robert Kozakiewicz,	Chairman
Philip Cardinale,	Member
Christopher Kent,	Member
James Lull,	Member
Edward Densieski,	Member

**Also Present:**

Andrea Lohneiss,	Director
Barbara Grattan,	Town Clerk
Dawn Thomas, Esq.,	Town Attorney

Chairman Kozakiewicz called the meeting to order at 7:44 p.m.

Resolution #18

Andrea Lohneiss: "Authorizes the Chairman to execute license agreement with a company called BMB Millwork (inaudible) a company which (inaudible) millworking products. They've requested a building which includes 23,470 square feet (inaudible)."

Councilman Densieski: "Resolution 18, so moved."

Member Kent: "Second."

Chairman Kozakiewicz: "Moved and seconded."

Member Cardinale: "Discussion. Andrea, I note this is a \$4.50 per square foot."

Andrea Lohneiss: "That's right. This is one building that isn't improved with amenities such as office space and (inaudible) and- "

Member Cardinale: "And that distinguishes this from the next one we're going to be passing which is \$5.00? Thank you."

Chairman Kozakiewicz: "Any further discussion?"

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Member Cardinale: "No."

Chairman Kozakiewicz: "Okay."

Andrea Lohneiss: "Densieski, yes; Cardinale, yes; Kent, yes; Lull, yes; Kozakiewicz, yes. The resolution is adopted."

Resolution #19

Andrea Lohneiss: "The next resolution requests a transfer of properties to the Town of Riverhead Community Development Agency, Suffolk County. These properties have previously been (inaudible) from the County at a time when the County was charging approximately \$2,000 per lot. (Inaudible) has implemented a new initiative which does not require the per lot fee. This essentially would be transferred to the town for not cost. (Inaudible)."

Chairman Kozakiewicz: "And specifically, these are part of the sterilization so that they can develop the other property- when I say they, Long Island Housing Partnership, is that correct? Okay."

Andrea Lohneiss: "That's right."

Chairman Kozakiewicz: "Is there a motion?"

Member Kent: "So I would move Resolution- CDA resolution #19 requesting transfer of properties to the Town of Riverhead."

Member Cardinale: "Seconded."

Chairman Kozakiewicz: "Moved and seconded."

Andrea Lohneiss: "Densieski, yes; Cardinale, yes; Kent, yes; Lull, yes; Kozakiewicz, yes. The resolution is adopted."

Resolution #20

Andrea Lohneiss: "The next resolution #20 authorizes the Chairman to execute a license agreement with Island Properties of Suffolk, Inc. (Inaudible)."

Member Cardinale: "Seconded."

Member Densieski: "Okay, hold on a second. Sorry. Resolution #20 for Michael Reilly Design, so moved."

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Andrea Lohneiss: "It's also- it's actually in the name of Island Properties of Suffolk, that was the name change, it was discussed at the work session. Michael Reilly is the- "

Chairman Kozakiewicz: "So should the resolution be amended to reflect who the licensee will be?"

Andrea Lohneiss: "It is."

Member Kent: "It does, it says Island Properties, Suffolk County."

Andrea Lohneiss: "The reference- "

Chairman Kozakiewicz: "Oh yeah, it does. Oh, you're right. Okay. It's in the third whereas, right."

Andrea Lohneiss: "Right."

Chairman Kozakiewicz: "Okay."

Andrea Lohneiss: "-- a resolution for Michael Reilly but clarify that."

Chairman Kozakiewicz: "Yeah, okay."

Member Densieski: "Okay, Resolution #20, CDA Resolution #20 of Island Properties of Suffolk, Inc. So moved."

Member Cardinale: "Seconded."

Chairman Kozakiewicz: "Moved and seconded."

Andrea Lohneiss: "Densieski, yes; Cardinale, yes; Kent, yes; Lull, yes; Kozakiewicz, yes."

Member Cardinale: "Andrea, did I understand you to say that as (inaudible) a month in rental now at that site?"

Andrea Lohneiss: "That you have approved."

Member Cardinale: "That we have approved."

Andrea Lohneiss: "Approved the three (inaudible)."

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Member Cardinale: "Okay, we have approved those. And that would be like a \$1,740,000 for the annual?"

Andrea Lohneiss: "\$1,745,000."

Member Cardinale: "Thank you."

Andrea Lohneiss: "That resolution was adopted."

Resolution #21

Andrea Lohneiss: "Authorizes the Chairman to execute an intermunicipal agreement with Suffolk County Department of Economic Development for the Economic Development Zone Operating Funds. Just to clarify the wording of the resolution. Each year the state approves a grant in the amount of 50% of our submitted budget. That leaves the (inaudible) the town with the other 50%. The County of Suffolk has offered to contribute 50% of that amount or 25% of the entire to the town on an annual basis (inaudible)."

Member Kent: "Okay, I'll move Resolution #21 authorizing the Chairman to execute the intermunicipal agreement with Suffolk County."

Member Lull: "Second."

Chairman Kozakiewicz: "Moved and seconded."

Andrea Lohneiss: (Inaudible) "Densieski, yes; Cardinale, yes; Kent, yes; Lull, yes; Kozakiewicz, yes."

Chairman Kozakiewicz: "And the reason this wasn't signed earlier is there was some language that was in the original agreement from the county and Dawn was able to communicate with the county and express some of the problems we had with the language and we were able to get them to acquiesce. So, yes."

Andrea Lohneiss: "Okay, that resolution is adopted."

Chairman Kozakiewicz: "Any further business for the CDA? Okay, at this point I will close the CDA meeting at the time of 9:50 having arrived."

Meeting adjourned

*Barbara Hutton*  
Town Clerk

Resolution # 18

**Adopted**

Authorizes Chairman to Execute License Agreement with BMB Millwork

Member **COUNCILMAN DENSIESKI** offered the following resolution,

which was seconded by Member **COUNCILMAN LULL**:

**WHEREAS**, the BMB Millwork desires to lease Buildings 06-52, 53 and 54, approximately 23,477 square feet, beginning September 1, 2000 for up to six months; and

**WHEREAS**, the Town Board desires to encourage additional jobs and revenue to the Town pending closing on the property by the Buyer, and

**WHEREAS**, this Town Board has balanced such interests and hereby makes the following findings:

1. The proposed license agreements are of short duration;
2. That proposed uses under the license agreements are consistent with the objectives of the Town's Zoning Ordinance;
3. There is a clear mutuality of purpose and goals in this action being that the same elected representatives serve as members of the CDA and the Town Board; and

**WHEREAS**, the CDA will realize net income of \$8,804 per month during the license period.

**THEREFORE, BE IT RESOLVED**, that the CDA hereby authorizes the Chairman to execute the license agreement substantially in the form attached hereto.

**AND BE IT FURTHER RESOLVED**, that the Town Clerk shall provide a certified copy of this resolution to Community Development Agency Director Andrea Lohneiss.

The Vote:

Member Densieski \_\_\_\_\_  
 Member Cardinale \_\_\_\_\_  
 Member Kent \_\_\_\_\_  
 Member Lull \_\_\_\_\_  
 Chairman Kozakiewicz \_\_\_\_\_

**THE VOTE**  
 Densieski  Yes \_\_\_ No \_\_\_ Cardinale  Yes \_\_\_ No \_\_\_  
 Kent  Yes \_\_\_ No \_\_\_ Lull  Yes \_\_\_ No \_\_\_  
 Kozakiewicz  Yes \_\_\_ No \_\_\_  
**THE RESOLUTION WAS  WAS NOT**   
**THEREUPON DULY ADOPTED**

LICENSE

License ("License"), made as of the \_\_\_ day of July, 2000, by and between the **Town of Riverhead Community Development Agency**, having an address at 200 Howell Avenue, Riverhead, NY 11901, Attention: Andrea Lohneiss ("Licensor") and BMB Millwork, a corporation having an address at: 66 Old Country Road, PO Box 1659, Quogue, NY 11959, ATTN: John Graziano ("Licensee").

W I T N E S S E T H

**WHEREAS**, Licensor desires to license to Licensee, and Licensee desires to license to Licensor, the right to use approximately 23,477 square feet in Building 06-52, 53 and 54 as depicted on Exhibit A (the "License Premises") located at the property formerly known as the Naval Weapons Industrial Reserve Plant, Department of Defense Number 466, Calverton, New York (the "Calverton Site"), upon all of the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained, Licensor and Licensee, for themselves, their successors and assigns, hereby agree as follows:

1. **LICENSING.** Upon the terms and conditions hereafter set forth, Licensor hereby licenses to Licensee, and Licensee hereby licenses from Licensor, the right to use the License Premises.
  
2. **TERM OF LICENSE.** The term of this License (the "Term") shall commence on September 1, 2000 (the "License Commencement Date") and shall end on the earlier of (a) March 1, 2001 and (b) the date on which the closing shall occur under that certain Agreement of Sale dated as of June 15, 1999 between Licensor and Calverton Camelot LLC. (in either case, the "Expiration Date") or such earlier date upon which this License shall expire or be canceled or terminated pursuant to any of the conditions or covenants of this License or pursuant to law. Notwithstanding anything to the contrary contained in this License, Licensor shall have the right, exercisable in its sole discretion, to terminate this License effective immediately upon written notice from Licensor to Licensee, if (i) Licensee shall default under or be in breach, of in any of its obligations, representations or warranties hereunder and (ii) such default continues for (x) five days after written notice from Licensor with respect to monetary defaults or (y) thirty days after written notice from Licensor with respect to nonmonetary defaults. If Licensor shall so terminate this License, from and after the termination date neither party hereto shall have any rights or obligations hereunder other than those that, pursuant to the express terms hereof, survive termination of this License; provided that Licensee shall remain liable to Licensor for any default or breach by Licensee that occurred prior to such termination. Furthermore, this License is not, and shall not be construed to be, a lease or a sublease and nothing contained in this License shall be construed as granting to Licensee any interest or right as tenant or subtenant or any other interest or right other than the interest of a Licensee in accordance with the terms and provisions hereof.
  
3. **CONDITIONS OF LICENSE PREMISES.** Licensee agrees to accept the License Premises "as is," and Licensor shall have no obligation to perform any work or repairs on behalf of Licensee. Licensee acknowledges that no representations with

respect to the condition of the License Premises, or with respect to any improvement or fixtures thereon or attached thereto, have been made to it. Licensee shall be responsible for all start-up costs and expenses and for all costs and expenses associated with the operation of the License Premises, including without limitation, utility usage costs. Invoices will be provided to Licensee monthly and re to be paid within 10 days. Specifically, Licensee must install electric and steam meters and incur other start-up costs, including but not limited to reactivation of sprinklers, including quarterly testing as required by the Riverhead Fire Marshall, and reactivation of bathrooms. Licensee is responsible for connection of building to municipal water upon installation of the mains including design, inspection and key money.

4. **SECURITY DEPOSIT.** Licensee shall deposit with Licensor on the date hereof an amount equal to \$8,804 as security for the faithful performance and observation by Licensee of the terms, conditions and provisions of this License. If a default shall occur and be continuing hereunder, Licensor may apply or retain the whole or any part of the security so deposited to the extent necessary to cure such default. Upon termination of this License, Licensor shall return to Licensee such deposit, less any amounts to which Licensor is entitled pursuant to the terms hereof.
5. **LICENSE FEE.** Licensee shall pay to Licensor, in accordance with Section 6 hereof (a) on the date hereof an amount equal to \$26,412 and (b) on the first business day of each month commencing with December 1 2000, an amount equal to \$8,804 (all of the amounts to be paid by Licensee hereunder, collectively, the "Fee"). In the event that the Term shall terminate on a day other than the last day of a calendar month or in the event that the Term shall terminate prior to November 30, 2000, Licensor and Licensee shall equitably prorate the amount of the Fee actually paid to Licensor for such period.

Licensee covenants and agrees that in no event shall Licensee permit any motor Vehicle to (1) enter the Calverton Site other than through the Access Point (as defined below) or (2) park anywhere other than in the parking area depicted on Exhibit A attached here (the "Parking Area"). Licensee shall be solely responsible for keeping the Parking Area free and clear of debris and snow.

6. **PAYMENT.** The Fee and all other charges, costs and expenses payable by Licensee under this License shall be paid by certified check payable to the order of the Town of Riverhead Community Development Agency and delivered to Andrea Lohneiss at the address provided for Licensor in the preamble to this License, without notice or demand therefor (except to the extent otherwise expressly provided herein) and without any deduction, credit, set-off, counterclaim or abatement whatsoever in every case in which Licensee is required to pay Licensor a sum of money and said sum (or any portion thereof) is not Paid when due, interest at an annual rate of 12% shall be payable on such sum (or so much thereof as shall be unpaid) from the date said sum becomes due until the date the unpaid amount is paid.
7. **USE; COVENANTS.** (a) Licensee shall use the License Premises only for the design and manufacturing of woodworking products (the "Uses") to prepare the License Premises for the same and to clean and restore the License Premises, in each case, in accordance with, and subject to, the terms and provisions of this License.

Licensee shall be responsible for compliance with local zoning and for obtaining all permits necessary to conduct its business.

(b) Licensee, at its own cost and expense, shall protect, maintain, and keep in good order, the License Premises.

(c) No additions to, or alterations of, the License Premises shall be made without the prior consent of Licensor or in violation of any applicable building codes. Upon revocation or surrender of this License, to the extent directed by Licensor, Licensee shall remove all alterations, additions, betterments and improvements made, or installed, and restore the License Premises to the same, or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.

(d) Licensee shall be liable for any loss of, or damage to, the Calverton Site incurred in connection with the Uses and shall make restoration or repair, or monetary compensation as may be directed by Licensor. Licensee shall maintain, at a minimum, the types and amounts of insurance evidenced by the certificates attached hereto as Exhibit B. Licensee agrees that not less than thirty (30) days prior to the expiration of any insurance required by this License, it will deliver to Licensor's local representative a certificate of insurance or a certified copy of each renewal policy to cover the same risks. Each policy of insurance required hereunder shall name Licensor "Town of Riverhead Community Development Agency" and "Grubb & Ellis Management Services, Inc." as additional insureds. In the event that any items or part of the Calverton Site shall require repair, rebuilding or replacement resulting from loss or damage, the risk of which is assumed under this Section 7, Licensee shall promptly give notice thereof to Licensor and shall, upon demand, either compensate Licensor for such loss or damage, or rebuild, replace or repair the item or items of the Calverton Site so lost or damaged, as Licensor may elect. In the event Licensee shall not have been required to effect such repair, rebuilding, or replacement, and the insurance proceeds allocable to the loss or damage that has created the need for such repair, rebuilding or replacement have been paid to Licensee, Licensee shall promptly refund to Licensor the amount of such proceeds.

(e) Without limiting the generality of any other provision of this Agreement, Licensee hereby covenants and agrees that Licensee shall provide ample vehicles, personnel, equipment and containers to clean the License Premises and insure that the same is restored to as good condition, subject to reasonable wear and tear, on the Expiration Date as it was in on the License Commencement Date.

(f) In connection with the performance of work under this License, Licensee agrees not to discriminate against any employee or applicant for employment because race, religion, color or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Licensee agrees to post hereafter in conspicuous places available for employees and applicants for employment, notices to be provided by Licensor setting forth the provisions of the nondiscrimination clause. Licensee further agrees to insert the foregoing in all

subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

(g) Licensor shall have the sole authority to determine what entity or entities shall provide the following services to the Calverton Site: any and all telecommunications products and services including but not limited to telephone, intellipath, ISDN, data circuits, satellite communications services, fiber, cable, electric and water. Licensee shall not install or contract for the installation of any of the foregoing services without the express written consent of the Licensor.

8. **ASSIGNMENT AND LICENSING.** Notwithstanding anything to the contrary contained in this License, Licensee shall not assign this License, License the License Premises in whole or in part or permit Licensee's interest in this License to be vested in any party other than Licensee by operation of law or otherwise. A transfer of more than fifty (50%) at any one time or, in the aggregate from time to time, of the stock, partnership or other ownership interests in Licensee, direct or indirectly shall be deemed to be an assignment of this License.
  
9. **LICENSOR'S REMEDIES.** (a) If Licensee fails to perform any of its obligations hereunder in accordance with the terms hereof, then, after reasonable notice to Licensee not to exceed thirty (30) days, and an opportunity for Licensee to cure such failure, (except in case of emergency) Licensee may (but shall not be obligated to) cure such failure at the expense of Licensee, and the amount incurred by Licensor in connection with such cure shall be payable by Licensee to Licensor on demand.  
  
(b) Except as provided in Section 2 and in the immediately following sentence, in the event of a breach by Licensee hereunder, Licensor shall be limited to an action at law for damages. Notwithstanding the foregoing, in the event that Licensee holds over after the expiration of the Term, (i) Licensee shall be obligated to pay Licensor an amount equal to \$1,000 per diem for each day of the holdover term and (ii) Licensor shall have all of the rights and remedies available to it at law or in equity, including, without limitation, the right to exercise self help and to dispossess Licensee of the License Premises, change the locks on the License Premises, deny Licensee access to the License Premises and take possession of or dispose of any property at the License Premises, all at the cost and expense of Licensee. Except as provided in Section 2, in no event shall Licensor have the right to enjoin Licensee's performance of the Uses.
  
10. **INDEMNITY.** (a) Licensee shall indemnify and hold Licensor harmless from and against any and all claims, actions, liabilities, losses, damages (including, without limitation, consequential and special damages), costs and expenses (including, without limitation, court costs and reasonable attorneys' fees and expenses) arising from or in connection with (i) the use or occupancy by Licensee of the License Premises during the term hereof, or (ii) any work or thing done or any condition created by or any other act or omission of Licensee or its employees, agents, contractors, visitors or licensees, in the License Premises or any other part of the Calverton Site in connection with Licensee's use of the License Premises, or (iii) Licensee's failure to perform any of the obligations imposed on it hereunder.

(b) The foregoing indemnity does not include any claims, actions, liabilities, losses, damages, costs and expenses resulting from Licensor's gross negligence or willful misconduct.

11. **Brokers.** Licensee represents that it has not dealt with any broker or finder other than Grubb & Ellis with respect to this License. Licensee agrees to indemnify and hold Licensor harmless from and against any and all loss, liability, damage, cost and expense (including, but not limited to, court costs and reasonable attorneys' fees and expenses) which Licensor may incur or sustain in connection with any claim or action by any broker or finder that may be asserted against Licensor as a result of any conversations, correspondence or other dealings between Licensee and such broker or finder.
12. **NOTICES.** Any notices to be given under this License shall be in writing and shall be sent by registered or certified mail, return receipt requested. If such notice is directed to Licensee, it shall be addressed to Licensee at 66 Old Country Road, PO Box 1659, Quogue, NY 11959, Attention: John Graziano, and if such notice is directed to Licensor, it shall be addressed to Licensor at 200 Howell Avenue, Riverhead, New York 11901, Attention: Andrea Lohneiss. Either party may, by notice in writing, direct that future notices be sent to a different address and to the attention of such other people as either Licensor or Licensee shall designate.
13. **HAZARDOUS SUBSTANCES.** (a) Generally. Licensee shall not generate, store, manufacture, refine, transport, treat, dispose of, or otherwise permit to be present on or about the License Premises, any Hazardous Substances (other than Hazardous Substances (x) customarily used in events such as the Event and (y) used, stored, transported, and disposed of in strict compliance with applicable law). As used herein, the term "Hazardous Substances" shall mean any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any materials containing asbestos, or any other hazardous or toxic substance or material as defined by any Federal, State or local environmental law, rule or regulation, including, without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, the Toxic Substances Control Act, as amended from time to time, the Hazardous Materials Transportation Act, as amended from time to time, and the regulations adopted and the publications promulgated pursuant to each of the foregoing.
  - b. In addition to the foregoing, (A) Licensee hereby agrees to comply at all times with and to cause the License Premises to be in compliance at all times with the Suffolk County Health Department Regulations and (B) Licensee shall file for a fire prevention permit and hazardous material permit from the Town of Riverhead.
  - c. Indemnification. Licensee shall indemnify and hold harmless Licensor from and against any and all liabilities, damages, claims, losses, penalties, judgments, causes of action, costs and expenses (including, without limitation, court costs and the reasonable fees and expenses of counsel) which may be incurred by Licensor directly arising out of any breach by Licensee of the obligations imposed upon it under this

Section 13. The foregoing indemnity shall survive the expiration or sooner termination of this License.

14. **CROSS-DEFAULT.** To the extent that the Licensor and the Licensee are parties to any other similar agreements, any default under such similar agreements shall be deemed to be a default under this License, and any default under such similar agreements.

15. **MISCELLANEOUS.** (a) Merger. All prior understandings and agreements between the parties with respect to the subject matter hereof are merged within this License, which alone fully and completely sets forth the understanding of the parties with respect to the subject matter hereof. This License may not be changed or terminated orally or in any manner other than by a writing signed by the party against whom enforcement of the change or termination is sought.

(b) Successors and Assigns. This License shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. The term "Licensor," as used in this License, shall mean only the owner from time to time of the License Premises, so that in the event of any transfer or assignment of the License Premises, the transferor or assignor shall be and hereby is entirely freed and relieved of all covenants, obligations and liability of Licensor under this License, and it shall be deemed, without further agreement, that the transferee or assignee has assumed and agreed to perform and observe all obligations of Licensor under this License during the period that such transferee or assignee is the owner of the interest of License Premises.

(c) Licensee represents that this License has been duly authorized, executed and delivered by Licensee and is enforceable against Licensee in accordance with its terms.

(d) Neither Licensor nor any tenant, nor other party now or hereafter having an interest in the Calverton Site, shall have any right of action based upon invasion of privacy, publicity, defamation, or other civil rights, in connection with the exercise of the permission and/or rights herein granted. Notwithstanding the foregoing, Licensee shall not use the name "Calverton" or "Riverhead", or any signage containing such names, and shall not use the names, pictures, or likenesses of any officials or employees of the Town of Riverhead in connection with or production of the "use" hereunder without the prior consent of Licensor, which consent shall not be unreasonably withheld or delayed.

LICENSOR:

THE TOWN OF RIVERHEAD COMMUNITY  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Name:

Title:

LICENSEE:

By: \_\_\_\_\_

Name:

Title:

7/18/2000

# Adopted

COMMUNITY DEVELOPMENT AGENCY  
RESOLUTION #19  
7/18/2000

REQUESTING TRANSFER OF PROPERTIES TO THE TOWN OF RIVERHEAD  
COMMUNITY DEVELOPMENT AGENCY

COUNCILMAN KENT offered the following resolution which

was seconded by COUNCILMAN CARDINALE

WHEREAS, the Town of Riverhead is committed to the revitalization of the Millbrook Gables Community; and

WHEREAS, within this target area are two vacant 10,000 sq. ft. parcels which are owned by the County of Suffolk; and

WHEREAS, the County of Suffolk has held said parcels for the required redemption periods; and

WHEREAS, the initiatives of the County Executive and Suffolk County Legislature intended to encourage the development of affordable housing include transfer of appropriate properties at the request of the local government; and

WHEREAS, the Millbrook Gables area is a designated Urban Renewal Area for which an Urban Renewal Plan has been prepared and adopted and for which a Revitalization Plan has been prepared and is being implemented.

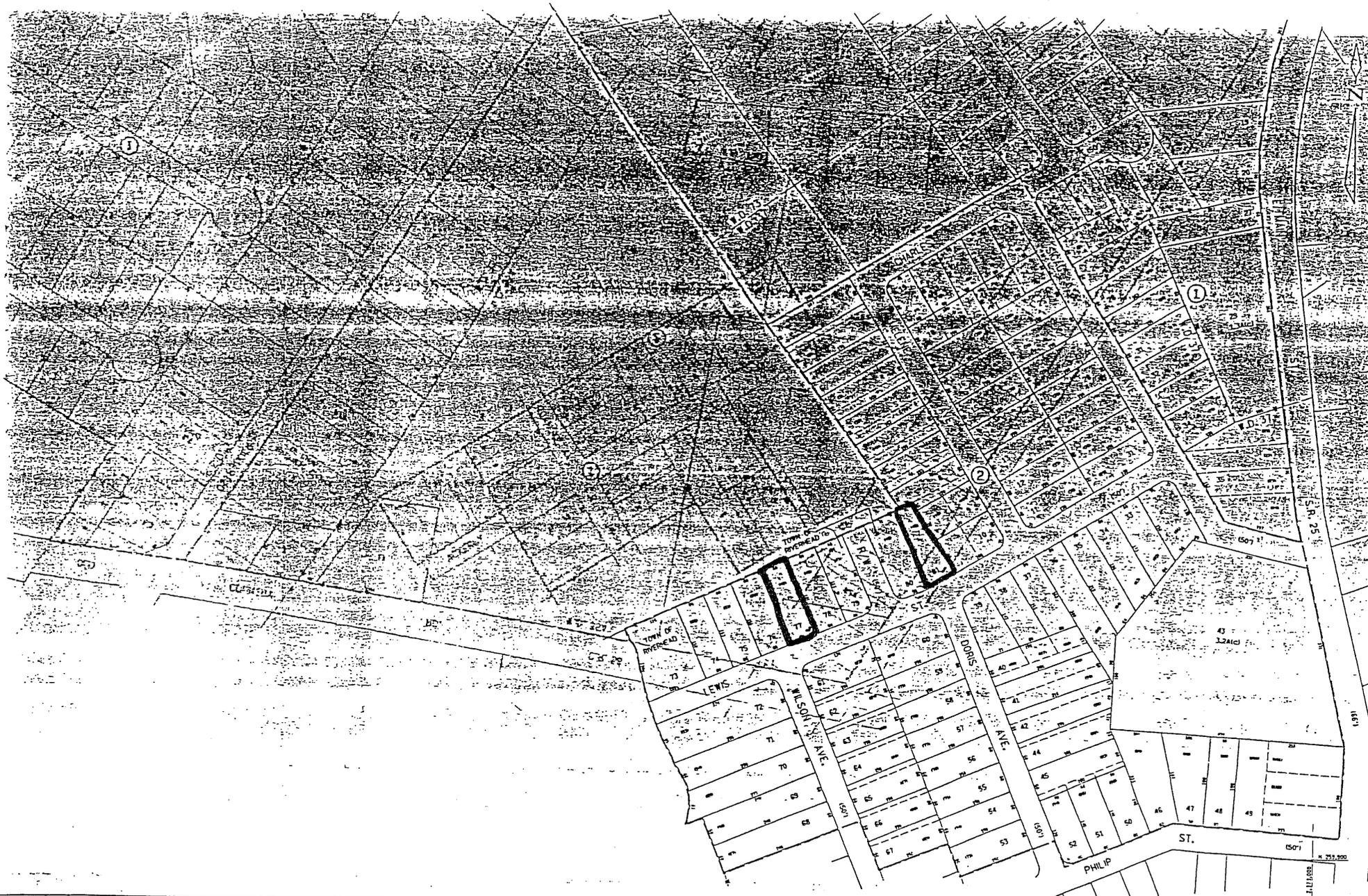
THEREFORE BE IT RESOLVED, that the Riverhead Town Board in its capacity as the Community Development Agency, hereby requests the transfer of parcels known as 0600-105-2-77 and 0600-105-2-81 by Suffolk County to the Town of Riverhead for \$1.00 for the purpose of providing affordable housing to first-time homebuyers.

AND BE IT FURTHER RESOLVED, that the Town Clerk shall provide a certified copy of this resolution to Suffolk County Executive Robert Gaffney, Suffolk County Division of Real Estate Director Alan Grecco, Suffolk County Planning Director Steve Jones and Community Development Agency Director Andrea Lohneiss.

The Vote:

Member Densieski \_\_\_\_\_  
Member Cardinale \_\_\_\_\_  
Member Kent \_\_\_\_\_  
Member Lull \_\_\_\_\_  
Chairman Kozakiewicz \_\_\_\_\_

**THE VOTE**  
Densieski  Yes \_\_\_ No \_\_\_ Cardinale  Yes \_\_\_ No \_\_\_  
Kent  Yes \_\_\_ No \_\_\_ Lull  Yes \_\_\_ No \_\_\_  
Kozakiewicz  Yes \_\_\_ No \_\_\_  
THE RESOLUTION WAS  WAS NOT   
THEREUPON DULY ADOPTED



7/18/00

# Adopted

Town of Riverhead Community Development Agency

Resolution # 20

Authorizes Chairman to Execute License Agreement with Island Properties of Suffolk, Inc.

Member COUNCILMAN DENSIESKI offered the following resolution,

which was seconded by Member COUNCILMAN CARDINALE:

**WHEREAS**, on March 21, 2000, by CDA Resolution #7, the CDA approved a license agreement for Michael Reilly Design for use of 5,400 square feet of Building 06-13; and

**WHEREAS**, the Licensee, Michael Reilly Design, did not execute said License Agreement; and

**WHEREAS**, Island Properties of Suffolk, Inc. desires to lease the entire building, 14,107 square feet, at \$5 per square foot beginning August 1, 2000 for up to six months; and

**WHEREAS**, the Town Board desires to encourage additional jobs and revenue to the Town pending closing on the property by the Buyer; and

**WHEREAS**, this Town Board has balanced such interests and hereby makes the following findings:

1. The proposed license agreements are of short duration;
2. That proposed uses under the license agreements are consistent with the objectives of the Town's Zoning Ordinance;
3. There is a clear mutuality of purpose and goals in this action being that the same elected representatives serve as members of the CDA and the Town Board; and

**WHEREAS**, the CDA will realize net income of \$5,878 per month during the license period.

**THEREFORE, BE IT RESOLVED**, that the CDA hereby authorizes the Chairman to execute the license agreement substantially in the form attached hereto.

**AND BE IT FURTHER RESOLVED**, that the Town Clerk shall provide a certified copy of this resolution to Community Development Agency Director Andrea Lohneiss.

The Vote:

Member Densieski \_\_\_\_\_  
 Member Cardinale \_\_\_\_\_  
 Member Kent \_\_\_\_\_  
 Member Lull \_\_\_\_\_  
 Chairman Kozakiewicz \_\_\_\_\_

**THE VOTE**  
 Densieski  Yes \_\_\_ No \_\_\_ Cardinale  Yes \_\_\_ No \_\_\_  
 Kent  Yes \_\_\_ No \_\_\_ Lull  Yes \_\_\_ No \_\_\_  
 Kozakiewicz  Yes \_\_\_ No \_\_\_  
**THE RESOLUTION WAS**  **WAS NOT** \_\_\_  
**THEREUPON DULY ADOPTED**

**DRAFT**  
LICENSE

License ("License"), made as of the \_\_\_ day of July, 2000, by and between **the Town of Riverhead Community Development Agency**, having an address at 200 Howell Avenue, Riverhead, NY 11901, Attention: Andrea Lohneiss ("Licensor") and **Island Properties of Suffolk, Inc.**, a corporation having an address at: -----, Southold, NY, Attention: Derrick Doubrava, President ("Licensee").

W I T N E S S E T H

**WHEREAS**, Licensor desires to license to Licensee, and Licensee desires to license to Licensor, the right to use approximately 14,107 square feet in Building 06-13 as depicted on Exhibit A (the "License Premises") located at the property formerly known as the Naval Weapons Industrial Reserve Plant, Department of Defense Number 466, Calverton, New York (the "Calverton Site"), upon all of the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained, Licensor and Licensee, for themselves, their successors and assigns, hereby agree as follows:

1. **LICENSING.** Upon the terms and conditions hereafter set forth, Licensor hereby licenses to Licensee, and Licensee hereby licenses from Licensor, the right to use the License Premises.
2. **TERM OF LICENSE.** The term of this License (the "Term") shall commence on August 1, 2000 (the "License Commencement Date") and shall end on the earlier of (a) February 1, 2001 and (b) the date on which the closing shall occur under that certain Agreement of Sale dated as of June 15, 1999 between Licensor and Calverton Camelot LLC. (in either case, the "Expiration Date") or such earlier date upon which this License shall expire or be canceled or terminated pursuant to any of the conditions or covenants of this License or pursuant to law. Notwithstanding anything to the contrary contained in this License, Licensor shall have the right, exercisable in its sole discretion, to terminate this License effective immediately upon written notice from Licensor to Licensee, if (i) Licensee shall default under or be in breach, of in any of its obligations, representations or warranties hereunder and (ii) such default continues for (x) five days after written notice from Licensor with respect to monetary defaults or (y) thirty days after written notice from Licensor with respect to nonmonetary defaults. If Licensor shall so terminate this License, from and after the termination date neither party hereto shall have any rights or obligations hereunder other than those that, pursuant to the express terms hereof, survive termination of this License; provided that Licensee shall remain liable to Licensor for any default or breach by Licensee that occurred prior to such termination. Furthermore, this License is not, and shall not be construed to be, a lease or a sublease and nothing contained in this License shall be construed as granting to Licensee any interest or right as tenant or subtenant or any other interest or right other than the interest of a Licensee in accordance with the terms and provisions hereof.
3. **CONDITIONS OF LICENSE PREMISES.** Licensee agrees to accept the License Premises "as is," and Licensor shall have no obligation to perform any work or repairs on behalf of Licensee. Licensee acknowledges that no representations with

respect to the condition of the License Premises, or with respect to any improvement or fixtures thereon or attached thereto, have been made to it. Licensee shall be responsible for all start-up costs and expenses and for all costs and expenses associated with the operation of the License Premises, including without limitation, utility usage costs. Invoices will be provided to Licensee monthly and re to be paid within 10 days. Specifically, Licensee must install electric and steam meters and incur other start-up costs, including but not limited to reactivation of sprinklers, including quarterly testing as required by the Riverhead Fire Marshall, and reactivation of bathrooms. Licensee is responsible for connection of building to municipal water upon installation of the mains including design, inspection and key money.

4. **SECURITY DEPOSIT.** Licensee shall deposit with Licensor on the date hereof an amount equal to \$5,878 as security for the faithful performance and observation by Licensee of the terms, conditions and provisions of this License. If a default shall occur and be continuing hereunder, Licensor may apply or retain the whole or any part of the security so deposited to the extent necessary to cure such default. Upon termination of this License, Licensor shall return to Licensee such deposit, less any amounts to which Licensor is entitled pursuant to the terms hereof.
5. **LICENSE FEE.** Licensee shall pay to Licensor, in accordance with Section 6 hereof (a) on the date hereof an amount equal to \$17,634 and (b) on the first business day of each month commencing with November 1, 2000, an amount equal to \$5,878 (all of the amounts to be paid by Licensee hereunder, collectively, the "Fee"). In the event that the Term shall terminate on a day other than the last day of a calendar month or in the event that the Term shall terminate prior to October 31, 2000, Licensor and Licensee shall equitably prorate the amount of the Fee actually paid to Licensor for such period.

Licensee covenants and agrees that in no event shall Licensee permit any motor Vehicle to (1) enter the Calverton Site other than through the Access Point (as defined below) or (2) park anywhere other than in the parking area depicted on Exhibit A attached here (the "Parking Area"). Licensee shall be solely responsible for keeping the Parking Area free and clear of debris and snow.

6. **PAYMENT.** The Fee and all other charges, costs and expenses payable by Licensee under this License shall be paid by certified check payable to the order of the Town of Riverhead Community Development Agency and delivered to Andrea Lohneiss at the address provided for Licensor in the preamble to this License, without notice or demand therefor (except to the extent otherwise expressly provided herein) and without any deduction, credit, set-off, counterclaim or abatement whatsoever in every case in which Licensee is required to pay Licensor a sum of money and said sum (or any portion thereof) is not Paid when due, interest at an annual rate of 12% shall be payable on such sum (or so much thereof as shall be unpaid) from the date said sum becomes due until the date the unpaid amount is paid.
7. **USE; COVENANTS.** (a) Licensee shall use the License Premises only for the design and manufacturing of household and commercial cabinets (the "Uses") to prepare the License Premises for the same and to clean and restore the License Premises, in each case, in accordance with, and subject to, the terms and provisions of

this License. Licensee shall be responsible for compliance with local zoning and for obtaining all permits necessary to conduct its business.

(b) Licensee, at its own cost and expense, shall protect, maintain, and keep in good order, the License Premises.

(c) No additions to, or alterations of, the License Premises shall be made without the prior consent of Licensor or in violation of any applicable building codes. Upon revocation or surrender of this License, to the extent directed by Licensor, Licensee shall remove all alterations, additions, betterments and improvements made, or installed, and restore the License Premises to the same, or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.

(d) Licensee shall be liable for any loss of, or damage to, the Calverton Site incurred in connection with the Uses and shall make restoration or repair, or monetary compensation as may be directed by Licensor. Licensee shall maintain, at a minimum, the types and amounts of insurance evidenced by the certificates attached hereto as Exhibit B. Licensee agrees that not less than thirty (30) days prior to the expiration of any insurance required by this License, it will deliver to Licensor's local representative a certificate of insurance or a certified copy of each renewal policy to cover the same risks. Each policy of insurance required hereunder shall name Licensor "Town of Riverhead Community Development Agency" and "Grubb & Ellis Management Services, Inc." as additional insureds. In the event that any items or part of the Calverton Site shall require repair, rebuilding or replacement resulting from loss or damage, the risk of which is assumed under this Section 7, Licensee shall promptly give notice thereof to Licensor and shall, upon demand, either compensate Licensor for such loss or damage, or rebuild, replace or repair the item or items of the Calverton Site so lost or damaged, as Licensor may elect. In the event Licensee shall not have been required to effect such repair, rebuilding, or replacement, and the insurance proceeds allocable to the loss or damage that has created the need for such repair, rebuilding or replacement have been paid to Licensee, Licensee shall promptly refund to Licensor the amount of such proceeds.

(e) Without limiting the generality of any other provision of this Agreement, Licensee hereby covenants and agrees that Licensee shall provide ample vehicles, personnel, equipment and containers to clean the License Premises and insure that the same is restored to as good condition, subject to reasonable wear and tear, on the Expiration Date as it was in on the License Commencement Date.

(f) In connection with the performance of work under this License, Licensee agrees not to discriminate against any employee or applicant for employment because race, religion, color or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Licensee agrees to post hereafter in conspicuous places available for employees and applicants for employment, notices to be provided by Licensor setting forth the provisions of the nondiscrimination clause. Licensee further agrees to insert the foregoing in all

subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

(g) Licensor shall have the sole authority to determine what entity or entities shall provide the following services to the Calverton Site: any and all telecommunications products and services including but not limited to telephone, intellipath, ISDN, data circuits, satellite communications services, fiber, cable, electric and water. Licensee shall not install or contract for the installation of any of the foregoing services without the express written consent of the Licensor.

8. **ASSIGNMENT AND LICENSING.** Notwithstanding anything to the contrary contained in this License, Licensee shall not assign this License, License the License Premises in whole or in part or permit Licensee's interest in this License to be vested in any party other than Licensee by operation of law or otherwise. A transfer of more than fifty (50%) at any one time or, in the aggregate from time to time, of the stock, partnership or other ownership interests in Licensee, direct or indirectly shall be deemed to be an assignment of this License.

9. **LICENSOR'S REMEDIES.** (a) If Licensee fails to perform any of its obligations hereunder in accordance with the terms hereof, then, after reasonable notice to Licensee not to exceed thirty (30) days, and an opportunity for Licensee to cure such failure, (except in case of emergency) Licensee may (but shall not be obligated to) cure such failure at the expense of Licensee, and the amount incurred by Licensor in connection with such cure shall be payable by Licensee to Licensor on demand.

(b) Except as provided in Section 2 and in the immediately following sentence, in the event of a breach by Licensee hereunder, Licensor shall be limited to an action at law for damages. Notwithstanding the foregoing, in the event that Licensee holds over after the expiration of the Term, (i) Licensee shall be obligated to pay Licensor an amount equal to \$750 per diem for each day of the holdover term and (ii) Licensor shall have all of the rights and remedies available to it at law or in equity, including, without limitation, the right to exercise self help and to dispossess Licensee of the License Premises, change the locks on the License Premises, deny Licensee access to the License Premises and take possession of or dispose of any property at the License Premises, all at the cost and expense of Licensee. Except as provided in Section 2, in no event shall Licensor have the right to enjoin Licensee's performance of the Uses.

10. **INDEMNITY.** (a) Licensee shall indemnify and hold Licensor harmless from and against any and all claims, actions, liabilities, losses, damages (including, without limitation, consequential and special damages), costs and expenses (including, without limitation, court costs and reasonable attorneys' fees and expenses) arising from or in connection with (i) the use or occupancy by Licensee of the License Premises during the term hereof, or (ii) any work or thing done or any condition created by or any other act or omission of Licensee or its employees, agents, contractors, visitors or licensees, in the License Premises or any other part of the Calverton Site in connection with Licensee's use of the License Premises, or (iii) Licensee's failure to perform any of the obligations imposed on it hereunder.

(b) The foregoing indemnity does not include any claims, actions, liabilities, losses, damages, costs and expenses resulting from Licensor's gross negligence or willful misconduct.

11. **Brokers.** Licensee represents that it has not dealt with any broker or finder other than Grubb & Ellis with respect to this License. Licensee agrees to indemnify and hold Licensor harmless from and against any and all loss, liability, damage, cost and expense (including, but not limited to, court costs and reasonable attorneys' fees and expenses) which Licensor may incur or sustain in connection with any claim or action by any broker or finder that may be asserted against Licensor as a result of any conversations, correspondence or other dealings between Licensee and such broker or finder.
12. **NOTICES.** Any notices to be given under this License shall be in writing and shall be sent by registered or certified mail, return receipt requested. If such notice is directed to Licensee, it shall be addressed to Licensee at Island Properties of Suffolk, Inc., PO -----, Southold, NY, Attention: Derrick Doubrava, President, and if such notice is directed to Licensor, it shall be addressed to Licensor at 200 Howell Avenue, Riverhead, New York 11901, Attention: Andrea Lohneiss. Either party may, by notice in writing, direct that future notices be sent to a different address and to the attention of such other people as either Licensor or Licensee shall designate.

Island Properties of Suffolk, Inc., a corporation having an address at: -----, Southold, NY, Attention:

13. **HAZARDOUS SUBSTANCES.** (a) Generally. Licensee shall not generate, store, manufacture, refine, transport, treat, dispose of, or otherwise permit to be present on or about the License Premises, any Hazardous Substances (other than Hazardous Substances (x) customarily used in events such as the Event and (y) used, stored, transported, and disposed of in strict compliance with applicable law). As used herein, the term "Hazardous Substances" shall mean any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any materials containing asbestos, or any other hazardous or toxic substance or material as defined by any Federal, State or local environmental law, rule or regulation, including, without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, the Toxic Substances Control Act, as amended from time to time, the Hazardous Materials Transportation Act, as amended from time to time, and the regulations adopted and the publications promulgated pursuant to each of the foregoing.
  - b. In addition to the foregoing, (A) Licensee hereby agrees to comply at all times with and to cause the License Premises to be in compliance at all times with the Suffolk County Health Department Regulations and (B) Licensee shall file for a fire prevention permit and hazardous material permit from the Town of Riverhead.
  - c. Indemnification. Licensee shall indemnify and hold harmless Licensor from and against any and all liabilities, damages, claims, losses, penalties, judgments, causes of

action, costs and expenses (including, without limitation, court costs and the reasonable fees and expenses of counsel) which may be incurred by Licensor directly arising out of any breach by Licensee of the obligations imposed upon it under this Section 13. The foregoing indemnity shall survive the expiration or sooner termination of this License.

14. **CROSS-DEFAULT.** To the extent that the Licensor and the Licensee are parties to any other similar agreements, any default under such similar agreements shall be deemed to be a default under this License, and any default under such similar agreements.

15. **MISCELLANEOUS.** (a) Merger. All prior understandings and agreements between the parties with respect to the subject matter hereof are merged within this License, which alone fully and completely sets forth the understanding of the parties with respect to the subject matter hereof. This License may not be changed or terminated orally or in any manner other than by a writing signed by the party against whom enforcement of the change or termination is sought.

(b) Successors and Assigns. This License shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. The term "Licensor," as used in this License, shall mean only the owner from time to time of the License Premises, so that in the event of any transfer or assignment of the License Premises, the transferor or assignor shall be and hereby is entirely freed and relieved of all covenants, obligations and liability of Licensor under this License, and it shall be deemed, without further agreement, that the transferee or assignee has assumed and agreed to perform and observe all obligations of Licensor under this License during the period that such transferee or assignee is the owner of the interest of License Premises.

(c) Licensee represents that this License has been duly authorized, executed and delivered by Licensee and is enforceable against Licensee in accordance with its terms.

(d) Neither Licensor nor any tenant, nor other party now or hereafter having an interest in the Calverton Site, shall have any right of action based upon invasion of privacy, publicity, defamation, or other civil rights, in connection with the exercise of the permission and/or rights herein granted. Notwithstanding the foregoing, Licensee shall not use the name "Calverton" or "Riverhead", or any signage containing such names, and shall not use the names, pictures, or likenesses of any officials or employees of the Town of Riverhead in connection with or production of the "use" hereunder without the prior consent of Licensor, which consent shall not be unreasonably withheld or delayed.

LICENSOR:

THE TOWN OF RIVERHEAD COMMUNITY  
DEVELOPMENT AGENCY

**DRAFT**

By: \_\_\_\_\_  
Name:  
Title:

LICENSEE:

By: \_\_\_\_\_  
Name:  
Title:

Town of Riverhead Community Development Agency

**Adopted**

Resolution # 21

Authorizes Chairman to Execute an Intermunicipal Agreement with Suffolk County Department of Economic Development for the Economic Development Zone Operating Funds

Member COUNCILMAN KENT offered the following resolution,

which was seconded by Member COUNCILMAN LULL

**WHEREAS**, the Town of Riverhead Community Development Agency is the administrative agency for the local economic development zone administrative board known as the Calverton Zone Administrative Board; and

**WHEREAS**, Suffolk County has agreed to participate in the administration of the zone in the zone in the amount of 25% of the annual budget as approved by New York State subject to annual appropriation of said amount by the Suffolk County Legislature; and

**WHEREAS**, for administrative purposes, the County has prepared the attached agreement setting forth its commitment to provide financial support on an annual basis through December 31, 2004 in the amount of 50% of the annual grant amount provided to the Zone by the New York State Department of Economic Development, with the Town of Riverhead contributing an equal amount as appropriated by the respective governing bodies.

**THEREFORE, BE IT RESOLVED**, that the CDA hereby authorizes the Chairman to execute an intermunicipal agreement with the Suffolk County Department of Economic Development, substantially in conformance with the copy attached hereto.

**AND BE IT FURTHER RESOLVED**, that the Town Clerk shall provide a certified copy of this resolution to Community Development Agency Director Andrea Lohneiss, Riverhead Town Attorney Dawn Thomas, EDZ Coordinator Gloria Ingegno and Suffolk County Commissioner of Economic Development Alice Amrhein.

The Vote:

Member Densieski \_\_\_\_\_  
Member Cardinale \_\_\_\_\_  
Member Kent \_\_\_\_\_  
Member Lull \_\_\_\_\_  
Chairman Kozakiewicz \_\_\_\_\_

**THE VOTE**  
Densieski  Yes \_\_\_ No \_\_\_  
Cardinale  Yes \_\_\_ No \_\_\_  
Kent  Yes \_\_\_ No \_\_\_  
Lull  Yes \_\_\_ No \_\_\_  
Kozakiewicz  Yes \_\_\_ No \_\_\_  
**THE RESOLUTION WAS**  **WAS NOT** \_\_\_  
**THEREUPON DULY ADOPTED**

INTERMUNICIPAL AGREEMENT

THIS AGREEMENT (the "Agreement") made between the COUNTY OF SUFFOLK ("COUNTY"), a municipal corporation of the State of New York, having its principal offices at the County Center, Riverhead, New York 11901 acting through its duly constituted DEPARTMENT OF ECONOMIC DEVELOPMENT ("DEPARTMENT"), located at 100 Veterans Memorial Highway, Hauppauge, New York 11788 and the TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY ("TOWN"), a municipal corporation of the State of New York, having its principal offices at 200 Howell Avenue, Riverhead, New York 11901.

The parties hereto desire to make available to the TOWN funds for the purpose of providing financial support to assist the Calverton Enterprise Park Economic Development Zone Administrative Board, and sufficient funding exists in the 2000 Suffolk County Operating Budget.

- TERM OF AGREEMENT: Shall be as set forth in Exhibit A attached.
- TOTAL COST OF AGREEMENT: Shall not exceed \$23,000.00 for Fiscal Year 2000.
- TERMS AND CONDITIONS: Shall be as set forth in Exhibit A attached.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the latest date written below.

TOWN OF RIVERHEAD  
COMMUNITY DEVELOPMENT  
AGENCY

COUNTY OF SUFFOLK

By: \_\_\_\_\_  
ROBERT F. KOZAKIEWICZ  
Supervisor

By: \_\_\_\_\_  
ERIC A. KOPP  
Chief Deputy County Executive

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED:  
DEPARTMENT OF ECONOMIC  
DEVELOPMENT

APPROVED AS TO FORM, NOT  
REVIEWED AS TO EXECUTION:

ROBERT J. CIMINO  
Suffolk County Attorney

By: \_\_\_\_\_  
ALICE A. AMRHEIN  
Commissioner

By: \_\_\_\_\_  
DAVID E. GRIER  
Assistant County Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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WITNESSETH:

WHEREAS, the COUNTY and the TOWN made a joint application to the New York State Department of Economic Development, dated September 30, 1997, to designate a portion of Calverton Enterprise Park as an economic development zone pursuant to Article 18-B of the New York General Municipal Law; and

WHEREAS, the application was granted on June 3, 1998; and

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Comol...*  
WHEREAS, the State of New York Department of Economic Development has made a grant in the amount of \$46,000.00 in Fiscal Year 2000 to the TOWN to provide financial assistance with the administrative expenses of the Calverton Enterprise Park Economic Development Zone (the "Zone"); and

WHEREAS, the State requires the applicants provide a 50% match of these funds; and

WHEREAS, the TOWN will provide 50% of the match (~~\$23,000.00~~) in in-kind services and the COUNTY will provide 50% of the match in funds; and

WHEREAS, the parties are authorized to enter into this Agreement; and

NOW, THEREFORE, the parties hereto agree as follows:

1. The term of this Agreement shall commence on the date of execution hereof and expire on December 31, 200~~0~~<sup>4</sup>
2. The TOWN shall:
  - (a) carry out the services described in the joint application of the COUNTY and the TOWN, dated September 30, 1997, seeking designation of a portion of Calverton Enterprise Park as an economic development zone.
  - (b) carry out the responsibilities and obligations set forth in Article 18-B of the New York General Municipal Law and any other laws, rules and regulations concerning the operation and administration of the Zone.
  - (c) provide the Suffolk County Executive and the Suffolk County Legislature with copies of all reports required to be submitted pursuant to Article 18-B and as may be required by any department or agency of the State of New York related to the Zone.
  - (d) perform all obligations and responsibilities contained in any agreements entered into between the TOWN and the New York State Department of Economic Development or any successor thereto concerning the operation and administration of the Zone during the term of this Agreement.
3. (a)(i) Payment by the COUNTY shall be made upon presentment of vouchers. The TOWN shall prepare and present a claim form supplied by the COUNTY and approved for payment by the COUNTY (standard Suffolk County Payment Voucher) on the first day of each calendar quarter beginning July 1, 2000. Notwithstanding the foregoing, fifty percent (50%) of the funds available for Fiscal Year 2000 shall be paid upon execution of this Agreement. All

payments made subsequent to the initial payment described in the immediately preceding sentence shall be in an amount equal to twenty-five percent (25%) of the amount appropriated for the purposes described hereunder for the then current fiscal year or part thereof. The TOWN shall include documentation satisfactory to the COUNTY verifying the expenditure of these initial funds with the documentation required for submission of the voucher for the first quarterly payment on July 1, 2000. Payment by the COUNTY shall be made thirty (30) days after submission of a claim form. Nothing contained in this Agreement shall be construed to obligate the COUNTY to appropriate or otherwise provide funds to the TOWN for the purposes of this Agreement for any fiscal year or part thereof other than Fiscal Year 2000. ~~The TOWN understands and agrees that the appropriation or provision of funds for the purposes of this Agreement is within the sole discretion of the COUNTY and the Suffolk County Legislature.~~

(ii) All payments made under this Agreement are subject to audit by the Suffolk County Comptroller pursuant to Article V of the Suffolk County Charter. If the TOWN fails to cooperate with an audit by the Comptroller, the COUNTY shall have the right to suspend, reduce or partially withhold payments or require the repayment of amounts paid under this Agreement or under any other agreement between the parties until such cooperation is forthcoming. If such an audit discloses overpayments by the COUNTY to the TOWN, within thirty (30) days after the issuance of an official audit report by the Comptroller or his duly designated representatives, the TOWN shall repay the amount of such overpayment by check to the order of the Suffolk County Treasurer or shall submit a proposed plan of repayment to the Comptroller. If there is no response or if satisfactory repayments are not made, the COUNTY may recoup overpayments from any amounts due or becoming due to the TOWN from the COUNTY under this Agreement or otherwise. The provisions of this paragraph shall survive the expiration or termination of the Agreement.

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match.

(b) The TOWN agrees that it shall be entitled to no more than ~~TWENTY THREE THOUSAND DOLLARS (\$23,000.00)~~ for Fiscal Year 2000. The TOWN further agrees that it shall be entitled to no more than the amount of funds appropriated by COUNTY for any subsequent fiscal year or part thereof which shall occur during the term of this Agreement for the completion of all work, labor and services contemplated in this Agreement, notwithstanding the total amount of time expended. No partial payments shall be made to the TOWN in excess or in advance of the payment schedule in subparagraph (a) above. In the event funds are appropriated by COUNTY for any subsequent fiscal year or part thereof, the parties shall execute, prior to the start of the fiscal year or part thereof for which the appropriated funds shall be available, an amendment to this Agreement setting forth the amount of funds and the time period for which said funds are available.

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(c) The charges payable to TOWN under this Agreement are exclusive of federal, state and local taxes, the COUNTY being a municipality exempt from payment of such taxes.

(d) The TOWN shall maintain full and complete books and records of accounts in accordance with generally accepted accounting practices. Such books and records shall be retained for a period of three (3) years and shall be available for audit and inspection by the County Comptroller or his duly designated representative only to verify that payments were properly made and to verify the nature and extent of costs of applicable services provided by TOWN. Such access is granted notwithstanding any exemption from disclosure that may be claimed for those records which are subject to nondisclosure agreements, trade secrets and commercial information or financial information that is privileged or confidential.



(e) The acceptance by the TOWN of full payment of all billings made on the final approved claim form under this Agreement shall operate as and shall be a release to the COUNTY from all claims and liability to the TOWN, its successors, legal representatives and assigns, for anything done or furnished under and by the provisions of this Agreement.

*omit*  
*omit*  
*CC's*  
*NY's*  
*(Reports)*

(f) The TOWN shall provide COUNTY with an annual report detailing all purchases made and other expenditures incurred under this Agreement for which COUNTY provided funding. Said report shall be provided to the COUNTY by February 1 of each year of this Agreement and shall cover those purchases made and expenditures incurred during the prior calendar year. A final report shall be provided to the COUNTY by February 1 of the year immediately following the year in which this Agreement expires or is otherwise terminated.

4. The contact persons for the parties to this Agreement shall be: for the COUNTY, the Commissioner of Economic Development; for the TOWN, the Supervisor. Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s).

5. The TOWN, and any entity contracted by the TOWN to perform services under this Agreement, shall comply with all Federal, State and local laws, rules, regulations, codes and ordinances in the performance of this Agreement, including, but not limited to, Article 18-B of the New York General Municipal Law.

6. The TOWN warrants that it is not in arrears to the COUNTY upon debt or contract and is not in default as surety, contractor or otherwise on any contract or other obligation to the COUNTY.

7. This Agreement may be terminated in whole or in part by the COUNTY on thirty (30) days written notice to the TOWN

*revised*

8. (a) Prior to placing any order to purchase, rent, or furniture, fixtures, or equipment, valued in excess of three hundred dollars (\$300.00) per unit in the budget attached to this Agreement, the TOWN shall submit to the COUNTY a written request for approval to make such a proposed purchase, rental, or lease, with a list showing the quantity and description of each item, its intended location and use, estimated unit price or cost, extended price or cost and estimated total cost of the proposed order. Written approval of the COUNTY is required before the TOWN may proceed with the proposed purchase, rental, or lease of furniture, fixtures, or equipment. All items purchased will be new unless specifically described otherwise in the budget.

(b)(i) The TOWN agrees to follow all of the general practices that are designed to obtain furniture, fixtures, equipment, materials or supplies at the most reasonable price or cost. The COUNTY reserves the right to purchase or obtain furniture, fixtures, equipment, materials or supplies for the TOWN for the purposes of this Agreement. If the COUNTY exercises this right, the amount budgeted for the items so purchased or obtained by the COUNTY for the TOWN shall not be available to the TOWN for any purpose whatsoever.

(ii) The COUNTY shall retain an ownership interest in all furniture, removable fixtures, equipment, materials or supplies purchased or obtained by the TOWN and paid for or reimbursed to the TOWN by or from COUNTY funds pursuant to the terms of this Agreement or any prior agreements. Upon the termination or expiration of this Agreement or the failure of the TOWN to comply with the terms of this Agreement, the COUNTY shall have the



right to take title to and possession of all such furniture, removable fixtures, equipment, materials and supplies, and the same thereupon become the property of the COUNTY without any claim for reimbursement on the part of the TOWN. As directed by the COUNTY, the TOWN shall attach identifying labels on said property indicating the interest of the COUNTY.

(iii) The TOWN shall maintain proper and accurate inventory records and controls for all such furniture, removable fixtures and equipment acquired pursuant to this. Three (3) months before the expiration date of this Agreement, the TOWN shall make a physical count of all items of furniture, removable fixtures and equipment in its custody, checking each item against the aforesaid inventory records. A report setting forth the results of such physical count shall be prepared by the TOWN on a form or forms designated by the COUNTY, certified and signed by an authorized official of the TOWN, and one (1) copy thereof shall be delivered to the COUNTY within five (5) days after the date set for the aforesaid physical count. Within five (5) days after the termination date of this Agreement, the TOWN shall submit to the COUNTY six (6) copies of the same report updated to the termination date of this Agreement, certified and signed by an authorized official of the TOWN, based on a physical count of all items of furniture, removable fixtures and equipment on the aforesaid termination date, and revised, if necessary, to include any inventory changes during the last three (3) months of the term of this Agreement.

(iv) The TOWN shall maintain vigilance and take all reasonable precautions to protect the furniture, fixtures, equipment, materials or supplies in its custody against damage or loss by fire, burglary, theft, disappearance, vandalism or misuse. In the event of burglary, theft, vandalism or disappearance of any item of furniture, fixtures, equipment, materials or supplies, the TOWN shall immediately notify the police and make a record thereof, including a record of the results of any investigation which may be made thereon. In the event of loss of or damage to any item of furniture, fixtures, equipment, materials or supplies from any cause, the TOWN immediately shall send the COUNTY a detailed, written report thereon.

(v) Upon termination of the COUNTY's funding of the program covered by this Agreement or at any other time that the COUNTY may direct, the TOWN shall make access available and render all necessary assistance for physical removal by the COUNTY or its designee of any or all furniture, removable fixtures, equipment, materials or supplies in the TOWN's custody in which the COUNTY has a proprietary interest, in the same condition as such property was received by the TOWN, reasonable wear and tear excepted. Any disposition, settlements or adjustments connected with such property shall be in accordance with the rules and regulations of the COUNTY and the State of New York.

9. The TOWN shall defend, indemnify and hold harmless the COUNTY, its officers, employees, agents and other persons from and against all losses, claims, costs, judgments, liens, encumbrances and expenses, including attorneys' fees, by reason of liability imposed by law, for damage because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, arising out of the acts, omissions or negligence of the TOWN, its officers, agents, employees, servants and contractors in connection with the services described or referred to in this Agreement.

10. This Agreement is subject to the amount of funds which may be appropriated for any fiscal year or part thereof and any subsequent modifications thereof by the Suffolk County Legislature, and no liability shall be incurred by the COUNTY under this Agreement and any amendments beyond the amount of funds appropriated by the Legislature in any fiscal year or part thereof for this purpose.

11. The TOWN represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

12. It is expressly agreed that the TOWN's status hereunder is that of an independent contractor. Neither the TOWN nor any person hired by the TOWN shall be considered employees of the COUNTY for any purpose whatsoever.

13. The TOWN shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute this Agreement, or assign all or any portion of the monies that may be due or become due to the TOWN under the terms of this Agreement, to any other person or corporation, except the Town of ~~Brookhaven~~ for the purposes described herein, without the prior consent in writing of the COUNTY, and any attempt to do any of the foregoing without such consent shall be of no effect.

14. It is expressly agreed that if any term or provision of this Agreement and any amendment hereto, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement and any amendment hereto, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Agreement and any amendment hereto shall be valid and shall be enforced to the fullest extent permitted by law.

15. It is expressly agreed that this instrument represents the entire agreement of the parties and that all previous understandings are merged in this Agreement.

16. No modification of this Agreement shall be valid unless written in the form of an Addendum or Amendment signed by both parties.

- END OF TEXT -