

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, February 1, 2005, at 7:00 p.m.

Present:

Philip Cardinale,	Chairman
Edward Densieski,	Member
George Bartunek,	Member
Barbara Blass,	Member
Rose Sanders,	Member

Also Present:

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

Chairman Cardinale: "Recommence the meeting sitting as the CDA board and ask Andrea Lohneiss, the CDA Director to call those resolutions. I think they're now #3 and 4."

Resolution #3

Andrea Lohneiss: "Right. #3 authorizes the Clerk to publish a notice regarding a request for proposals for a parking facility in downtown Riverhead."

Member Blass: "I'd like to move CDA Resolution #3."

Chairman Cardinale: "All right- "

Member Densieski: "Second the motion."

Chairman Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #4

Andrea Lohneiss: "Resolution 4 authorizes the Chairman to execute an contract with Riverhead Enterprises or Shelley Gordon for

parcels located adjacent to the Suffolk Theater. There has been a hearing already held on this particular topic and an application to the Planning Board also for a lot line modification to merge that piece with the piece on which the Suffolk Theater lies for the subsequent transfer to the Castaldi group."

Member Cardinale: "All right. Can I have someone move that motion for a vote, please."

Member Densieski: "Mine says Blass. Okay, I'll move it though. Authorizes the Town Clerk to publish and post a notice for soliciting proposals."

Member Bartunek: "I'll second that."

Member Sanders: "No."

Member Blass: "No. It's the next resolution. We already did that one."

Barbara Grattan: "Number 4, Ed."

Member Densieski: "Okay."

Chairman Cardinale: "Four is really three and three is really four."

Member Densieski: "So you're actually on five?"

Andrea Lohneiss: "Yes. But it's four."

Chairman Cardinale: "This is the second one. We already did that."

Member Densieski: "So five is going to be four then?"

Member Blass: "That's correct."

Member Densieski: "Great. Thank you."

Authorizes the Chairman to execute an agreement with Riverhead Enterprises for the purchase of a portion of the real property adjacent to the Suffolk Theater. So moved."

Member Sanders: "And seconded."

Member Densieski: "Whatever number it is."

Chairman Cardinale: "Moved and seconded."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Chairman Cardinale: "Okay. That-- moving ever closer to the closing on the theater we hope for the middle of the month."

The next thing I'm going to do is thank Andrea for her help and close the meeting of the CDA."

Meeting adjourned: 10:25 p.m.

Barbara Guston
Town Clerk

Adopted

2/1/05

TOWN OF RIVERHEAD
COMMUNITY DEVELOPMENT AGENCY

Resolution # 3

**AUTHORIZES TOWN CLERK TO PUBLISH AND POST NOTICE SOLICITING
PROPOSALS**

Blass offered the following resolution, was seconded by
Densieski

WHEREAS, the Town Board is seeking proposals from private developers for the design, construction, financing, operation and maintenance of a multi-level parking facility; and

THEREFORE BE IT HEREBY RESOLVED, that the Town Clerk is hereby authorized to publish and post the attached notice in the Travel Watchman newspaper on Thursday, February 10, 2005.

THEREFORE BE IT HEREBY FURTHER RESOLVED, that the Town Clerk is hereby directed to forward a certified copy of this resolution to Andrea Lohneiss, Dave Cullen and Ken Testa.

The Vote:

Member Bartunek	<u>Yes</u>
Member Sanders	<u>Yes</u>
Member Blass	<u>Yes</u>
Member Densieski	<u>Yes</u>
Chairman Cardinale	<u>Yes</u>

Town of Riverhead
Public Notice

The Town of Riverhead is requesting proposals for the design, construction, financing, operation and maintenance of a multi-level parking facility on property owned by the Town of Riverhead Community Development Agency located on a 2.3 acre parcel between Court St., Osborne Ave., Railroad Ave., and Cedar St., in downtown Riverhead. A copy of the Request for Proposals may be obtained from the Town Clerk, 200 Howell Ave., Riverhead, NY 11901 beginning Monday, February 14, 2005. Proposals must be submitted no later than 4:30 pm, close of business, on March 10, 2005 to the Town Clerk, 200 Howell Ave., Riverhead, NY 11901.

February 1, 2005
Barbara Grattan
Town Clerk

02/01/05

Adopted

TOWN OF RIVERHEAD
COMMUNITY DEVELOPMENT AGENCY

Resolution # 4

At a meeting of the Members of the Town of Riverhead Community Development Agency, Town of Riverhead, Suffolk County, New York, held at the Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York, in said Town, on February 1, 2005 at 7:00 o'clock P.M., Prevailing Time.

The meeting was called to order by Chairman Cardinale, and upon roll being called, the following were

PRESENT:

Chairman Philip J. Cardinale
Member Rose Sanders
Member Barbara Blass
Member Edward Densieski
Member George Bartunek

ABSENT:

COUNCILMAN DENSIESKI

The following resolution was offered by Member _____
COUNCILWOMAN SANDERS
who moved its adoption, seconded by Member _____, to-wit:

RESOLUTION DATED FEBRUARY 1, 2005

**AUTHORIZES THE CHAIRMAN TO EXECUTE AN AGREEMENT WITH
RIVERHEAD ENTERPRISES FOR THE PURCHASE OF A PORTION OF
THE REAL PROPERTY ADJACENT TO THE SUFFOLK THEATRE**

WHEREAS, by Articles 15 and 15-A and Section 680-c of Article 15-B of the General Municipal Law of the State of New York, as amended (collectively, the "Act"), the Town of Riverhead Community Development Agency (the "Agency") was created with the authority and power to, among other things, acquire, construct, reconstruct and equip certain projects in accordance with the Act and to issue its revenue bonds to pay costs of such projects; and

WHEREAS, The Agency is the owner of certain real property located at 118 East Main Street, Riverhead, New York, more particularly described as SCTM Parcel No. 0600-129-1-7 and more commonly known as the "Suffolk Theatre"; and

WHEREAS, the Town of Riverhead (the "Town"), on October 19, 1993 adopted the East Main Street Urban Renewal Plan (the "Plan"), which Plan includes the redevelopment and reuse of the Suffolk Theatre in the Central Business District Urban Renewal Area of the Town (the "Area"); and

WHEREAS, the redevelopment and reuse of the Suffolk Theatre will arrest and prevent conditions of deterioration or blight in the portion of the Area in which the same is proposed to be located and is necessary for the overall redevelopment of the Area, which entire Area, including the portion in which the Suffolk Theatre is located, has been determined in the Plan to be vastly under utilized; and

WHEREAS, there has been submitted to the Agency a proposal for, and the Agency is considering, (i) entering into an Agreement for the sale of an expanded Suffolk Theatre to Pike Realty Company, LLC, (ii) the acquisition of land owned by Riverhead Enterprises located adjacent to the Suffolk Theatre on East Main Street, Riverhead, New York, and the disposition of said land to Pike Realty Company, LLC pursuant to the proposed Agreement of Sale for the Suffolk Theatre, a copy of which is on file with the Town Clerk, and (iii) the payment of monies in connection therewith and pursuant to General Municipal Law and in accordance with the established rules and procedures prescribed by the Agency; and

WHEREAS, by Resolution No. 21 adopted December 29, 2004, the Agency designated Pike Realty Company, LLC the Qualified and Eligible Sponsor for the redevelopment of the Suffolk Theatre and authorized the sale of the Suffolk

Theatre by the Agency to Pike Realty Company, LLC in accordance with the terms of the Agreement of Sale and pursuant to Sections 507(2)(d), 556(2) and 968(b) of the General Municipal Law; and

WHEREAS, Sections 555(2), 556(2), and 507(2)(c) of the General Municipal Law require that a public hearing, following at least ten (10) days public notice, be held by the Agency on the question of acquisition and disposition of property; and

WHEREAS, a public hearing was held by the Agency at a meeting on December 21, 2004, at 2:20 o'clock P.M. Prevailing Time, to hear all persons interested in the subject thereof, which hearing was attended by all Members of said Agency and, PRIOR TO the time of said meeting, a public notice of the time and place of said hearing was published on December 9, 2004 in the News Review, the newspaper designated as the official newspaper for this purpose and one having a general circulation in, and available to residents of the Town; and

WHEREAS, the Town, pursuant to Article 8 of the Environmental Conservation Law and the regulations promulgated thereunder by the State Department of Environmental Conservation ("SEQRA"), by Town Board Resolution #949 adopted October 19, 2004, declared itself "lead agency" for the conveyance of the Suffolk Theatre and determined said conveyance to be an unlisted action without a significant impact on the environment; and

WHEREAS, the Agency, by Resolution #1 of 2005, authorized the expenditure of \$24,000.00 to acquire 653.09 square feet of certain real property adjacent to the Suffolk Theatre owned by Riverhead Enterprises which property is a portion of premises known as SCTM Parcel No. 0600-129-01-8.1, and as more particularly depicted upon the map of Joseph Ingegno, Land Surveyor, dated December 13, 1993 and last revised November 8, 2004, which map has been filed with the Town Board, and to dispose of said real property to Pike Realty Company, LLC as part of the sale of the Suffolk Theatre pursuant to the proposed Agreement of Sale with Pike Realty Company, LLC, a copy of which is on file with the Town Clerk and to take such action thereon as is required or authorized by law;

NOW, THEREFORE, BE IT RESOLVED by the Members of the Town of Riverhead Community Development Agency that the Chairman of the Agency is hereby authorized to execute the Agreement of Sale with Riverhead Enterprises attached hereto for the purchase of a portion of the its property immediately adjacent to the Suffolk Theatre known as SCTM Parcel No. 0600-129-01-8.1, and as more particularly depicted upon the map of Joseph Ingegno, Land Surveyor, dated December 13, 1993 and last revised November 8, 2004, which map has been filed with the Town Board,; and be it further

RESOLVED, that the Secretary of the Agency is hereby directed to forward a certified copy of this resolution to Riverhead Enterprises, Mergim Bazhdari, Esq., the Attorney for Pike Realty Company, LLC, the Town Attorney, the Director of the Community Development Agency and the Town Financial Administrator.

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Member Bartunek	<u>yes</u>
Member Sanders	<u>yes</u>
Member Blass	<u>yes</u>
Member Densieski	<u>yes</u>
Member Cardinale	<u>yes</u>

AGREEMENT OF SALE

between

RIVERHEAD ENTERPRISES

as Seller

THE TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY

as Purchaser

Expression of Intent and Agreement between:

RIVERHEAD ENTERPRISES, with a business address of 375 Sunrise Highway, Suite 7, Lynbrook, New York 11563 (hereinafter "Enterprises" or "Seller" as the text requires); and

THE TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY, an Urban Renewal Agency of the State of New York, 200 Howell Avenue, Riverhead, New York 11901 (hereinafter "CDA" or "Purchaser" as the text requires).

WHEREAS, the CDA is the owner of certain real property located at 118 East Main Street, Riverhead, New York, (SCTM 0600-129-01.00-007.000) with the buildings and improvements located thereon, commonly known as the "Suffolk Theatre", and depicted upon a survey made by Joseph A. Ingegno, dated December 13, 1993, last revised November 8, 2004 and annexed hereto as Exhibit A; and

WHEREAS, the Suffolk Theatre is the subject of an urban renewal project (Suffolk Theatre Urban Renewal Project) providing for the sale of the Suffolk Theatre to Pike Realty Company, LLC, who has been determined to be a Qualified and Eligible Sponsor as provided by New York State General Municipal Law, (hereinafter "Pike Realty" or "Sponsor" as the text requires) who shall restore, renovate and redevelop the Theatre as a performing arts center; and

WHEREAS, Riverhead Enterprises (hereinafter "Enterprises") is the owner of certain real property located immediately to the east of the Suffolk Theatre, said property being known as 130 East Main Street, Riverhead, New York (SCTM 0600-129-01.00-008.001) with buildings and improvements located thereon, formerly known as "Woolworth's", a portion of which property CDA wishes to utilize as part of the Suffolk Theatre Urban Renewal Project. The portion of said property to be utilized as part

of the Suffolk Theatre redevelopment project that shall be acquired by the CDA from Enterprises is depicted upon a survey made by Joseph A. Ingegno dated December 13, 1993 and last revised November 8, 2004 and annexed hereto as Exhibit B; and

WHEREAS, the CDA and Enterprises believe that the restoration of the Suffolk Theatre in a manner that maintains its Art Deco historical and architectural detail, together with the Theatre's restoration and reuse as a more expansive performing arts center is vital to the redevelopment of downtown Riverhead and consistent with Riverhead's East Main Street Urban Renewal Plan adopted by the Riverhead Town Board on October 19, 1993; and

WHEREAS, the sale of the Suffolk Theatre to Pike Realty is contingent upon the CDA acquiring that portion of Enterprises' property as depicted upon Exhibit B;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, and intending to be legally bound hereby, Seller and Purchaser agree as follows upon the conditions hereinafter expressed;

1. Subject of Sale.

a) Upon and subject to the terms and conditions herein contained, Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, the properties together with all buildings and improvements thereon erected (collectively referred to herein as the "Premises"), as more fully described in Schedule A and depicted upon Exhibit B annexed hereto and made a part hereof and also known as a portion of the premises known as 130 East Main Street, Riverhead, New York, (p/o SCTM # 0600-129-01.00-008.001).

b) This sale includes the 653.09 square foot northwesterly portion of the Premises, together with that portion of the "Woolworth Building" as depicted upon Exhibit B annexed hereto and made a part hereof, in its present physical condition, of which the Purchaser is aware.

c) Seller and Purchaser agree that, if the conditions herein expressed are fulfilled by both Seller and Purchaser, the Purchase from Seller contemplated in this Agreement shall occur simultaneously with the closing upon the sale of the Suffolk Theatre to Pike Realty, time being of the essence for the sale of the property described herein.

2. Conditions Precedent.

(a) Seller and Purchaser agree that this Agreement and the obligation to close upon the transfer of the Premises as provided herein shall be subject to and conditioned upon the fulfillment of the following conditions precedent:

(i) approval by Resolution of the Riverhead Town Planning Board of the CDA's application for a Boundary Line Alteration, together with the preparation of surveys and deeds necessary to convey and include that portion of Seller's Premises which is the subject of this Agreement as part of the Suffolk Theatre premises;

(ii) approval by Resolution of the Riverhead Town Board authorizing the transfer of that portion of property owned by the Riverhead Public Parking Improvement District located directly north of the Suffolk Theatre and as depicted upon Exhibit C annexed hereto to the CDA;

(iii) approval by Resolution of the CDA Board authorizing the expenditure of monies by the CDA necessary to purchase that portion of property owned by the Riverhead Parking District;

(iv) approval by Resolution of the CDA Board authorizing the expenditure of monies by the CDA necessary to purchase that portion of property owned by Enterprises which is the subject of the transaction contemplated by this Agreement;

3. Purchase Price. The total purchase price shall be:

TWENTY-FOUR THOUSAND DOLLARS (\$24,000.00), payable upon closing of title by Purchaser to the order of the Seller by certified funds, or such other form as the Seller may request at least five business days prior to the closing date.

4. Title Exceptions.

(a) Purchaser agrees to make a prompt application for a Title Report, for the property to be conveyed under this Agreement for the Premises described herein;

(b) Purchaser shall obtain all surveys that may be required by the Title Company or any municipal agency for the purposes of

obtaining the approvals and permits required in this contract for any or all of the parcels of property;

(c) Within five (5) days of the notice from the Title Insurance Company that all searches, including, but not limited to, Real Property taxes, municipal searches, and franchise taxes are completed, Purchaser shall deliver or cause to be delivered to the Seller, a copy of such title reports, and also any updates that may be received following the initial reports;

(d) If Purchaser notifies Seller of any title defects, liens or encumbrances, Seller shall be entitled to reasonable adjournments of the Closing during which Seller may attempt to remove such defects. If, for any reason, Seller is unable, or unwilling to remove any title defects as of the Closing Date, Seller shall so notify Purchaser.

(e) If such notice is given by Seller, Purchaser may elect to (i) waive the foregoing and close upon this transaction and the parties may agree that Seller's obligations created hereunder survive the closing; (ii) terminate this Agreement by giving notice to Seller, in which event, the down payment, and any other sums paid on account of the purchase price, including any earned or accrued interest, together with purchaser's costs in obtaining surveys, municipal application fees, and title insurance charges actually incurred by Purchaser without the issuance of a title insurance policy shall be returned to Purchaser after which time this Agreement shall be deemed null and void and neither party shall have any rights or obligations under this Agreement, except for those provisions hereof that are specifically stated to survive a termination of this Agreement, or (iii) perform all of Purchaser's obligations hereunder and accept title to the Real Property subject to such uncured title defects without any abatement of the Purchase Price. Notwithstanding the foregoing, the Seller's obligation following willful default of the contract by Seller pursuant to this paragraph shall be to refund purchaser's Down Payment and actual costs incurred. Such reimbursement herein shall be limited to a the actual amount expended by purchaser in connection with this Agreement as documented through actual receipts. If the Agreement is terminated without fault, the parties will exchange general releases together with CDA Board approval of said releases.

5. Expenses.

(a) Each party shall pay its own costs and expenses in connection with the transactions contemplated hereby, including the fees and

expenses of its attorneys, accountants, consultants and engineers. Purchaser shall pay: (i) all expenses of or related to the issuance of Purchaser's policy of title insurance (including, without limitation, commitment fees, insurance premiums, endorsement charges, search charges and survey charges) and (ii) all charges for a new or updated Survey of all properties and premises to be conveyed hereunder, if required.

(b) Deed Transfer and Recording Taxes. At Closing, certified or official bank checks payable to the order of the appropriate State, County or Town officer in the amount of any applicable transfer and/or recording tax due and payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the Seller together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

(c) With respect to application for any approvals necessary, Seller agrees, without any fee, to execute and deliver such consents and approvals, and any other writings that may be required by any municipal agency, board and/or department.

6. Apportionments.

(a) The parties shall apportion as of the day of Closing, the real property taxes based upon a determination of the ratio of actual square foot area to be conveyed hereby as a percentage of the total area of Seller's Premises and the net amount thereof shall be added to (if such net amount is in Seller's favor) or deducted from (if such net amount is in Purchaser's favor) the payment required at Closing.

7. Conditions to Closing and the Closing.

This contract and Parties' obligation to close upon the transfer of the Premises are subject to and conditioned upon the fulfillment of the following conditions on and as of the Closing Date:

(a) The truth, in all material aspects, of each and every representation and warranty (subject to changes in facts permitted hereunder or occurring from events beyond the reasonable control of Purchaser) and the due performance of each and every material covenant, undertaking and agreement to be performed by Purchaser and Seller under this Agreement;

(b) delivery by the Title Company to Purchaser of a title policy (or a marked-up commitment therefore) insuring marketable and insurable fee simple title to the Property, subject only to the Permitted Encumbrances;

(c) Fulfillment of all of the conditions precedent set forth in Paragraph 2 above, or a written consent to close absent the fulfillment of a stated condition precedent with the agreement of the parties that the obligation shall survive delivery of the deed.

(d) The Closing shall take place at the Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York at 10 A.M., on a date which shall not be later than thirty (30) days following the fulfillment of the conditions precedent contained in paragraph 2 of this contract, subject to the provisions of paragraph 3 of this contract, but not later than February 18, 2005.

8. Seller's Representations.

(a) Seller represents and warrants to Purchaser that as of the date hereof the following representations and warranties are true in all material respects and that the same shall be true in all material respects as of the date of closing.

(b) Seller is the owner of the Premises and has full power and authority to execute and deliver this Agreement and all other documents now or hereafter to be executed and delivered by it pursuant to this Agreement (the Seller's Documents") and to perform all obligations arising under this agreement and the Seller's Documents. This Agreement constitutes, and the Seller's Documents will each constitute, the legal, valid and binding obligation of Seller, enforceable in accordance with their respective terms, except as may be limited by general equitable principles;

(c) This Agreement and the Seller's Documents do not and will not contravene any provision of the legislative enactments pertaining to the seller;

(d) There are no leases, tenancies, mortgage(s) or trust deed(s) to which Seller is a party that presently encumbers the Property or any portion thereof;

(e) Seller has not granted any person, firm, corporation or entity other than Purchaser any right or option to acquire the Property or any portion thereof and no person, firm, corporation or entity shall

obtain such right or option other than Purchaser by the execution of this Agreement.

9. Purchaser's Representations.

(a) Purchaser represents and warrants to Seller that it is an urban renewal agency duly organized, validly existing and in good standing under the laws of the State of New York and has full power and authority to execute and deliver this Agreement and all other documents now or hereafter to be executed and delivered by it pursuant to this Agreement (the "Purchaser's Documents") and to perform all obligations arising under this Agreement and the Purchaser's Documents.

(b) This Agreement and the Purchaser's Documents do not and will not contravene any provision of the organizational documents comprising Purchaser, any judgment, order, decree, writ or injunction or any provision of any existing law or regulation to which Purchaser is a party or is bound. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not and will not require any consent by a third party;

(c) Purchaser is not aware of any misrepresentations or breach of warranty made by Seller herein;

(d) Purchaser shall use diligent, good faith efforts to satisfy all of Purchaser's obligations that are conditions to the consummation of the transaction contemplated hereunder on the Closing Date;

(e) Purchaser hereby assumes the obligation to complete, at no cost to the Seller, the necessary alterations and improvements to Seller's Premises to incorporate said Premises as depicted upon "Exhibit B" annexed hereto and made a part hereof, as part of the Suffolk Theatre Urban Renewal Project Premises to be conveyed by separate Agreement to Pike Realty Company. Pike Realty Company and/or Robert Castaldi, pursuant to an Agreement with the CDA, at no cost to the CDA or Seller, shall undertake said alterations and improvements to Seller's Premises, which shall include demolishing that portion of the building located upon said real property conveyed hereunder and, within ninety (90) days thereof, shall reconstruct the wall to enclose Seller's remaining structure, remove and cap the gas and electric service lines, demolish and remove the existing old boiler, construct an accessible enclosure within the Seller's remaining existing structure and relocate the water meter and service to said enclosed area within the existing structure, and

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preserve and place the existing gas heater in an acceptable area to be identified by Seller. Reconstruction of outside wall shall be made with brick that is similar to existing brick so that it will blend in with existing structure.

10. Deliveries at Closing.

The following deliveries shall be made at the Closing:

- (a) Seller shall execute, acknowledge and deliver to the Purchaser the Deed, which shall be a bargain and sale deed, with covenant against grantor's acts, pursuant to which Seller shall convey to the Purchaser all of the Seller's right, title and interest in and to the Property;
- (b) Seller and Purchaser shall each deliver to the other such evidence as may be reasonably required by the other of the due authorization, execution and delivery by such party of this Agreement and the Seller's Documents or the Purchaser's Documents, as the case may be;
- (c) Purchaser and Seller shall each deliver to the Title Company, in a form acceptable to it, payment of all applicable real property, documentary or transfer taxes in connection with the execution, delivery, recording and/or filing of the Deed;
- (d) Seller shall execute, acknowledge and deliver such affidavits as the Title Company shall reasonably require causing the Title Company to issue to Purchaser and/or its lender title insurance policies with respect to the Property;
- (e) Purchaser shall pay the balance of the Purchase Price to Seller in accordance with the provisions hereof;
- (f) Seller and Purchaser shall execute and deliver to each other a closing statement reflecting, among other things, the apportionments made pursuant to this contract;
- (g) Seller and Purchaser shall each execute and deliver to the other such other instruments and documents and shall pay such sums of money as may be required pursuant to any of the other provisions of this Agreement. Each instrument and document to be delivered at the Closing shall be consistent with the applicable provisions of this Agreement and shall be in the form or contain the information or provisions provided for in this Agreement.

11. Default.

(a) In addition to the conditions precedent set forth in paragraph 2 of this contract, in the event that Seller breaches any covenant, representation or warranty contained in this contract or otherwise willfully defaults in its obligations under this contract, Purchaser's sole remedy shall be either (a) the right to specific performance or (b) the right to terminate this Agreement by notice to Seller given at any time after Seller shall have failed, for a period of thirty (30) days after notice from Purchaser to cure such breach or default; and upon receipt of such notice of termination Seller shall promptly refund any amounts paid pursuant to this agreement, together with any earnings thereon and the costs of title examination without the issuance of a policy of title insurance and survey expenses incurred herein documented by original receipt, whereupon this Agreement shall be deemed terminated and Seller shall not have any further liability or obligation to Purchaser hereunder nor shall Purchaser have any further liability or obligation to Seller hereunder, except for such liabilities or obligations as are specifically stated to survive the termination of this Agreement.

(b) Upon willful default of the purchaser, seller shall give purchaser written notice of default by certified mail, return receipt requested. Purchaser shall have thirty (30) days from receipt of said notice within which to cure any default. Should purchaser fail to cure the noticed default within that period, the Seller will be entitled to transfer any amounts paid pursuant to this contract to the account of the seller giving written notice of said transfer to the purchaser. Seller shall thereafter be entitled to retain the monies paid pursuant to this contract together with any earnings thereon. Following the transfer of the aforementioned funds, the parties shall have no further liability or obligation to one another, except for such liabilities or obligations as are specifically stated to survive the termination of this Agreement.

12. Renovation of and Use of the Property.

(a) The Purchaser acknowledges that the Seller is selling the Premises to the Purchaser for redevelopment in accordance with the Goals and Objectives of the Town of Riverhead East Main Street Urban Renewal Plan adopted by the Urban Renewal Agency of the Town of Riverhead on October 19, 1993 and for use of the Premises as a Theatre and Performing Arts Center. Accordingly, the Purchaser represents that it intends to convey the Premises to the Sponsor for restoration, reconstruction and reuse of the Premises as

a Theatre and Performing Arts Center to be utilized to the extent practicable.

(b) The transfer of the property to the Sponsor shall be conditioned upon the Town of Riverhead receiving a perpetual unobstructed pedestrian easement, for the benefit of the general public, over a portion of the existing alley between the Suffolk Theatre and the Woolworth's Building which shall run the entire length of the eastern boundary of the Suffolk Theatre property from East Main Street to the Riverhead Public Parking District property.

13. Notices.

All notices and other communications which either party is required or desires to send to the other shall be in writing and shall be personally delivered or delivered by overnight courier, in each case with receipt acknowledged, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices shall be deemed to have been given (a) on the date three [3] business days after timely deposit in the U.S. mail return receipt requested, or (b) on the date of receipt thereof (including all required copies thereof) if delivered personally or one [1] business day after timely deposit with an overnight courier. Notices shall be addressed as follows:

If to the Purchaser, to:

Community Development Agency,
c/o Town of Riverhead
200 Howell Avenue
Riverhead, New York 11901

Attention: Phil Cardinale, Chairman and
Dawn C. Thomas, Esq., Town Attorney

Facsimile No.: (631) 727-6152

If to Seller, to:

Riverhead Enterprises
375 Sunrise Highway, Suite 7
Lynbrook, New York 11563

or to such other person and/or address as shall be specified by either party in a notice given to the other pursuant to the provisions of this agreement.

14. Broker.

The Seller and Purchaser each represents and warrants to the other that it has had no dealings with any real estate broker or agent on its behalf in connection with this Agreement, and each covenants to pay, hold harmless and indemnify the other from and against any and all cost, expense or liability (including, but not limited to, reasonable attorneys fees of counsel selected by the indemnified party) for any compensation, commissions, fees or other charges claimed by any broker or agent with respect to this Agreement or the negotiation hereof arising out of any acts of Seller or Purchaser, respectively. The provisions of this Article shall survive the Closing or termination of this Agreement.

15. Assignment.

Purchaser shall not assign or transfer this Agreement or any of its rights hereunder without Seller's prior written consent in each instance, which consent may not be unreasonably withheld. No consent given by Seller to an assignment shall be construed as consent to any other assignment, and any impermissible assignment made by the Purchaser shall be void. If any rights and obligations of Seller hereunder shall be assigned, Seller shall promptly notify Purchaser of such assignment, the assignee will be substituted in place of Seller in the documents executed or delivered pursuant to this Agreement and the assignee shall assume in writing all of the Seller's duties and obligations hereunder.

16. Further Assurances.

The parties agree to do such other and further acts and things, and to execute and deliver such instruments and documents, as either may reasonably request from time to time, whether at or after the Closing, in furtherance of the purposes of this Agreement. The provisions of this paragraph shall survive the Closing.

17. Miscellaneous.

(a) This Agreement and the Exhibits attached hereto, constitute the entire agreement between the Seller and the Purchaser with respect to the subject matter hereof. All prior understandings, agreements, representations and warranties, oral or written, between the parties are merged in, superseded by and contained in this Agreement, which completely expresses their full agreement and has been entered into after full independent investigation, neither party

relying upon any statement made by anyone else that is not set forth in this Agreement.

(b) This Agreement may not be waived, changed, modified or discharged orally, but only by an agreement in writing signed by the parties hereto; and any consent, waiver, approval or authorization shall be effective only if signed by the party granting such consent, waiver, approval or authorization. Should the Purchaser request a waiver, change or modification of the agreement which the Seller rejects, Seller shall provide the Purchaser with a statement of reasons for such rejection.

(c) The table of contents, captions, Paragraph and Article titles and Exhibit names contained in this Agreement are for convenience and reference only and shall not be used in construing this Agreement.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without the aid of any custom, canon or rule of law requiring construction against the draftsman. In any such litigation, the parties to this Agreement waive personal service of any Summons, Complaint or other process and agree that service thereof may be made as provided in Article 19 above.

(e) The terms "hereof," "herein," and "hereunder" and words of similar import shall be construed to refer to this Agreement as a whole and not to any particular article or provision, unless expressly so stated.

(f) The word "person" shall mean any natural person, a partnership, a corporation, limited liability company, a business trust and any other form of business or legal entity.

(g) Any Exhibits attached hereto are hereby made part of this Agreement.

(h) All words or terms used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require;

(i) Subject to the provisions of Article 15 above, this Agreement shall be binding upon permitted assigns. None of the provisions of this Agreement are intended to be, nor shall they be construed to be, for the benefit of any third party except the Town of Riverhead, which is hereby made a third-party beneficiary of this Agreement.

(j) The Purchaser's acceptance of the Deed shall be deemed to be an acknowledgment, for all purposes, of the full performance and discharge of every representation, agreement and obligation on the part of the Seller to be performed by it pursuant to the provisions of this Agreement. This paragraph shall not apply to any provisions which specifically state that they shall survive the Closing.

(k) If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the person or circumstance other than those in respect to which it is invalid or unenforceable, except those provisions which are made subject to or conditioned upon such invalid or unenforceable provisions, shall not be affected thereby.

(l) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed one and the same instrument.

(m) The term "business day" shall mean any day other than a Saturday, Sunday or bank holiday in the State of New York.

(n) The provisions of this Paragraph 17 shall survive the Closing.

18. Effective date and Signatures

This Agreement shall be dated as of, and shall not be effective until, the date upon which Seller and Purchaser shall have executed and delivered this Agreement to the other party.

Dated: Riverhead, New York
January 31, 2005

Town of Riverhead Community Development Agency

By: _____
Philip J. Cardinale, Chairman

Riverhead Enterprises

By: Sheldon Gordon
Sheldon Gordon
General Partner