

TOWN BOARD RESOLUTION LIST

DECEMBER 5, 2017

- Res. #889 Calverton Distr Rte 25 LLC Water Capital Project Budget Adoption**
- Res. #890 General Fund Budget Adjustments**
- Res. #891 Riverhead Commons Development Riverhead Sewer District Capital Improvement Project Budget Adoption**
- Res. #892 General Fund – Police Budget Adjustment**
- Res. #893 Authorizes the Filing of an Application Supplement for an Electronic Waste Assistance Grant Under the New York State Assistance from the Household Hazardous Waste (HHW) State Assistance Program and Signing of the Associated State Contract, Under the Appropriate Laws of New York State**
- Res. #894 Ratifies Authorization of Town Supervisor to Execute Change Order No. 1 for the Water District Roof Replacement**
- Res. #895 Accepts the Retirement of a Police Sergeant (Brian Gleason)**
- Res. #896 Accepts the Retirement of a Detective (Frank Hernandez)**
- Res. #897 Accepts the Retirement of Purchasing Agent (Mary Ann Tague)**
- Res. #898 Grants Special Permit for North Fork Brewing Company to Establish a Microbrewery with Associated Tasting Room and Retail Space at 214 East 2nd Street, Riverhead**
- Res. #899 Approves Participation in Peconic Land Trust Grant Application**
- Res. #900 Authorizes the Supervisor to Execute a License Agreement with Broadcast Music, Inc. (BMI)**
- Res. #901 Resolution to Extend Professional Services Agreement with Cushman & Wakefield of Long Island, Inc. for Real Estate Brokerage Services for Marketing, Sale or Lease of Property at EPCAL**
- Res. #902 Amends Policy Regarding Invocations before Opening Town Board Meetings**

- Res. #903** **Ratifies Execution of an Amendment to the Professional Services Agreement with Business Automation Services (BAS) for Tax Collection System Software**
- Res. #904** **Ratifies the Cancellation of Credit Card/Debit Card/Electronic Check Payment Processing Services by EVO EZPay and Systems East, Inc. Regarding Real Property Tax Payments**
- Res. #905** **Establishes Time of Regular Meetings of the Town Board**
- Res. #906** **Authorizes Extension of Time to Remit Real Property Taxes for Senior Citizens Receiving Enhanced STAR Pursuant to Section 425 or Section 467 of NYS RPTL**
- Res. #907** **Grants Special Permit for Jeffrey Nazar Expansion of a Non-Conforming Professional Office Use**
- Res. #908** **Resolution Approving Agreement (Commercial Sewer District Extension “Jaral East End Hotel Corporation May & Plan”)**
- Res. #909** **Authorizes Appointment of Third Party Administrator Processing and Payment of General Liability Claims and Workers Compensation Claims and Related Medical Claims for 2018**
- Res. #910** **Extends Contract with Arthur J. Gallagher & Co. Risk Management Services for the Implementation of the Insurance Program 2018**

TOWN OF RIVERHEAD

Resolution # 889

CALVERTON DISTR RTE 25 LLC
WATER CAPITAL PROJECT

BUDGET ADOPTION

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, a check for \$97,453.80 has been received from Calverton Distr Rte 25 LLC for construction fees associated with the installation of an 8" Water Service at 3651 Middle Country Road, Calverton, NY. Now, therefore be it

RESOLVED, that the Supervisor be, and is hereby authorized to establish the following budget adoption:

		<u>FROM</u>	<u>TO</u>
412.092705.421050.30147	Developer Fees	97,453.80	
412.083200.523002.30147	Water Main/Service		97,453.80

And be it further

RESOLVED, that the Town Clerk is hereby authorized to forward a copy of this resolution to the Accounting and Water Departments. And be it further

RESOLVED, all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Giglio <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wooten <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Dunleavy <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Walter <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 890

GENERAL FUND BUDGET ADJUSTMENTS

Councilman Wooten offered the following resolution,

which was seconded by Councilwoman Giglio

WHEREAS, budget adjustments are necessary for 2017 in the General Fund for IT and CDA equipment and other expenses.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Supervisor be, and is hereby authorized to establish the following budget adjustments;

		<u>FROM</u>	<u>TO</u>
001.016200.511500	Town Hall Shared-Salaries	50,000	
001.019100.548300	Unallocated Insurance	20,000	
001.031200.524201	Police-Computers	27,000	
001.019500.547100	Taxes on Town Properties	13,000	
001.013200.543900	Auditing-Internal Auditor	12,000	
001.016800.543400	IT-Education	5,500	
001.013100.524000	Accounting-Equipment	5,000	
001.090350.582100	Social Security-Police Uniform	3,400	
001.013100.543900	Accounting-Misc Consultants	4,000	
001.013100.542100	Accounting-Office Supplies	2,000	
001.086860.540000	CDA-Contractual Expenses	2,000	
001.086860.545600	CDA-Rents Leases Cell Phone	680	
001.014200.524380	Town Attorney-Office Equipment	300	
001.016800.524000	IT-Equipment		110,880
001.016800.543900	IT-Misc Consultants		11,100
001.086860.524000	Equipment		7,500
001.011100.543940	Justice Court-Interpreter		7,500
001.011100.524000	Justice Court-Equipment		4,900
001.011100.543960	Justice Court-Stenographer		3,000

RESOLVED, that the Town Clerk is hereby authorized to forward a copy of this resolution to the Accounting Department.

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 891

RIVERHEAD COMMONS DEVELOPMENT
RIVERHEAD SEWER DISTRICT
CAPITAL IMPROVEMENT PROJECT
BUDGET ADOPTION

Councilwoman Giglio offered the following resolution,

which was seconded by Councilman Hubbard

WHEREAS, the Riverhead Sewer District has received a check from Richard Israel c/o Riverhead Commons Development of \$2,500.00 for professional engineering services to be provided by H2M Architects & Engineers for the preparation of the map and plan for a sewer connection at 780 Old Country Road, Riverhead. Now, therefore be it

RESOLVED, that the Supervisor be, and is hereby, authorized to establish the following budget adoption:

		<u>FROM</u>	<u>TO</u>
414.092705.421050.20052	Developer Fees	2,500.00	
414.081300.543504.20052	Professional Service Eng.		2,500.00

And be it further

RESOLVED, that the Town Clerk is hereby authorized to forward a copy of this resolution to the Accounting Department, the Sewer District and H2M, 575 Broad Hollow Road, Melville, NY 11747. And be it further

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 892

GENERAL FUND – POLICE

BUDGET ADJUSTMENT

Councilman Hubbard offered the following resolution,

which was seconded by Councilman Dunleavy

WHEREAS, a budget adjustment is necessary to cover the expenses related to the Police Rescue boat and the completion of Public Safety Scuba Certification courses. Now, therefore be it

RESOLVED, that the Supervisor be, and is hereby, authorized to establish the following budget adjustment:

		<u>FROM</u>	<u>TO</u>
001.031200.524912	Scuba Gear Equipment	5,000.00	
001.031200.541400	Rescue Boat Maintenance	4,786.21	
001.031200.545230	Defibrillator Maintenance	1,000.00	
001.031200.543401	Training		10,786.21

And be it further

RESOLVED, that the Town Clerk is hereby authorized to forward a copy of this resolution to the Accounting and Police Departments. And be it further

RESOLVED, all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Giglio <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wooten <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Dunleavy <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Walter <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 893

AUTHORIZES THE FILING OF AN APPLICATION SUPPLEMENT FOR AN ELECTRONIC WASTE ASSISTANCE GRANT UNDER THE NEW YORK STATE ASSISTANCE FROM THE HOUSEHOLD HAZARDOUS WASTE (HHW) STATE ASSISTANCE PROGRAM AND SIGNING OF THE ASSOCIATED STATE CONTRACT, UNDER THE APPROPRIATE LAWS OF NEW YORK STATE

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, the Town of Riverhead has filed an application for state financial assistance for its household hazardous waste programs for the period of April 1, 2017 – March 31, 2018; and

WHEREAS, an Application Supplement is available to pay for up to 50% of expenses to properly dispose of electronic waste for the period of April 1, 2017 – December 31, 2017.

THEREFORE, BE IT RESOLVED, by the Riverhead Town Board:

1. That the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized;
2. That the Supervisor, or his designee is directed and authorized as the official representative of the MUNICIPALITY to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the STATE;
3. That the MUNICIPALITY agrees that it will fund the entire cost of said household hazardous waste program and will be reimbursed by the STATE for the STATE share of such costs;
4. That two (2) Certified Copies of this Resolution be prepared and sent to the NYSDEC together with a complete application; and
5. That this resolution shall take effect immediately.

THEREFORE, BE IT FURTHER RESOLVED, that the Town Clerk shall provide a copy of this resolution to the Community Development Department and Deputy Town Engineer Drew Dillingham.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 894

RATIFIES AUTHORIZATION OF TOWN SUPERVISOR TO EXECUTE CHANGE ORDER NO. 1 FOR THE WATER DISTRICT ROOF REPLACEMENT

Councilman Wooten offered the following resolution,

which was seconded by Councilwoman Giglio

WHEREAS, on October 17, 2017, the Riverhead Town Board adopted Resolution No. 778, entitled, "Awards Bid for Water District Roof Replacement" located at 1035 Pulaski Street, Riverhead, NY; and

WHEREAS, the bid was awarded to More Consulting Corporation in the amount of Fifty One Thousand Nine Hundred Seventy Five Dollars & 00/100; and

WHEREAS, it appeared that portions of the existing roof material was suspect and samples were taken and sent to a lab for testing; and

WHEREAS, the lab results for sampling indicated the presence of asbestos containing material in the roof shingles, flashing and siding material: and

WHEREAS, the Assistant Town Engineer has recommended that additional work is required due to the discovery, removal and proper disposal of asbestos materials from the existing Water District roof; and

WHEREAS, the Assistant Town Engineer has requested and received a proposal for asbestos removal and disposal in the amount of \$31,125.00 along with a credit from the original contract for the removal and disposal of roof material in the amount of <\$7,280.00>; for a total contract increase of \$23,845.00; and

WHEREAS, More Consulting Corporation shall perform the asbestos roof material removal in accordance with the applicable provisions of NYS DOL, USEPA, AHERA, OSHA and all other applicable federal, state and local laws, rules and regulations; and

WHEREAS, the attached proposal has been discussed and reviewed with the Town Board at a subsequent Town Board Work Session.

NOW, THEREFORE, BE IT RESOLVED, that the Town Supervisor be and is hereby authorized to execute Change Order No. 1 in the amount of \$23,845.00; and be it further

RESOLVED, the Town Board be and does hereby authorize the Engineering Department to secure a change order purchase order from the Purchasing Department in the amount of \$23,845.00; and be it further

RESOLVED, that the Town Clerk be and is hereby authorized to forward a copy of this resolution to the More Consulting Corporation, 19 Old Dock Road, Yaphank, NY 11980, Water District, Engineering Department, Purchasing Department and the Office of Accounting; and be it further

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and, if needed, a copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 895

ACCEPTS THE RETIREMENT OF A POLICE SERGEANT

Councilwoman Giglio offered the following resolution,

which was seconded by Councilman Hubbard

WHEREAS, Chief of Police David J. Hegermiller has received a letter of retirement submitted by Sergeant Brian Gleason, effective January 30, 2018.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Riverhead does hereby accept the retirement of Sergeant Brian Gleason; and,

BE IT FURTHER RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device, and if needed, a certified copy of same can be obtained from the office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 896

ACCEPTS THE RETIREMENT OF A DETECTIVE

Councilman Hubbard offered the following resolution,

which was seconded by Councilman Dunleavy

WHEREAS, Chief of Police David J. Hegermiller has received a letter of retirement submitted by Detective Frank Hernandez, effective February 22, 2018.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Riverhead does hereby accept the retirement of Detective Frank Hernandez; and,

BE IT FURTHER RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device, and if needed, a certified copy of same can be obtained from the office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 897

ACCEPTS THE RETIREMENT OF PURCHASING AGENT

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, the Town has received notice from the New York State and Local Employees' Retirement System regarding the retirement of Purchasing Agent Mary Ann Tague, effective December 31, 2017.

NOW, THEREFORE, BE IT RESOLVED, that this Town Board hereby accepts the retirement of Mary Ann Tague.

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to Mary Ann Tague, the Personnel Officer and the Financial Administrator. Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device, and if needed, a certified copy of same can be obtained from the office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 898

**GRANTS SPECIAL PERMIT FOR NORTH FORK BREWING COMPANY
TO ESTABLISH A MICROBREWERY WITH ASSOCIATED TASTING ROOM
AND RETAIL SPACE AT 24 EAST 2ND STREET, RIVERHEAD**

Councilman Wooten offered the following resolution,

which was seconded by Councilwoman Giglio

WHEREAS, the Town Board has received an application to establish a special permit use for a microbrewery with associated tasting room and retail space from North Fork Brewing Company upon real property located at 24 East 2nd Street, Riverhead, New York, with said property being more particularly identified as SCTM #600-128-5-25.3, within the Downtown Center 1 (DC-1) zoning use district; and

WHEREAS, microbreweries are a specially permitted use within the DC-1 zoning use district pursuant to §301-141B(8) of the Code of the Town of Riverhead; and

WHEREAS, a public hearing was held and closed on November 21, 2017 in accordance with §301-311C of the Code of the Town of Riverhead; and

WHEREAS, the proposed action is a Type II action pursuant to 6NYCRR Part 617.5(c)(7) (SEQRA), with no further environmental review required; and

WHEREAS, the Town Board has considered the site, proposed use, existing access, intensity of the proposed use, and other determining factors enumerated within §301-312; and

WHEREAS, the Town Board hereby finds that the use will not prevent or substantially impair either the reasonable and orderly use of the subject property or the reasonable and orderly development of other properties in the neighborhood, that the hazards or disadvantages of the proposed special permit use do not impinge the health safety, comfort, convenience of the Town, and further finds that the proposed use will be in harmony with and promotes the general purposes of zoning within the Town of Riverhead. Now, therefore be it

RESOLVED, the Town Board finds in the matter of the petition by North Fork Brewing Company the following:

- i. The site is particularly suitable for the location of the use in the community;
- ii. The location of the proposed use is within the Parking District, and as such, the applicant is not required to provide parking;
- iii. The intensity of the proposed specially permitted use is justified in light of similar uses within the zoning district; and be it further

RESOLVED, the Town Board hereby grants the special permit to establish a special permit use for a microbrewery with associated tasting room and retail space

from North Fork Brewing Company upon real property located at 24 East 2nd Street, Riverhead, New York, with said property being more particularly identified as SCTM #600-128-5-25.3, within the Downtown Center 1 (DC-1) zoning use district; and be it further

RESOLVED, that such special permit is granted with the following conditions:

- i. The tasting room and all other public activities on the subject property shall close no later than 9:00 pm.
- ii. There shall be no music (live or amplified) played in the outdoor areas of the site.
- iii. The use shall be limited to serving prepackaged food products, unless the applicant obtains approval and a certificate of occupancy for use as a brew pub or restaurant use within that portion of the premises used for preparation and service of food.
- iv. That the owner of the subject parcel shall file these conditions in a covenant, in a form approved by the Town Attorney's office, with the Suffolk County Clerk and with the Clerk of the Town of Riverhead; and be it further

RESOLVED, that prior to construction, the applicants shall receive approvals from the Riverhead Building Department, the Riverhead Fire Marshal's office, Riverhead Water District, Riverhead Sewer District, and any other agency having jurisdiction; and be it further resolved

RESOLVED, that prior to the issuance of a Certificate of Occupancy, the following conditions shall be met:

- i. The applicants shall replace the existing chain link fence along the northeastern property boundary which is shared with a single family residence with a four foot tall stockade fence.
- ii. Pursuant to §301-141 B(8)(j), the applicants shall hook up to the sewer system and enter into a monitoring agreement with the Sewer District to determine flow and calculate the use fee; and be it further

RESOLVED, that the applicants shall sufficiently screen the dumpster in the rear of the property pursuant to §245-8 of the Code of the Town of Riverhead; and be it further

RESOLVED, the Town Clerk shall provide a copy of this resolution to the applicants, Peter Barraud, 37 Harper Road, Calverton, NY 11933; Ian Van Bourgondien, 100 Grage Road Ext., Southold, NY 11971; the Planning Department; the Building Department; the Town Attorney's Office; and the Fire Marshal's Office; and be it further

RESOLVED, all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 899

APPROVES PARTICIPATION IN PECONIC LAND TRUST GRANT APPLICATION

Councilwoman Giglio offered the following resolution,

which was seconded by Councilman Hubbard

WHEREAS, the Peconic Land Trust, a 501(c)(3) nonprofit organization, established in 1983 and devoted to the protection of Long Island's working farms, natural lands, and heritage; and

WHEREAS, in the recent past, the Peconic Land Trust, with the support of the Farmland and Open Space Committees and approval of the Town Board by Resolution #832 adopted on December 2, 2014, received a grant from the NYS Department of Environmental Conservation's Conservation Partnership Program, administered by the Land Trust Alliance, for services related to the Town's efforts to continue preservation of open space and farmland and necessary for update the Community Preservation Project Plan; and

WHEREAS, related to the grant above, the Peconic Land Trust made significant progress and completed revisions and updated the Town's Preservation Map and actively participated in efforts to revitalize the Town's Transfer of Development Rights Program; and

WHEREAS, the Peconic Land Trust has requested that the Town support Peconic Land Trust's application to New York State for second round grant funding (approximate amount of potential funding is \$60,000) through the NYS Department of Environmental Conservation's Conservation Partnership Program, administered by the Land Trust Alliance, for services necessary to continue development of an adoptable Community Preservation Project Plan; continued involvement in the Town's Transfer of Development Rights Subcommittee; and development of a Management and Stewardship Program; and

WHEREAS, similar to the first round of grant funding described above, the second round grant funding requires a 25% matching funds which the Town would be required to provide one half of same or matching funds in an amount equal to 12.5% of the project budget which may be "in-kind" services; and

WHEREAS, based upon the Town's general budget and community preservation fund constraints, the Town seeks to provide in-kind services valued in an amount to meet the 12.5% required under the terms of the grant.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board supports Peconic Land Trust grant application seeking to obtain second round funding to continue development of an adoptable Community Preservation Project Plan; involvement in the Town's Transfer of Development Rights subcommittee; and development of a Management and Stewardship Program subject to and contingent upon the acceptance

of the Town's offer for in-kind services equal to 12.5% of the project budget to satisfy the requirement for matching funds such that the Town shall not be responsible to pay for services and/or out-of-pocket expenses related to the project; and be it further

RESOLVED, that the Town Board directs the Office of the Town Attorney to supervise and monitor the project and provide in-kind services in an amount equal to the 12.5% of the project budget required by the terms of the grant; and be it further

RESOLVED, that the Peconic Land Trust shall seek input from the Office of the Town Attorney, Farmland and Open Space Committees and provide periodic updates regarding the status of the project; and be it further

RESOLVED, that upon completion of a draft updated Community Preservation Project Plan, the Peconic Land Trust shall appear and present the updated Community Preservation Project Plan to the Town Board and appear at such Town Board meetings as may be required to implement the updated Community Preservation Project Plan; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to Peconic Land Trust, 296 Hampton Road, PO Box 1776, Southampton, NY 11969, Town of Riverhead Farmland, Open Space Committee and Office of the Town Attorney; and be it further

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 900

**AUTHORIZES THE SUPERVISOR TO EXECUTE A LICENSE AGREEMENT
WITH BROADCAST MUSIC, INC. (BMI)**

Councilman Hubbard offered the following resolution,

which was seconded by Councilman Dunleavy

WHEREAS, The Town of Riverhead plays pre-recorded music in the form of compact discs, digital video discs, cassettes, and other media in Town facilities and at Town events (e.g. the senior center, teen activities); and

WHEREAS, many of these works are protected by U.S. Copyright Law; and

WHEREAS, a municipality requires permission from the holders of such copyrights to use the works in a public forum; and

WHEREAS, Broadcast Music, Inc. (BMI) represents the holders of copyrights for over 8 million such works; and

WHEREAS, BMI offers a license granting permission to municipalities to play all of the works of copyright holders BMI represents; and

WHEREAS, the Town of Riverhead wishes to execute a license agreement with BMI for the right to play pre-recorded music represented by BMI for the period January 1, 2018 to December 31, 2018 in the amount of \$342.00.

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized to execute a license agreement with BMI for the right to play pre-recorded music represented by BMI in substantially the form annexed hereto; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to BMI, 10 Music Square East, Nashville, TN 37203; and be it further

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted



Music License for Local Governmental Entities

1. DEFINITIONS

- (a) **LICENSEE** shall include the named entity and any of its constituent bodies, departments, agencies or leagues.
- (b) **Premises** means buildings, hospitals, airports, zoos, museums, athletic facilities, and recreational facilities, including, but not limited to, community centers, parks, swimming pools, and skating rinks owned and/or operated by LICENSEE and any site which has been engaged by LICENSEE for use by LICENSEE.
- (c) **Recorded Music** means music which is performed at the Premises by means other than by live musicians who are performing at the Premises, including, but not limited to (1) compact disc, audio record or audio tape players (but not including "jukeboxes"); (2) videotape, videodisc or DVD players; (3) music performed as an accompaniment to karaoke; (4) the reception and communication at the premises of radio or television transmissions which originate outside the Premises, and which are not exempt under the Copyright Law; or (5) a music-on-hold telephone system operated by LICENSEE at the Premises.
- (d) **Live Entertainment** means music that is performed at the Premises by musicians, singers and/or other performers.
- (e) **BMI Repertoire** means all copyrighted musical compositions written and/or published by BMI affiliates or members of BMI-affiliated foreign performing rights societies, including compositions written or published during the Term of this Agreement and of which BMI has the right to license non-dramatic public performances.
- (f) **Events and Functions** means any activity conducted, sponsored, or presented by or under the auspices of LICENSEE. Except as set forth in Paragraph 2 (d) below, "Events" and "Functions" shall include, but are not limited to, aerobics and exercise classes, athletic events, dances and other social events, concerts, festivals, arts and crafts fairs, and parades held under the auspices of, or sponsored or promoted by, LICENSEE on the Premises.
- (g) **Special Events** means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" (as defined in Schedule B) of such Special Event exceeds \$25,000.

2. BMI GRANT

- (a) BMI grants and LICENSEE accepts a non-exclusive license to perform, present or cause the live and/or recorded public performance on the "Premises" and at "Events" and "Functions", and not elsewhere or otherwise, non-dramatic renditions of the separate musical compositions in the "BMI Repertoire". The performances licensed under this Agreement may be by means of "Live Entertainment" or "Recorded Music".
- (b) This license does not authorize (1) the broadcasting, telecasting or transmission or retransmission by wire, Internet, website or otherwise, of renditions of musical compositions in BMI's Repertoire to persons outside of the Premises, other than by means of a music-on-hold telephone system operated by LICENSEE at the Premises; and (2) performances by means of background music (such as *Muzak*) or other services delivered to the Premises. Nothing in this Paragraph shall be deemed to limit LICENSEE's right to transmit renditions of musical compositions in the BMI Repertoire to those who attend Events or Functions on the Premises by means of teleconferencing, videoconferencing or similar technology.
- (c) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following: (1) performance of a "dramatico-musical work" (as hereinafter defined) in its entirety; (2) performance of one or more musical compositions from a "dramatico-musical work" (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken; (3) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual representation; and (4) performance of a concert version of a "dramatico-musical work" (as hereinafter defined). The term "dramatico-musical work" as used in the Agreement, shall include, but not be limited to, a musical comedy, opera, play with music, revue, or ballet.
- (d) This license does not authorize performances: (1) at any convention, exposition, trade show, conference, congress, industrial show or similar activity presented by LICENSEE or on the Premises unless it is presented or sponsored solely by and under the auspices of LICENSEE, is presented entirely on LICENSEE's Premises, and is not open to the general public; (2) by or at colleges and universities; (3) at any professional sports events or game played on the Premises; (4) at any permanently situated theme or amusement park owned or operated by LICENSEE; (5) by any symphony or community orchestra; and (6) by means of a coin operated jukebox.

3. REVIEW OF STATEMENTS AND / OR ACCOUNTINGS

- (a) BMI shall have the right to require such reasonable data necessary in order to ascertain the Annual License Fee.
- (b) BMI shall have the right, by its authorized representatives, at any time during customary business hours, to examine the books and records of account of LICENSEE to such extent as may be necessary to verify the statements made hereunder. BMI shall consider all data and information coming to its attention as a result of any such examination of books and records as completely confidential.
- (c) BMI shall have the right to adjust LICENSEE's Annual License Fee based upon the most recently available revised population figures provided by the U. S. Census Department.

4. LATE PAYMENT AND SERVICE CHARGES

~~BMI may impose a late payment charge of one and one-half percent (1½%) per month, or the maximum rate permitted by law, whichever is less, from the date payment is due on any payment that is received by BMI more than thirty (30) days after the due date. BMI may impose a \$25.00 service charge for each unpaid check, draft or other means of payment LICENSEE submits to BMI.~~

5. BMI COMMITMENT TO CUSTOMER / INDEMNITY

So long as LICENSEE is not in default or breach of this Agreement, BMI agrees to indemnify, save harmless, and defend LICENSEE and its officers, and employees, from and against any and all claims, demands, or suits that may be made or brought against them with respect to the performance of any musical works which is licensed under this Agreement at the time of performance. LICENSEE agrees to give BMI immediate notice of any such claim, demand, or suit, to deliver to BMI any papers pertaining thereto, and to cooperate with BMI with respect thereto, and BMI shall have full charge of the defense of any such claim, demand, or suit.

6. BREACH OR DEFAULT / WAIVER

Upon any breach or default of the terms and conditions contained herein, BMI shall have the right to cancel this Agreement if such breach or default continues for thirty (30) days after LICENSEE's receipt of written notice thereof. The right to cancel granted to BMI shall be in addition to any and all other remedies which BMI may have. No waiver by BMI of full performance of this Agreement by LICENSEE in any one or more instances shall be deemed a waiver of the right to require full and complete performance of this Agreement thereafter or of the right to cancel this Agreement with the terms of this Paragraph.

7. CANCELLATION OF ENTIRE CATEGORY

BMI shall have the right to cancel the Agreement along with the simultaneous cancellation of the Agreements of all other licensees of the same class and category as LICENSEE, as of the end of any month during the Term, upon sixty (60) days advance written notice.

8. ASSIGNMENT

This license is not assignable or transferable by operation of law or otherwise. This license does not authorize LICENSEE to grant to others any right to perform publicly in any manner any of the musical compositions licensed under this Agreement, nor does it authorize any public performances at any of the Premises in any manner except as expressly herein provided.

9. ARBITRATION

All disputes of any kind, nature, or description arising in connection with the terms and conditions of this Agreement, except for matters within the jurisdiction of the BMI Rate Court, shall be submitted to the American Arbitration Association in the City, County, and State of New York, for arbitration under its then prevailing arbitration rules. The arbitrator(s) to be selected as follows: Each of the parties shall, by written notice to the other, have the right to appoint one arbitrator. If, within ten (10) days following the giving of such notice by one party, the other shall not, by written notice, appoint another arbitrator, the first arbitrator shall be the sole arbitrator. If two arbitrators are so

appointed, they shall appoint a third arbitrator. If ten (10) days elapse after the appointment of the second arbitrator and the two arbitrators are unable to agree upon a third arbitrator, then either party may, in writing, request the American Arbitration Association to appoint the third arbitrator. The award made in the arbitration shall be binding and conclusive on the parties and judgment may be, but not need be, entered in any court having jurisdiction. Such award shall include the fixing of the costs, expenses, and attorneys' fees of arbitration, which shall be borne by the unsuccessful party.

10. NOTICES

Any notice under this Agreement will be in writing and deemed given upon mailing when sent by ordinary first-class U.S. mail to the party intended, at its mailing address stated, or any other address which either party may designate. Any such notice sent to BMI shall be to the attention of the Vice President, Licensing Department at 10 Music Square East, Nashville, TN 37203. Any such notice sent to LICENSEE shall be to the attention of the person signing the Agreement on LICENSEE's behalf or such person as LICENSEE may advise BMI in writing.

11. MISCELLANEOUS

The fact that any provisions are found by a court of competent jurisdiction to be void or unenforceable will not affect the validity or enforceability of any other provisions. This Agreement constitutes the entire understanding between the parties and cannot be waived or added to or modified orally and no waiver, addition and modification shall be valid unless in writing and signed by both parties.

12. FEES

- (a) In consideration of the license granted herein, LICENSEE agrees to pay BMI a license fee which includes the total of the "Base License Fee" and any applicable "Special Events License Fees", all of which shall be calculated in accordance with the Rate Schedule on Page 3. For purposes of this Agreement,
- (i) "Base License Fee" means the annual fee due in accordance with Schedule A of the Rate Schedule and based on LICENSEE's population as established in the most recent published U.S. Census data. It does not include any fees due for Special Events.
 - (ii) "Special Events License Fees" means the amount due in accordance with Schedule B of the Rate Schedule when Special Events are presented by or on behalf of LICENSEE. It does not include any Base License Fee due.
 - (iii) LICENSEES who are legally organized as state municipal and/or county leagues or state associations of municipal and/or county attorneys shall be required to pay only the fee under the Schedule C of the Rate Schedule. Such leagues or associations are not subject to Schedule A or Schedule B of the Rate Schedule. Fees paid by such leagues or associations do not cover performances of the municipality, county, or other local government entity represented by the league or association. Schedule C fees are not applicable to municipal, county or other government entities.

2017 RATE SCHEDULE FOR LOCAL GOVERNMENTS

SCHEDULE A			
Check Population Range (√)	LICENSEE's Population	Base License Fee	Enter Fee Based Upon Population
<input checked="" type="checkbox"/>	1 - 50,000	\$342	\$342
<input type="checkbox"/>	50,001 - 75,000	\$680	
<input type="checkbox"/>	75,001 - 100,000	\$818	
<input type="checkbox"/>	100,001 - 125,000	\$1,090	
<input type="checkbox"/>	125,001 - 150,000	\$1,364	
<input type="checkbox"/>	150,001 - 200,000	\$1,772	
<input type="checkbox"/>	200,001 - 250,000	\$2,180	
<input type="checkbox"/>	250,001 - 300,000	\$2,591	
<input type="checkbox"/>	300,001 - 350,000	\$2,999	
<input type="checkbox"/>	350,001 - 400,000	\$3,410	
<input type="checkbox"/>	400,001 - 450,000	\$3,817	
<input type="checkbox"/>	450,001 - 500,000	\$4,227	
<input type="checkbox"/>	500,001 - plus	\$5,680 plus \$500 for every 100,000 population increment or portion thereof above 500,000 up to a maximum annual fee of \$68,151	
	If 500,001 or more, enter population _____		
SCHEDULE A FEE			\$ 342.00

SCHEDULE B Special Events Fee (to be reported 90 days after each event*, see Par. 13(d))	
The rate for Special Events shall be 1% of Gross Revenue.	
▪	"Special Events" means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" of such Special Events exceeds \$25,000.00
▪	"Gross Revenue" means all monies received by LICENSEE or on LICENSEE's behalf from the sale of tickets for each Special Event. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from the sponsors or other payments received by LICENSEE for each Special Event.
SCHEDULE B FEE	
<i>BMI will provide a report form to report your events*</i>	

SCHEDULE C State Municipal and/or County Leagues or State Associations of Attorneys (to be completed if you are a State Municipal and/or County Leagues or State Associations of Attorneys)	
The annual license fee for LICENSEES who are legally organized as state municipal and/or county leagues, or state associations of municipal and/or county attorneys shall be \$342.00. No Special Events fee applies to LICENSEES qualifying under this schedule.	
SCHEDULE C FEE	
\$	

13. REPORTING

- (a) Upon the execution of this Agreement, LICENSEE shall submit:
- (i) a report stating LICENSEE's population based on the most recent published U.S. Census data. The population set forth in the report shall be used to calculate the Base License Fee under this Agreement; and
 - (ii) a report containing the information set forth in Paragraph 13 (d) below for all Special Events that were presented between the effective date of this Agreement and the execution of this Agreement.
- (b) The Base License Fee for the first year of this Agreement and any license fees due for Special Events that were presented between the effective date of this Agreement and the execution of this Agreement shall be payable upon the execution of this Agreement.
- (c) Base License Fees for subsequent years shall be due and payable within 30 days of the renewal date of this Agreement and shall be accompanied by a statement confirming whether any Special Events were presented during the previous calendar year.
- (d) Ninety (90) days after the conclusion of each Special Event, LICENSEE shall submit to BMI payment for such Special Event and a report in printed or computer readable form stating:
- (i) the date presented;
 - (ii) the name of the attraction(s) appearing;
 - (iii) the "Gross Revenue" of the event (as defined above);
 - (iv) the license fee due for each Special Event.

- (e) If LICENSEE presents, sponsors or promotes a Special Event that is reportable under Rate Schedule B with another person or entity licensed under a BMI License Agreement, LICENSEE shall indicate the name, address, phone number and BMI account number of the other person(s) or entity(ies) and the party responsible for payment for such Special Event. If the other party is not licensed by BMI, LICENSEE shall pay the license fee due hereunder, notwithstanding any agreement to the contrary between LICENSEE and the other party.
- (f) LICENSEE agrees to furnish to BMI, where available, copies of all programs of musical works performed, which are prepared for distribution to the audience or for the use or information of LICENSEE or any department thereof. The programs shall include all encores to the extent possible. LICENSEE shall be under no obligation to furnish programs when they have not been otherwise prepared.

14. RATE ADJUSTMENTS / LICENSE FEE FOR YEAR 2018 AND THEREAFTER

For each calendar year commencing 2018, all dollar figures set forth in Schedules A, B and C (except the \$500 add-on for populations of 500,001 or more) shall be the license fee for the preceding calendar year, adjusted in accordance with any percentage increase in the Consumer Price Index – All Urban Consumers (CPI-U) between the preceding October and the next preceding October, rounded to the nearest dollar. Any additional license fees due resulting from the CPI adjustment shall be payable upon billing by BMI.

15. TERM OF AGREEMENT

This Agreement shall be for an initial Term of one (1) year, commencing January 1, 2017, which shall be considered the effective date of this Agreement, and continuing thereafter for additional terms of one (1) year each. ~~Either party may give notice of termination to the other no later than thirty (30) days prior to the end of the initial or any renewal term. If such notice is given, the Agreement shall terminate on the last day of the Term in which notice is given.~~

AGREEMENT

AGREEMENT, made at New York, N.Y. on *(Date will be entered by BMI upon execution)* _____ between BROADCAST MUSIC, INC., a State of Delaware corporation with its principal offices at 7 World Trade Center, 250 Greenwich Street, New York, N.Y. 10007-0030 (hereinafter "BMI") and the legal or trade name described below and referred to thereafter as "LICENSEE" (the "Agreement"). This Agreement includes all of the terms and conditions set forth herein.

LEGAL NAME Town of Riverhead <i>(Name of Corporation, Partnership, or Individual Owner)</i>		LICENSED PREMISES (All locations are licensed by LICENSEE)		
TRADE NAME Town of Riverhead Town Hall <i>(Doing business under the name of)</i>		<i>(Street Address)</i>		
PLEASE CHECK APPROPRIATE BOX		<i>(City) (State) (Zip)</i>		
<input type="checkbox"/> Individual Ownership		<i>(Telephone Number) (Fax Number)</i>		
<input type="checkbox"/> LLC <input type="checkbox"/> Corporation <i>(State of Incorporation, if different from Licensed Premises)</i>		<i>(Contact Name) (Title)</i>		
<input type="checkbox"/> LLP <input type="checkbox"/> Partnership <i>(Enter names of partners)</i>		<i>(Email Address) (Web Address)</i>		
<input type="checkbox"/> Other		MAILING ADDRESS <i>(if different from Licensed Premises)</i>		
Federal Tax ID No. 11-6001935		200 Howell Ave <i>(Street Address)</i>		
GOVERNMENT ENTITIES <i>(If applicable, please check one)</i>		Riverhead NY 11901 <i>(City) (State) (Zip)</i>		
<input type="checkbox"/> Federal <input type="checkbox"/> State <i>(State)</i>		(631) 727-3200 (631) 727-6152 <i>(Telephone Number) (Fax Number)</i>		
<input type="checkbox"/> Local Riverhead, NY NY <i>(Municipality and State)</i>		Joanne Fagan Clerk <i>(Contact Name) (Title)</i>		
		fagan@townofriverheadny.gov <i>(Email Address - if different from above)</i>		
TO BE COMPLETED BY LICENSEE By signing this Agreement you represent that you have the authority to bind LICENSEE and that you have read, understood and agree to all of the terms and conditions herein. (SIGN HERE – PLEASE INCLUDE PAYMENT)		FOR ADMINISTRATIVE USE ONLY TO BE COMPLETED BY BMI BROADCAST MUSIC INC.		
Signature				
Print Name / Title fagan@townofriverheadny.gov				
Signatory Email Address* <i>(if different from above)</i>		FOR BMI USE ONLY		LGE
*In order to receive a copy of your executed Agreement, please provide the email address of the Signatory		1528101	1528101	LI-2017/SEPT
PLEASE RETURN THIS ENTIRE SIGNED LICENSE AGREEMENT TO: BMI, 10 MUSIC SQUARE E., NASHVILLE, TN 37203		ACCOUNT NO.	COID	EFFECTIVE: January 2017

TOWN OF RIVERHEAD

Resolution # 901

**RESOLUTION TO EXTEND PROFESSIONAL SERVICES AGREEMENT WITH
CUSHMAN & WAKEFIELD OF LONG ISLAND, INC. FOR REAL ESTATE
BROKERAGE SERVICES FOR MARKETING, SALE OR LEASE OF
PROPERTY AT EPCAL**

Councilman Hubbard offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, on or about April of 2015, the Town requested proposals for NYS Licensed Real Estate Broker for EPCAL Property; and

WHEREAS, two (2) responses to the Notice to Bidders were received and reviewed, and, after serious consideration and evaluation, the Town Board awarded the bid and entered into a professional services agreement with Cushman & Wakefield of Long Island, Inc.; and

WHEREAS, pursuant to the professional services agreement, the term was for a period of eighteen (18) months and any extensions of the original term require that the retained rights of the Town to market, sell and/or lease as referenced in professional services agreement and schedule c annexed thereto and made part thereof; and

WHEREAS, the Town Board, by Resolution #65 adopted on January 18, 2017, extended the professional services agreement with Cushman & Wakefield of Long Island, Inc. for one year until December 18, 2017; and

WHEREAS, the Town Board has considered the request of Cushman & Wakefield of Long Island, Inc. to again extend the original term of the contract for one year until December 18, 2018 subject to all terms and conditions of original agreement, including but not limited to the provision set forth above.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby approves the extension of the professional services agreement for brokerage services with Cushman & Wakefield of Long Island, Inc. limited to a period of one year period (new expiration date December 18, 2018) subject to all terms and conditions set forth in the original agreement; and be it further

RESOLVED, that the Town Board be and does hereby authorize the Supervisor to execute an agreement to extend the original professional services agreement with Cushman & Wakefield of Long Island, Inc.; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to Cushman & Wakefield of Long Island, Inc., Attn: David Pennetta, Managing Broker, 401 Broad Hollow Road, Suite 301, Melville, NY 11747-4711; and be it

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared TABLED

TABLED

TOWN OF RIVERHEAD

Resolution # 902

**AMENDS POLICY REGARDING INVOCATIONS BEFORE
OPENING TOWN BOARD MEETINGS**

Councilman Wooten offered the following resolution,

which was seconded by Councilwoman Giglio

WHEREAS, by resolution #178, adopted on March 18, 2015, the Town Board of the Town of Riverhead adopted a policy entitled "Policy Regarding Opening Invocations Before Meetings of the Town Board of the Town of Riverhead"; and

WHEREAS, the Town Board wishes to amend that written policy regarding opening invocations.

NOW THEREFORE BE IT RESOLVED, that the Town Board, be and hereby, adopts the attached amended policy entitled "Amended Policy Regarding Opening Invocations Before Meetings of the Town Board of the Town of Riverhead"; and be it further

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

**AMENDED POLICY REGARDING OPENING INVOCATIONS BEFORE MEETINGS
OF THE TOWN BOARD OF THE TOWN OF RIVERHEAD**

WHEREAS, the Town Board of the Town of Riverhead ("the Town Board") is an elected legislative and deliberative public body, serving the citizens of Riverhead, New York; and

WHEREAS, the Town Board wishes to solemnize its proceedings by allowing for an opening invocation before each meeting, for the benefit and blessing of the Town Board; and

WHEREAS, the Town Board now desires to adopt this formal, written policy to clarify and codify its invocation practices; and

WHEREAS, our country's Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our deliberative bodies, upon which we desire to invoke divine guidance and blessing; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court validated the Nebraska Legislature's practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, "The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom." *Id.* at 786; and

WHEREAS, in *Town of Greece v. Galloway*, 134 S.Ct. 1811, 2014 WL 1757828 (May 5, 2014), the United States Supreme Court validated opening prayers at meetings of this Town Board finding that "legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society." *Id.* at *7; and

WHEREAS, the Town Board desires to avail itself of the Supreme Court's recognition that it is constitutionally permissible for a public body to "invoke divine guidance" on its work. *Id.* at 792; and

WHEREAS, the Supreme Court has clarified that opening invocations are "meant to lend gravity to the occasion and reflect values long part of the Nation's heritage" and should not show over time "that the invocations denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion." *Town of Greece*, 2014 WL 1757828, at *11; and

WHEREAS, in *Town of Greece* the Supreme Court rejected a challenge based on the religious content of the prayers and cautioned against government officials acting as "supervisors and censors of religious speech" by requiring that prayers be "generic" or "nonsectarian," noting

that "[t]he law and the Court could not... require ministers to set aside their nuanced and deeply personal beliefs for vague and artificial ones." *Id.* at *10, *11. Further, the Court stated: "Once it invites prayer into the public sphere, government must permit a prayer giver to address his or her own God or gods as conscience dictates." *Id.* at * 11; and

WHEREAS, this Town Board is not establishing a policy that defines the constitutional limits for permissible public invocations; rather, this Town Board intends to adopt guidelines that are consistent with the guidance provided by several courts that have considered the validity of public invocations; and

WHEREAS, numerous courts have approved an invocation practice that incorporates a neutral system to invite religious leaders from the local community and/or volunteers to provide an invocation before public meetings. *Town of Greece*, 2014 WL 1757828; *see also Simpson v. Chesterfield Cnty. Bd. of Supervisors*, 404 F.3d 276 (4th Cir. 2005), *cert. denied*, 546 U.S. 937 (2005); *Pelphrey v. Cobb Cnty.*, 547 F.3d 1263 (11th Cir. 2008); *Rubin v. City of Lancaster*, 710 F.3d 1087 (9th Cir. 2013); and

WHEREAS, the Town Board intends to adopt a policy that does not proselytize or advance any particular faith, or show any purposeful preference of one religious view to the exclusion of others; and

WHEREAS, the Town Board intends to adopt a policy that will not show a purposeful preference of one religious view over another by not permitting the faith of the person offering the invocation to be considered when extending an invitation or scheduling participation; and

WHEREAS, the Town Board believes that clergy that serve the local community are peculiarly suited through training, tradition, and public service to petition for divine guidance upon the deliberations of the Town Board, and to accomplish the Town Board's objective to solemnize public occasions, express confidence in the future, and to encourage the recognition of what is worthy of appreciation in society. *See Lynch v. Donnelly*, 465 U.S. 668, 693 (1984) (O'Conner, J., concurring); and

WHEREAS, the Town Board accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and New York State Constitutions and statutes.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Riverhead, New York, that the Town Board hereby adopts the following written policy regarding opening invocations before meetings of the Town Board, to wit:

1. It is the intent of the Town Board to allow a private citizen to solemnize the proceedings of the Town Board. It is the policy of the Town Board to allow for an invocation, which may include a prayer, a reflective moment of silence, or a short solemnizing message, to be offered before its meetings for the benefit of the Town Board to accommodate the spiritual needs of the public officials.

2. No member or employee of the Town Board or any other person in attendance at the meeting shall be required to participate in any prayer that is offered and such decision shall have no impact on the ability of the person to actively participate in the business of the Town Board.

3. No member or employee of the Town Board will direct the public to stand, bow, or in any way participate in the prayers; make public note of a person's presence or absence, attention or inattention during the invocation; or indicate that decisions of the Town Board will in any way be influenced by a person's acquiescence in the prayer opportunity.

4. The invocation shall be voluntarily delivered by an appointed representative of an Assemblies List for the Town of Riverhead. To ensure that such person (the "invocation speaker") is selected from among a wide pool of representatives, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

a. The Town Board shall compile and maintain a database (the "Assemblies List") of the assemblies with an established presence in the Town of Riverhead that regularly meet for the primary purpose of sharing a religious perspective (hereinafter referred to as a religious assembly).

b. The Assemblies List shall be compiled by using reasonable efforts, including research from the Internet, to identify all "churches," "synagogues," "congregations," "temples," "mosques" or other religious assemblies in the Town of Riverhead. All religious assemblies with an established presence in the Town of Riverhead are eligible to be included in the Assemblies List, and any such religious assembly can confirm its inclusion by specific written request to the Town Board.

c. The policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious assembly serving the citizens of the Town of Riverhead. The Assembly List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all of the community's religious leaders, who may themselves choose whether to respond to the Town Board's invitation and participate. Should a question arise as to the authenticity of a religious assembly, the Town Board shall refer to criteria used by the Internal Revenue Service in its determination of those organizations that would legitimately qualify for I.R.C. § 501(c)(3) tax-exempt status.

d. The Assemblies List shall also include any religious assembly located outside the Town of Riverhead if such assembly is regularly attended by at least one resident of the Town of Riverhead and such resident requests inclusion of the assembly by specific written communication to the Town Board.

- e. The Assemblies List shall be updated, by reasonable efforts of the Town Board, in November of each calendar year.
- f. On or about December 1 of each calendar year, the Town Board shall mail an invitation addressed to the "religious leader*" of each entry on the Assemblies List.
- g. The invitation shall be dated at the top of the page, signed by the Town Board at the bottom of the page, and read as follows:

Dear Religious Leader,

The Town Board of the Town of Riverhead makes it a policy to invite members of the clergy or religious representatives in the Town of Riverhead to voluntarily offer an invocation before the beginning of its meetings, for the benefit and blessing of the Town Board. As a representative of one of the religious congregations with an established presence serving the local community you are eligible to offer this important service at an upcoming meeting of the Town Board.

If you are willing to assist the Town Board in this regard, please send a written reply at your earliest convenience to the Clerk of the Town Board at the address included on this letterhead. Representatives are scheduled on a first-come, first-serve basis. The anticipated dates of the Town Board's scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state that request in your written reply.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect, the Town Board requests only that the opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker or to disparage any faith or belief different than that of the invocation speaker.

On behalf of the Town Board of the Town of Riverhead, I thank you in advance for considering this invitation.

*Sincerely,
Town Board*

- h. The respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocation.
- i. In the event an eligible representative of an Assembly serving the local community believes that the town has not complied with the terms of this policy, the representative has the right to have the matter reviewed by the Town Board.

5. No invocation speaker shall receive compensation for his or her service.

6. No guidelines or limitations shall be issued regarding an invocation's content, except that the Town Board shall request by the language of this policy that no invocation should proselytize or advance any faith, or disparage the religious faith or non-religious views of others.

7. The Town Board shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Town Board's meetings.

8. The Town Board shall not engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.

9. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Town Board with, nor express the Town Board's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Town Board's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the Town of Riverhead.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this policy shall become effective immediately upon adoption by the Town Board.

TOWN OF RIVERHEAD

Resolution # 903

RATIFIES EXECUTION OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH BUSINESS AUTOMATION SERVICES (BAS) FOR TAX COLLECTION SYSTEM SOFTWARE

Councilwoman Giglio offered the following resolution,

which was seconded by Councilman Hubbard

WHEREAS, by Resolution #674, adopted on September 6, 2017, the Town Board ratified a Professional Services Agreement with BAS Services, Inc. (BAS) for the installation, implementation and ongoing servicing of the BAS Tax Online Services software at a total cost of \$84,600.00; and

WHEREAS, BAS Services, Inc. (BAS) has advised that it desires an amendment to the PSA in order to fully integrate the BAS Tax Online Services software at no additional cost to the Town of Riverhead.

NOW THEREFORE BE IT RESOLVED, that the Town Board, be and hereby, ratifies the signing of the First Amendment to the Professional Services Agreement with BAS by the Supervisor; and be it further

RESOLVED, that the Town Clerk be and is hereby directed to forward a certified copy of this resolution to Business Automation Services, Inc., 661 Plank Road, Clifton Park, New York 12065; and be it further

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 904

RATIFIES THE CANCELLATION OF CREDIT CARD/DEBIT CARD/ELECTRONIC CHECK PAYMENT PROCESSING SERVICES BY EVO EZPAY AND SYSTEMS EAST, INC. REGARDING REAL PROPERTY TAX PAYMENTS

Councilman Hubbard offered the following resolution,

which was seconded by Councilman Dunleavy

WHEREAS, under terms and conditions set forth in the Professional Services Agreement with EVO eZPay, LLC and Systems East, Inc. any of the parties may cancel the agreement upon giving 30 days' notice.

NOW THEREFORE IT IS HEREBY RESOLVED, that the Town Board be and hereby, ratifies the execution of 30 day notice to EVO eZPay, LLC and Systems East, Inc terminating only credit card/debit card and electronic check processing services regarding real property tax bills; and be it further

RESOLVED, that except for omission of the services set forth above, all other credit card/debit card/electronic check payment processing services and all other terms and conditions of the subject agreement shall continue in full force and effect; and be it further;

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and, if needed, a copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 905

ESTABLISHES TIME OF REGULAR MEETINGS OF THE TOWN BOARD

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, that during the year 2018, all regular meetings of the Town Board will be held twice monthly in Town Hall; the first to be held on the first Tuesday of the month at 2:00 p.m. and the second to be held on the third Tuesday of the month at 7:00 p.m. Exceptions include: July 17, 2018 which will be held at 2:00 p.m., January 3, 2018, September 5, 2018 and November 7, 2018 which will be held on Wednesdays at 2:00 p.m. and January 17, 2018, February 21, 2018 and May 16, 2018 which will be held on Wednesdays at 7:p.m. and

NOW THEREFORE BE IT RESOLVED, that the Town Clerk be and is hereby directed to publish the attached notice in the December 14, 2017 issue of the News-Review Newspaper. The newspaper is hereby designated as official newspaper for this purpose, and to post same on the signboard in Town Hall; and it be further

RESOLVED, all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD 2018 Town Board Meeting Dates

MEETING DATE	MEETING PLACE	MEETING TIME
January 3, 2018	Town Hall	2:00 p.m.
January 17, 2018	Town Hall	7:00 p.m.
February 6, 2018	Town Hall	2:00 p.m.
February 21, 2018	Town Hall	7:00 p.m.
March 6, 2018	Town Hall	2:00 p.m.
March 20, 2018	Town Hall	7:00 p.m.
April 3, 2018	Town Hall	2:00 p.m.
April 17, 2018	Town Hall	7:00 p.m.
May 1, 2018	Town Hall	2:00 p.m.
May 16, 2018	Town Hall	7:00 p.m.
June 5, 2018	Town Hall	2:00 p.m.
June 19, 2018	Town Hall	7:00 p.m.
July 3, 2018	Town Hall	2:00 p.m.
July 17, 2018	Town Hall	2:00 p.m.
August 7, 2018	Town Hall	2:00 p.m.
August 21, 2018	Town Hall	7:00 p.m.
September 5, 2018	Town Hall	2:00 p.m.
September 18, 2018	Town Hall	7:00 p.m.
October 2, 2018	Town Hall	2:00 p.m.
October 16, 2018	Town Hall	7:00 p.m.
November 7, 2018	Town Hall	2:00 p.m.
November 20, 2018	Town Hall	7:00 p.m.
December 4, 2018	Town Hall	2:00 p.m.
December 18, 2018	Town Hall	7:00 p.m.

As per 2017 Resolution #
(ESTABLISHES TIME OF REGULAR MEETINGS OF THE TOWN BOARD)

TOWN OF RIVERHEAD

Resolution # 906

AUTHORIZES EXTENSION OF TIME TO REMIT REAL PROPERTY TAXES FOR SENIOR CITIZENS RECEIVING ENHANCED STAR PURSUANT TO SECTION 425 OR SECTION 467 OF NYS RPTL

Councilman Wooten offered the following resolution,

which was seconded by Councilwoman Giglio

WHEREAS, Section 925-b of the Real Property Tax Law of the State of New York allows an extension of time to pay real property taxes for certain persons sixty-five years of age or over receiving an exemption pursuant to §425(4) or §467; and

WHEREAS, the law allows for an extension of time of up to five business days without penalty of interest; and

WHEREAS, Receiver of Taxes, Laurie A. Zaneski recognizes the need to assist our seniors in payment of their real property taxes without penalty due to the time lapse between Social Security checks and the May 31, 2018 deadline.

NOW, THEREFORE, BE IT RESOLVED, that the payment of real property taxes for certain persons sixty-five years of age or over receiving an exemption pursuant to §425(4) or §467 of the New York State Real Property Tax Law is hereby extended to June 7th, 2018 for the second half payment only; and

BE IT FURTHER RESOLVED, that the Town Clerk be and is hereby authorized to forward a certified copy of this resolution to the Receiver of Taxes and that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and, if needed, a certified copy of same from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 907

GRANTS SPECIAL PERMIT FOR JEFFREY NAZAR EXPANSION OF A NON-CONFORMING PROFESSIONAL OFFICE USE

Councilwoman Giglio offered the following resolution,

which was seconded by Councilman Hubbard

WHEREAS, the Town Board is in receipt of a special permit application for the expansion of a non-conforming professional office use from Jeffrey Nazar, owner, upon real property located at 189 Main Rd, Aquebogue, New York, also identified as SCTM # 600-085-02-096.06 within the Rural Corridor zoning district; and

WHEREAS, a public hearing held on May 17, 2017 in accordance with Riverhead Town Code §301-311 C; and

WHEREAS, the Planning Department has reviewed the application and finds the proposed construction of a non-residential building less than 4,000 square feet in area to be a Type II action pursuant to 6NYCRR Part 617 with no further environmental review required; and

WHEREAS, the Town Board hereby determines that the use will not adversely affect surrounding properties, nor cause any discernable hazards or disadvantages, nor impinge the health safety, comfort, convenience of the Town, and further finds that the proposed use in harmony with and promotes the general purposes of zoning within the Town of Riverhead.

NOW THEREFORE BE IT RESOLVED, the Town Board finds in the matter of the petition by Jeffrey Nazar the following:

- i. The site is particularly suitable for the location of the use in the community;
- ii. The proposed lot area is sufficient for the proposed expansion;
- iii. Access facilities will be made adequate for the motor vehicle turning movements to be generated;
- iv. Adequate provisions will be made for the conservation and management of existing wetlands on the subject parcel;
- v. Adequate provisions will be made for the collection and disposal of both storm water and sanitary waste;
- vi. Adequate provisions have been made for the collection and disposal of solid wastes; and be it further

RESOLVED, the Town Board hereby grants the special permit application for the expansion of a non-conforming professional office use from Jeffrey Nazar, owner, upon real property located at 189 Main Rd, Aquebogue, New York, also identified as SCTM # 600-085-02-096.06; and

RESOLVED, that such special permit is granted with the following conditions:

- i. Site Plan approval must be obtained from the Planning Board with any conditions imposed thereupon within two years of this resolution date;
- ii. Conservation Advisory Council recommendation must be obtained for disturbance adjacent to freshwater wetlands;
- iii. All exterior lighting, either proposed or existing, must be made Dark Sky compliant in accordance with the Town of Riverhead Lighting Ordinance;
- iv. A permit from the Building Department and subsequent certificate of occupancy must be obtained; and be it further

RESOLVED, the Town Clerk shall provide a certified copy of this resolution to James V Delucca, as agent for the applicant, 12 Linda Lane East, Riverhead, NY 11901, the Planning Department, the Building Department, and the Fire Marshal's Office; and be it further

RESOLVED, all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 908

A RESOLUTION APPROVING AGREEMENT

Councilman Hubbard offered the following resolution,

which was seconded by Councilman Dunleavy

WHEREAS, the Town Board as a governing body of the Riverhead Sewer District, is considering the possible extension of the Commercial Sewer District Extension (CSDE) entitled the "Jaral East End Hotel Corporation Map & Plan", Suffolk County Tax Map # 0600-118-3-2.2; and

WHEREAS, the Extension will include the acquisition of an easement over the western portion of the Tanger Outlet property to the extent needed for the Extension, whether by eminent domain or otherwise; and

WHEREAS, the cost of the acquisition of the easement and other costs of the extension will be borne by the petitioner for said extension; and

WHEREAS, the petitioner and the Riverhead Sewer District have negotiated the terms of a Condemnation/Acquisition Agreement the terms of which are acceptable to the petitioner and to the Riverhead Sewer District;

NOW, THEREFORE BE IT RESOLVED, that the Supervisor is hereby authorized to sign the Condemnation/Acquisition Agreement and such other documents as may be necessary to effectuate its terms; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to the Law Firm of Smith, Finkelstein, Lundberg, Isler and Yakaboski, LLP, Attn: Frank A. Isler, Esq., 456 Griffing Avenue, Riverhead, New York 11901; Richard Ehlers, Esq., 456 Griffing Avenue, Riverhead, New York 11901; and Harvey B. Besunder, Esq., Margolin Besunder LLP, 1050 Old Nichols Road, Suite 200, Islandia, New York 11749.

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

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

DRAFT

CONDEMNATION/ACQUISITION AGREEMENT

THIS AGREEMENT made the ____ day of _____, 2017 by JARAL EAST END HOTEL CORP., with offices at 126 Third Street, Mineola, New York, 11501 and 226 SEVENTH STREET ASSOCIATES, INC. , with principal offices at 126 Third Street, Mineola, New York 11501 (hereinafter collectively referred to as the "Petitioner") and the TOWN OF RIVERHEAD and the RIVERHEAD SEWER DISTRICT, both with offices at 200 Howell Avenue, Riverhead, New York 11901 (hereinafter collectively referred to as the "Town").

WHEREAS, JARAL EAST END HOTEL CORP. is the owner of the existing Hotel Indigo (SCTM # 600-118-03-2.3) (hereinafter the "Lateral Parcel"); , and

WHEREAS, 226 SEVENTH STREET ASSOCIATES, INC. is the owner of a 4.117 acre parcel of vacant land adjacent to the Lateral Parcel (SCTM # 600-118-03-2.2) (hereinafter the "Extension Parcel"); and

WHEREAS, the Town's consultants, H2M Group prepared a Map and Plan dated July 1, 2014 which detailed the impact of adding the Extension Parcel to the District. The report was based upon the assumption that the Lateral Parcel was being served by the District. A hearing was held by the Town Board on the Map and Plan based on the assumption that the connection of the Lateral Parcel had been completed. No further action was taken by the Town Board after the hearing; and

WHEREAS, as Final Order was adopted by the Town Board by Resolution dated June 10, 2010, which Order authorized the service to the Lateral Parcel; and

WHEREAS, the connection of the Lateral Parcel has not been completed since the easement needed to bring the service to the Lateral Parcel had not been finalized; and

WHEREAS, it is to the mutual benefit of Petitioner and the Town that the subject property be connected to the Riverhead Sewer District, and

WHEREAS, in order to accomplish the extension of the Commercial Sewer District Extension entitled the "Jaral East End Hotel Corp. Map & Plan, SCTM 0600-118-3-2.2", it will be necessary to acquire an easement (s) over western portion of the adjoining property, either through negotiation or by Eminent Domain, and

WHEREAS, the parties hereto have reached an agreement with respect to obtaining the necessary easement in order to connect the Lateral Parcel and extend the District to serve the Extension District with the Petitioners agreeing to pay for all of the costs and expenses of acquiring the aforesaid easement through negotiation and agreement or by condemnation by the Town of the easement described on Schedule "A", annexed hereto (hereinafter the "Easement"); and

WHEREAS, the actual cost of acquisition of said real property shall be in accordance with its value as determined by an independent appraisal made by a qualified appraiser designated by the Town (the "Appraised Value") or as determined by a court of competent jurisdiction; and

WHEREAS, by resolution #363 the Town authorized the retention of a qualified real estate appraiser to investigate the area to be acquired and to offer an opinion of value, and

WHEREAS, once an appraisal of the Easement, H2M Group will prepare an updated Map and Plan detailing the service to the Lateral Parcel and the Extension Parcel, which will include the projected costs to acquire the Easement;

WITNESSETH

NOW THEREFORE, based on the mutual covenants, promises and consideration, the parties agree and covenant as follows:

1. So long as Petitioner complies with the terms of this Agreement, the Town shall acquire the subject easements (described at Exhibit "A" attached hereto) by negotiated purchase or by proceedings in Supreme Court, County of Suffolk, pursuant to the Eminent Domain Procedure Law of New York (the "condemnation proceeding"). Notwithstanding anything to the contrary contained herein, the Petitioner shall have the right to negotiate directly with the owners of the lots to be acquired and/or condemned as provided herein, to purchase said easements from them.

2. The Petitioner has deposited with the Town the sum of Two Thousand (\$2,000) Dollars, representing one half of the Town's appraisal fees. The Petitioner agrees to deposit with the Town the balance of the Town's appraisal fees in the sum of Two Thousand (\$2,000) Dollars simultaneously with, or prior to, its execution of the within agreement, which sums shall be applied to the actual appraisal fees incurred with the excess, if any, to be applied to the further costs of acquisition of the subject parcels; that in the event that the actual appraisal fees exceed the said sum of the Four Thousand (\$4,000) Dollars, the Petitioner shall deposit with the Town a sum equal to such excess cost within ten (10) days after demand.

3. The Town shall timely furnish the Petitioner with a copy of any appraisals commissioned by the Town and with copies of all bills and invoices received or prepared by the Town for the fees and expenses referred to herein.

4. The Applicant hereby agrees to deposit with the Town a sum equal to the Appraised Value of the subject easement(s), after review by its counsel of determination of the

report by the Town's appraiser and agreement with the Town that said appraisal represents the fair market value of the easements to be acquired (the "Appraised Value Deposit").

5. The owner of the property over which the Easement is to be acquired (the "Owner") has preliminarily agreed to convey the Easement to the Town provided the Town and the Petitioners are willing to meet the terms set forth in the June 27, 2017 letter of H.T. Hogan, Jr., a copy of which is attached hereto as Exhibit B. The Town and the Petitioners hereby agree to those terms, subject to a) the determination of the "fair compensation" to be agreed among the Town, Petitioners and the Owner ; b) the Owner, agreeing that, as to the last bullet point set forth in Exhibit B, any repair or maintenance to be done to the existing retaining wall be done on forty-eight (48) hour advance notice to Petitioners and will not be performed during any event being held at the Lateral Property; and c) the execution of a written agreement among the owner, the Town, the Petitioners, and the current Lessee of the affected property agreeing to the terms set forth in Exhibit B with the additional conditions set forth above.. If the Petitioners can demonstrate to the reasonable satisfaction of the Town that the "fair compensation" the Town would otherwise agree to, exceeds the fair market value of the subject parcels by twenty-five (25%) percent or more, the Town shall proceed with the condemnation of the easements unless the Petitioner consents to the negotiated purchase price, as proposed. The Town hereby consents to the Petitioner's intervention in the event that the Petitioner seeks leave to intervene as a party to any condemnation proceeding in respect to the subject parcels herein.

6. If a negotiated acquisition is agreed to, the Appraised Value Deposit shall be applied to the purchase price. In the event the purchase price and the Town's Associated Costs (defined below) exceed the Appraised Value Deposit, the Petitioner shall deposit the excess costs within ten (10) days of Demand. In the event the Appraised Value Deposit exceeds the purchase

price and the Town's associated costs, the balance remaining in the Appraised Value Deposit shall be refunded to the Petitioner. The Town's "Associated Costs" shall include any and all expenses reasonable and necessary which may be incurred by reason of negotiating the purchase price including, but not limited to, the cost of time expended by the Town's appointed Attorney in connection with the negotiated purchase, such time to be billed and paid by Petitioner at an hourly rate not to exceed Two Hundred Dollars (\$200.00) per hour for any such professional services rendered in furtherance of acquisition of the subject easements.

7. In the event a negotiated purchase does not occur, and the Town determines to proceed with the condemnation, the Petitioner, shall deposit with the Town in addition to the Appraised Value Deposit, the sum equal of \$ 15,000 to be used to pay the Town's anticipated costs, expenses and fees of the condemnation proceeding (the "Acquisition Cost Deposit") which will include:

- (a) The Court's award of just compensation to the condemnee for the taking of the easements, together with the additional costs under Eminent Domain Law §701, condemnee's attorney and expert witness fees and interest awarded, if any;;
- (b) All reasonable fees and expenses incurred by the Town in hiring other Appraisers and/or experts reasonably required in the course of the aforementioned condemnation proceedings, if any; and
- (c) Court costs; and
- (d) Any and all other expenses reasonable and necessary which may be incurred by reason of the condemnation proceedings including, but not limited to, advertising expenses; and

(e) The cost of time expended by the Town's appointed Attorney in connection with the aforementioned condemnation proceedings, such time to be billed and paid by Applicant at an hourly rate not to exceed Two Hundred (\$200.00) Dollars per hour for any such professional services rendered in furtherance of acquisition of the subject easements and/or condemnation proceedings, if any.

8. The Town reserves the right to demand additional payments for any of the acquisition costs as specified hereinabove to the extent that such acquisition costs exceed the various advanced deposits paid in accordance with this agreement herein. Payment shall be made as the additional expenses are incurred or are about to be incurred by the Town.. In such event, the Petitioner shall make payment to the Town for such additional costs upon notice that specify the particulars of the acquisition costs incurred or about to be incurred by the Town.

9. Upon the acquisition of the subject parcel(s) by the Town and the valuation thereof having been fixed by the court or by agreement with the owner, the balance of any monies heretofore advanced by the Petitioner, after all acquisition costs incurred pursuant to this Agreement herein have been paid in full, shall be returned to the Petitioner by the Town.

10. The Petitioner hereby designates as its attorneys for the receipt of papers, and information concerning the negotiations and/or condemnation proceeding: MargolinBesunder by Harvey B. Besunder, 1050 Old Nichols Road, Islandia, New York 11749. The Petitioner, by written notice to the Towns Attorney, (Smith, Finkelstein, Lundberg, Isler and Yakaboski, LLP by Frank A. Isler) , shall advise the Town of any change of counsel in this matter.

11. This agreement constitutes the entire understanding and accord by the parties hereto as the subject matter hereof and shall not be amended except by writing duly made and executed by the party to be charged thereby.

12. This agreement may be signed in multiple counterparts and by facsimile or electronic transmission, if necessary, which when taken together would constitute one executed, original contract. Facsimile and emailed signatures shall be binding on the party delivering such signatures.

IN WITNESS WHEREOF, the parties have set forth their respective hands the day and year first above written.

JARAL EAST END HOTEL CORP.

TOWN OF RIVERHEAD

By: _____

By: _____

226 SEVENTH STREET ASSOCIATES, INC.

RIVERHEAD SEWER DISTRICT

By: _____

By: _____

TOWN OF RIVERHEAD

Resolution # 909

**AUTHORIZES APPOINTMENT OF THIRD PARTY ADMINISTRATOR
PROCESSING AND PAYMENT OF GENERAL LIABILITY CLAIMS AND WORKERS
COMPENSATION CLAIMS AND RELATED MEDICAL CLAIMS FOR 2018**

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, the Town Board of the Town of Riverhead, by Resolution #855 adopted on November 7, 2012, authorized the issuance of a Request for Proposals seeking proposals from interested and qualified insurance brokerage companies to meet the Town's property, liability and certain other insurance requirements, including risk assessment and liability related to workers compensation and acting as third party administrator related to such workers compensation claims and general liability claims, and to advise the Town on addressing risk management requirements that are in the best interest of the Town (Insurance Brokerage Services); and

WHEREAS, the Town Board, by Resolution #971 adopted on December 27, 2012, awarded the bid for Insurance Brokerage Services to Arthur J. Gallagher & Co. Risk Management Services, Inc. and by a series of Resolutions, including the most recent Resolution # 927 adopted on December 20, 2016, extended the contract with Arthur J. Gallagher & Co. Risk Management Services, Inc.; and

WHEREAS, the Town Board, by Resolution #_____ adopted on December 5, 2017, extended the Insurance Brokerage Services to Arthur J. Gallagher & Co. Risk Management Services, Inc. for an additional year; and

WHEREAS, Arthur J. Gallagher & Co. Risk Management Services, Inc. researched and evaluated firms qualified to provide third party administrator services for the Town and recommended that the Town reappoint Gallagher Bassett Services, Inc. for workers compensation claims and appoint PMA Management Corp. for general, automobile and professional liability claims.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby reappoints and extends the agreement to Gallagher Bassett Services, Inc. for workers compensation claims similar terms and conditions as set forth in the original professional services agreement and appoints PMA Management Corp. for general, automobile and professional liability claims, both upon such terms and conditions as approved by the Office of the Town Attorney; and be it further

RESOLVED, that the Supervisor is hereby authorized to execute a Professional Services Agreement subject to approval of all such terms by the Office of the Town Attorney with Gallagher Bassett Services, Inc. for workers compensation claims; and be it further

RESOLVED, that the Supervisor is hereby authorized to execute a Professional Services Agreement subject to approval of all such terms by the Office of the Town

Attorney with PMA Management Corp. for general, automobile and professional liability claims, and be it further

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device and, if needed, a copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted

TOWN OF RIVERHEAD

Resolution # 910

**EXTENDS CONTRACT WITH ARTHUR J. GALLAGHER & CO. RISK
MANAGEMENT SERVICES FOR THE IMPLEMENTATION OF
THE INSURANCE PROGRAM FOR 2018**

Councilman Wooten offered the following resolution,
which was seconded by Councilwoman Giglio

WHEREAS, the Town Board of the Town of Riverhead, by Resolution # 855 adopted on November 7, 2012, authorized the issuance of a Request for Proposals seeking proposals from interested and qualified insurance brokerage companies to meet the Town's property, liability and certain other insurance requirements, including risk assessment and liability related to workers compensation and acting as third party administrator related to such workers compensation claims, and to advise the Town on addressing risk management requirements that are in the best interest of the Town (Insurance Brokerage Services); and

WHEREAS, the Town Board, by Resolution #971 adopted on December 27, 2012, awarded the bid for Insurance Brokerage Services to Arthur J. Gallagher & Co. Risk Management Services, Inc.; and

WHEREAS, the Town Board, by Resolution #858 adopted on December 31, 2013, extended contract with Arthur J. Gallagher & Co. Risk Management Services, Inc.; and

WHEREAS, the Town Board, by Resolution #857 adopted on December 30, 2014, extended contract with Arthur J. Gallagher & Co. Risk Management Services, Inc.; and

WHEREAS, the Town Board, by Resolution #861 adopted on December 15, 2015, extended contract with Arthur J. Gallagher & Co. Risk Management Services, Inc.; and

WHEREAS, the Town Board, by Resolution # 927 adopted on December 20, 2016, extended contract with Arthur J. Gallagher & Co. Risk Management Services, Inc.; and

WHEREAS, the Town Board, upon the recommendation of the Financial Administrator, seeks to extend the contract with Arthur J. Gallagher & Co. Risk Management Services, Inc. for the calendar year 2018 upon the same terms and conditions of the original contract.

NOW THEREFORE BE IT RESOLVED, the Town Board hereby awards and extends the agreement for insurance program to Arthur J. Gallagher & Co. Risk Management Services Inc. for the calendar year 2018 upon the same terms and conditions set forth in the original agreement and authorizes the Supervisor to execute extension agreement with Arthur J. Gallagher & Co. Risk Management Services Inc.;

and be it further

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the electronic storage device, and if needed, a certified copy of the same may be obtained from the office of the Town Clerk.

THE VOTE

Hubbard Yes No Giglio Yes No
Wooten Yes No Dunleavy Yes No
Walter Yes No

The Resolution Was Thereupon Duly Declared Adopted