

Town of Riverhead Community Development Agency

Adopted

Resolution # 10

Amends CDA Resolution #18 of 2000 Regarding License Agreement with BMB Millwork, Inc.

Member Kent offered the following resolution,

which was seconded by Member Lull

WHEREAS, the CDA previously approved a License Agreement for Buildings 06-52, 53 and 54, totaling approximately 23,477 square feet, with BMB Millwork, Inc. at \$4.50 per square foot; and

WHEREAS, BMB Millwork, Inc. did not execute said agreement and has requested use of a larger building, known as the Warehouse (06-04) and comprising 35,000 square feet, beginning June 1, 2001, for \$5 per square foot.

WHEREAS, approximately 17,000 square feet of 06-04 is being used by the Brookhaven Volunteer Fire Department at no cost; and

WHEREAS, BMB is willing to use 18,500 square feet for three months and 35,000 square feet from September 1, 2001.

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

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

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

WHEREAS, the CDA will realize net income of \$7,708 per month for the first three months and then \$14,583 per month during the duration of license period.

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

AND BE IT FURTHER RESOLVED, that the Town Clerk shall provide a certified copy of this resolution to Community Development Agency Director Andrea Lohneiss and John Graziano at BMB Millwork, 66 Old Country Road, PO Box 1659, Quogue, NY 11959.

The Vote:

Member Densieski YES
 Member Cardinale ABSTAIN
 Member Kent YES
 Member Lull YES
 Chairman Kozakiewicz YES

Councilman offered the resolution to be amended, which was seconded by Councilman Lull.

The Resolution is ADOPTED.

LICENSE

License ("License"), made as of the ___ day of May, 2001, by and between the **Town of Riverhead Community Development Agency**, having an address at 200 Howell Avenue, Riverhead, NY 11901, Attention: Andrea Lohnneiss ("Licensor") and **BMB Millwork**, a corporation having an address at: 66 Old Country Road, PO Box 1659, Quogue, NY 11959, ATTN: John Graziano ("Licensee").

W I T N E S S E T H

WHEREAS, Licensor desires to license to Licensee, and Licensee desires to license to Licensor, the right to use approximately 35,000 square feet in Building 06-04, known as the Warehouse, as depicted on Exhibit A (the "License Premises") located at the property formerly known as the Naval Weapons Industrial Reserve Plant, Department of Defense Number 466, Calverton, New York (the "Calverton Site"), upon all of the terms and conditions hereinafter set forth. The Licensee will lease 18,500 square feet from June 1, 2001 to August 31, 2001 then 35,000 beginning September 1, 2001;

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

1. **LICENSING.** Upon the terms and conditions hereafter set forth, Licensor hereby licenses to Licensee, and Licensee hereby licenses from Licensor, the right to use the License Premises.
2. **TERM OF LICENSE.** The term of this License (the "Term") shall commence on June 1, 2001 (the "License Commencement Date") and shall end on the earlier of (a) November 30, 2001 and (b) the date on which the closing shall occur under that certain Agreement of Sale dated as of June 15, 1999 between Licensor and Calverton Camelot LLC. (in either case, the "Expiration Date") or such earlier date upon which this License shall expire or be canceled or terminated pursuant to any of the conditions or covenants of this License or pursuant to law. Notwithstanding anything to the contrary contained in this License, Licensor shall have the right, exercisable in its sole discretion, to terminate this License effective immediately upon written notice from Licensor to Licensee, if (i) Licensee shall default under or be in breach, of in any of its obligations, representations or warranties hereunder and (ii) such default continues for (x) five days after written notice from Licensor with respect to monetary defaults or (y) thirty days after written notice from Licensor with respect to nonmonetary defaults. If Licensor shall so terminate this License, from and after the termination date neither party hereto shall have any rights or obligations hereunder other than those that, pursuant to the express terms hereof, survive termination of this License; provided that Licensee shall remain liable to Licensor for any default or breach by Licensee that occurred prior to such termination. Furthermore, this License is not, and shall not be construed to be, a lease or a sublease and nothing contained in this License shall be construed as granting to Licensee any interest or right as tenant

or subtenant or any other interest or right other than the interest of a Licensee in accordance with the terms and provisions hereof.

3. **CONDITIONS OF LICENSE PREMISES.** Licensee agrees to accept the License Premises "as is," and Licensor shall have no obligation to perform any work or repairs on behalf of Licensee. Licensee acknowledges that no representations with respect to the condition of the License Premises, or with respect to any improvement or fixtures thereon or attached thereto, have been made to it. Licensee shall be responsible for all start-up costs and expenses and for all costs and expenses associated with the operation of the License Premises, including without limitation, utility usage costs. Invoices will be provided to Licensee monthly and are to be paid within 10 days. Specifically, Licensee must install electric and steam meter per specification by Grubb & Ellis and incur other start-up costs, including but not limited to reactivation of sprinklers, including quarterly testing as required by the Riverhead Fire Marshall, and reactivation of bathrooms. Licensee is responsible for connection of building to municipal water including design, inspection and key money.
 4. **SECURITY DEPOSIT.** Licensee shall deposit with Licensor on the date hereof an amount equal to \$14,583 as security for the faithful performance and observation by Licensee of the terms, conditions and provisions of this License. If a default shall occur and be continuing hereunder, Licensor may apply or retain the whole or any part of the security so deposited to the extent necessary to cure such default. Upon termination of this License, Licensor shall return to Licensee such deposit, less any amounts to which Licensor is entitled pursuant to the terms hereof.
 5. **LICENSE FEE.** Licensee shall pay to Licensor, in accordance with Section 6 hereof (a) on the date hereof an amount equal to \$23,124 and (b) on the first business day of each month commencing with September 1, 2001, an amount equal to \$14,583 (all of the amounts to be paid by Licensee hereunder, collectively, the "Fee"). In the event that the Term shall terminate on a day other than the last day of a calendar month or in the event that the Term shall terminate prior to August 13, 2001, Licensor and Licensee shall equitably prorate the amount of the Fee actually paid to Licensor for such period.
- Licensee covenants and agrees that in no event shall Licensee permit any motor Vehicle to (1) enter the Calverton Site other than through the Access Point (as defined below) or (2) park anywhere other than in the parking area depicted on Exhibit A attached here (the "Parking Area"). Licensee shall be solely responsible for keeping the Parking Area free and clear of debris and snow.
6. **PAYMENT.** The Fee and all other charges, costs and expenses payable by Licensee under this License shall be paid by certified check payable to the order of the Town of Riverhead Community Development Agency and delivered to Andrea Lohneiss at the address provided for Licensor in the preamble to this License, without notice or demand therefor (except to the extent otherwise expressly provided herein)

and without any deduction, credit, set-off, counterclaim or abatement whatsoever in every case in which Licensee is required to pay Licensor a sum of money and said sum (or any portion thereof) is not Paid when due, interest at an annual rate of 12% shall be payable on such sum (or so much thereof as shall be unpaid) from the date said sum becomes due until the date the unpaid amount is paid.

7. **USE; COVENANTS.** (a) Licensee shall use the License Premises only for the design and manufacturing of woodworking products (the "Uses") to prepare the License Premises for the same and to clean and restore the License Premises, in each case, in accordance with, and subject to, the terms and provisions of this License. **Licensee shall be responsible for compliance with local zoning and for obtaining all permits necessary to conduct its business.**

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

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

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

(e) Without limiting the generality of any other provision of this Agreement, Licensee hereby covenants and agrees that Licensee shall provide ample vehicles, personnel, equipment and containers to clean the License Premises and insure that the same is

restored to as good condition, subject to reasonable wear and tear, on the Expiration Date as it was in on the License Commencement Date.

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

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

8. **ASSIGNMENT AND LICENSING.** Notwithstanding anything to the contrary contained in this License, Licensee shall not assign this License, License the License Premises in whole or in part or permit Licensee's interest in this License to be vested in any party other than Licensee by operation of law or otherwise. A transfer of more than fifty (50%) at any one time or, in the aggregate from time to time, of the stock, partnership or other ownership interests in Licensee, direct or indirectly shall be deemed to be an assignment of this License.
9. **LICENSOR'S REMEDIES.** (a) If Licensee fails to perform any of its obligations hereunder in accordance with the terms hereof, then, after reasonable notice to Licensee not to exceed thirty (30) days, and an opportunity for Licensee to cure such failure, (except in case of emergency) Licensee may (but shall not be obligated to) cure such failure at the expense of Licensee, and the amount incurred by Licensor in connection with such cure shall be payable by Licensee to Licensor on demand.
- (b) Except as provided in Section 2 and in the immediately following sentence, in the event of a breach by Licensee hereunder, Licensor shall be limited to an action at law for damages. Notwithstanding the foregoing, in the event that Licensee holds over after the expiration of the Term, (i) Licensee shall be obligated to pay Licensor an amount equal to \$1,000 per diem for each day of the holdover term and (ii) Licensor shall have all of the rights and remedies available to it at law or in equity, including, without limitation, the right to exercise self help and to dispossess Licensee of the License Premises, change the locks on the License Premises, deny Licensee access to the License Premises and take possession of or dispose of any property at the License

Premises, all at the cost and expense of Licensee. Except as provided in Section 2, in no event shall Licensor have the right to enjoin Licensee's performance of the Uses.

10. **INDEMNITY.** (a) Licensee shall indemnify and hold Licensor harmless from and against any and all claims, actions, liabilities, losses, damages (including, without limitation, consequential and special damages), costs and expenses (including, without limitation, court costs and reasonable attorneys' fees and expenses) arising from or in connection with (i) the use or occupancy by Licensee of the License Premises during the term hereof, or (ii) any work or thing done or any condition created by or any other act or omission of Licensee or its employees, agents, contractors, visitors or licensees, in the License Premises or any other part of the Calverton Site in connection with Licensee's use of the License Premises, or (iii) Licensee's failure to perform any of the obligations imposed on it hereunder.
- (b) The foregoing indemnity does not include any claims, actions, liabilities, losses, damages, costs and expenses resulting from Licensor's gross negligence or willful misconduct.
11. **Brokers.** Licensee represents that it has not dealt with any broker or finder other than Grubb & Ellis with respect to this License. Licensee agrees to indemnify and hold Licensor harmless from and against any and all loss, liability, damage, cost and expense (including, but not limited to, court costs and reasonable attorneys' fees and expenses) which Licensor may incur or sustain in connection with any claim or action by any broker or finder that may be asserted against Licensor as a result of any conversations, correspondence or other dealings between Licensee and such broker or finder.
12. **NOTICES.** Any notices to be given under this License shall be in writing and shall be sent by registered or certified mail, return receipt requested. If such notice is directed to Licensee, it shall be addressed to Licensee at 66 Old Country Road, PO Box 1659, Quogue, NY 11959, Attention: John Graziano, and if such notice is directed to Licensor, it shall be addressed to Licensor at 200 Howell Avenue, Riverhead, New York 11901, Attention: Andrea Lohneiss. Either party may, by notice in writing, direct that future notices be sent to a different address and to the attention of such other people as either Licensor or Licensee shall designate.
13. **HAZARDOUS SUBSTANCES.** (a) Generally. Licensee shall not generate, store, manufacture, refine, transport, treat, dispose of, or otherwise permit to be present on or about the License Premises, any Hazardous Substances (other than Hazardous Substances (x) customarily used in events such as the Event and (y) used, stored, transported, and disposed of in strict compliance with applicable law). As used herein, the term "Hazardous Substances" shall mean any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any materials containing asbestos, or any other hazardous or toxic substance or material as defined by any Federal, State or local environmental law, rule or regulation, including, without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, the Comprehensive

Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, the Toxic Substances Control Act, as amended from time to time, the Hazardous Materials Transportation Act, as amended from time to time, and the regulations adopted and the publications promulgated pursuant to each of the foregoing.

- b. In addition to the foregoing, (A) Licensee hereby agrees to comply at all times with and to cause the License Premises to be in compliance at all times with the Suffolk County Health Department Regulations and (B) Licensee shall file for a fire prevention permit and hazardous material permit from the Town of Riverhead.
 - c. Indemnification. Licensee shall indemnify and hold harmless Licensor from and against any and all liabilities, damages, claims, losses, penalties, judgments, causes of action, costs and expenses (including, without limitation, court costs and the reasonable fees and expenses of counsel) which may be incurred by Licensor directly arising out of any breach by Licensee of the obligations imposed upon it under this Section 13. The foregoing indemnity shall survive the expiration or sooner termination of this License.
14. CROSS-DEFAULT. To the extent that the Licensor and the Licensee are parties to any other similar agreements, any default under such similar agreements shall be deemed to be a default under this License, and any default under such similar agreements.
15. MISCELLANEOUS. (a) Merger. All prior understandings and agreements between the parties with respect to the subject matter hereof are merged within this License, which alone fully and completely sets forth the understanding of the parties with respect to the subject matter hereof. This License may not be changed or terminated orally or in any manner other than by a writing signed by the party against whom enforcement of the change or termination is sought.
- (b) Successors and Assigns. This License shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. The term "Licensor," as used in this License, shall mean only the owner from time to time of the License Premises, so that in the event of any transfer or assignment of the License Premises, the transferor or assignor shall be and hereby is entirely freed and relieved of all covenants, obligations and liability of Licensor under this License, and it shall be deemed, without further agreement, that the transferee or assignee has assumed and agreed to perform and observe all obligations of Licensor under this License during the period that such transferee or assignee is the owner of the interest of License Premises.
- (c) Licensee represents that this License has been duly authorized, executed and delivered by Licensee and is enforceable against Licensee in accordance with its terms.

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

LICENSOR:

THE TOWN OF RIVERHEAD COMMUNITY
DEVELOPMENT AGENCY

By: _____
Name:
Title:

LICENSEE:

BMB MILLWORK, INC.

By: _____
Name:
Title:

Exhibit A

BLDG 006-04 FIRST FLOOR

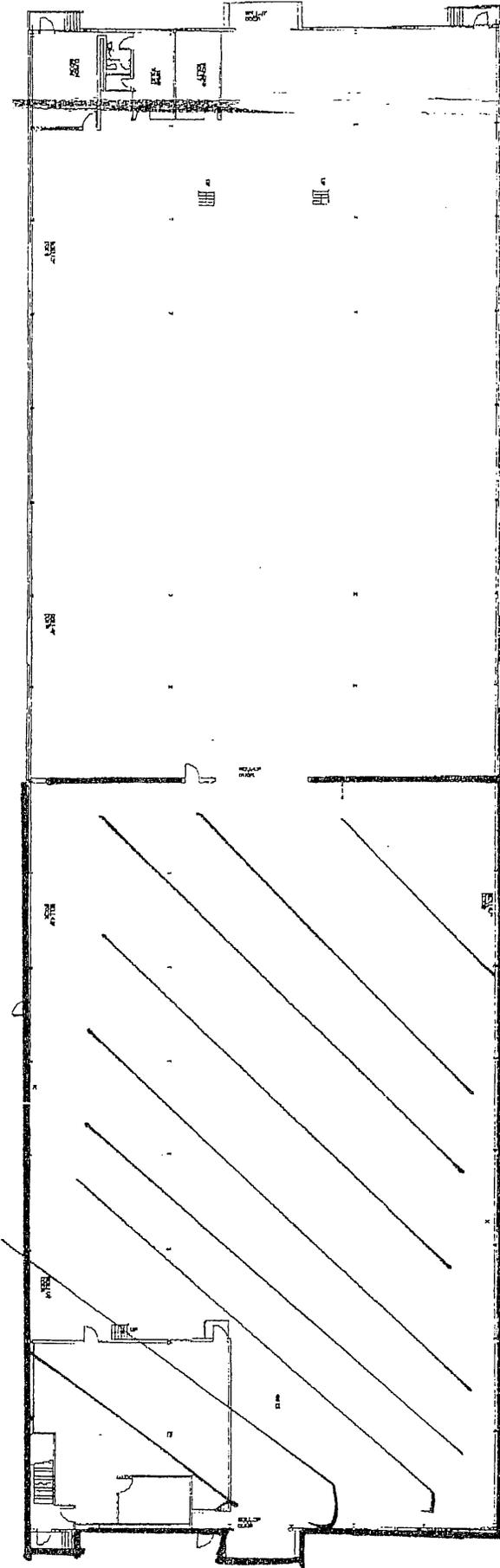


EXHIBIT B

Insurance Certificates:

Liability – minimum \$1 million per occurrence

Fire Damage legal - \$100,000 minimum

Auto liability – minimum \$1 million per occurrence

Building contents – as desired

Worker's compensation – as required by law

Note: The conditions of Paragraph 7 (d) regarding additional insureds, 30 day notification etc., must be complied with and reflected in the Certificate of Insurance provided by the Licensee prior to execution of the License.

COMMUNITY DEVELOPMENT AGENCY
RESOLUTION # 11

Adopted

At a regular meeting of the Members of the Town of Riverhead Community Development Agency, Town of Riverhead, Suffolk County, New York, held at the Town of Riverhead Town Hall, 200 Howell Avenue, in Riverhead, New York, in said Town, on May 1, 2001, at 7:00 o'clock P.M., Prevailing Time.

The meeting was called to order by Supervisor Kozakiewicz and upon roll being called, the following were

PRESENT: Supervisor Kozakiewicz
Councilman Densieski
Councilman Cardinale
Councilman Kent
Councilman Lull

ABSENT:

The following resolution was offered by Member Councilman Kent, who moved its adoption, seconded by Member Councilman Lull, to-wit:

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

RESOLUTION DATED May 01, 2001.

A RESOLUTION DESIGNATING ALTITUDE EXPRESS, D/B/A SKYDIVE LONG ISLAND, INC., AS A QUALIFIED AND ELIGIBLE SPONSOR FOR THE NON-EXCLUSIVE LEASING OF THE SO-CALLED EASTERN RUNWAY AND THE AIRCRAFT TIE DOWN AREA ADJACENT THERETO AT THE FORMER NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON AND FOR THE NON-EXCLUSIVE LEASING BY THE AGENCY OF SUCH PROPERTY TO SKYDIVE LONG ISLAND, INC., FOR USE BY SKYDIVE LONG ISLAND, INC., IN PROVIDING SKYDIVING SERVICES TO THE PUBLIC.

WHEREAS, the Town of Riverhead Community Development Agency (the "Agency") is the owner of an approximately 2,900 acre parcel of land, together with the buildings, runways and aircraft tie down areas located thereon, in Riverhead, which land is known as the former Naval Weapons Industrial Reserve Plant, Calverton (the "Calverton Site") a portion of which Calverton Site is located within an economic development zone duly designated as such pursuant to the New York State Economic Development Zones Act, being Article 18-B of the General Municipal Law; and

WHEREAS, there has been submitted to the Agency a proposal for, and the Agency is considering, (i) designating Altitude Express, d/b/a Skydive Long Island, Inc. ("Skydive Long Island") the "qualified and eligible sponsor" (the "Sponsor"), pursuant to Section 507(2)(c) and (d) of the General Municipal Law and in accordance with the established rules and procedures provided by the Agency, for the non-exclusive leasing of the so-called eastern runway and the aircraft tie down area adjacent thereto of the Calverton Site, (the "Property"), and (ii) leasing the Property, on a non-exclusive basis, pursuant to Sections 507(2)(d), 556(2) and 968(b) of the General Municipal Law, to Skydive Long Island for a period of approximately five and one-half years for an initial monthly rental of \$2,000 per month for use by Skydive Long Island in providing skydiving services to the public; and

WHEREAS, Sections 556(2), 507(2)(c) and (d) and 968(b) of the General Municipal Law require that a public hearing, following at least ten days public notice, be held by the Agency on the question of designating Skydive Long Island the Sponsor for such leasing of the Property and the leasing of the Property by the Agency to Skydive Long Island; and

WHEREAS, the Town of Riverhead (the "Town"), pursuant to Article 8 of the Environmental Conservation Law and the regulations promulgated thereunder by the State Department of Environmental Conservation ("SEQRA") has by Resolution Number 614 of 1998 accepted a final generic Environmental Impact Statement upon the redevelopment of the Calverton Site and has further adopted a Findings Statement contemplating the use of the Property for such aircraft use; and

WHEREAS, the Agency, pursuant to SEQRA, has declared itself "lead agency" for such leasing the Property to and such proposed use of the Property by Skydive Long Island, has determined that such leasing of the Property and such proposed use is in conformance with such Findings Statement resulting from such Generic Environmental Impact Statement, and that such leasing of the Property and such proposed use is an "Unlisted Action" under SEQRA without a significant impact upon either the natural or social environment; and

WHEREAS, the Agency, by resolution duly adopted on March 9, 2001, called a public hearing on the designation of Skydive Long Island as the Sponsor for the redevelopment of the Property in the manner described herein and the non-exclusive leasing of the Property by the Agency to Skydive Long Island; and

WHEREAS, on April 3, 2001, the Agency duly held said public hearing on the designation of Skydive Long Island as the Sponsor for the redevelopment of the Property and the non-exclusive leasing of the Property by the Agency to Skydive Long Island, as Sponsor, after the requisite public

notice at which public hearing all interested parties were provided with reasonable opportunity to present their views with respect to the designation of Skydive Long Island as the Sponsor for the redevelopment of the Property and the non-exclusive leasing of the Property by the agency to Skydive Long Island, as Sponsor, and

WHEREAS, a majority of the Town Board of the Town, acting as Members of the Agency, attended such public hearing; NOW, THEREFORE, BE IT

RESOLVED, by the Members of the Agency, as follows:

Section 1. Based upon the record of the proceedings and the public hearing held at the Town Hall, 200 Howell Avenue, in Riverhead, New York, in said Town on April 3, 2001 at 7:05 o'clock P.M., Prevailing Time, on the question of designating Skydive Long Island the Sponsor for the redevelopment of the Property and the non-exclusive leasing of the Property by the Agency to Skydive Long Island, the non-exclusive leasing of the Property by the Agency to Skydive Long Island, for no monetary consideration, is hereby authorized in accordance with Sections 507(2)(d) and 556(2) of the General Municipal Law.

Section 2. The Town Attorney for the Town of Riverhead, acting as special counsel to the Agency, has prepared, and the Agency has approved and caused to be executed and delivered, a Runway Use Agreement with Skydive Long Island under which Skydive Long Island has been given a non-exclusive license to the Property. A form of an addendum thereto which would establish a definite term of such non-exclusive use ending September 20, 2006, and constituting a non-exclusive lease thereof is attached to this Resolution as Appendix A (the Runway Use Agreement and the Runway Use Agreement Addendum, collectively, the "Use Agreement"). It is hereby determined that the non-exclusive use permitted under the Use Agreement will further the

urban renewal plan for the urban renewal area in which the Property is located by conserving the Property and facilitating its further future redevelopment.

Section 3. The Chairman of the Agency is hereby authorized and directed to distribute copies of this Resolution to Skydive Long Island and to do such further things and perform such acts as may be necessary or convenient to implement the provisions of this Resolution and the Deed.

Section 4. This Resolution shall take effect immediately.

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

_____ VOTING

_____ VOTING

_____ VOTING

_____ VOTING

_____ VOTING

The resolution was thereupon declared duly adopted.

* * * *

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

I, the undersigned Secretary of the Town of Riverhead Community Development Agency, Town of Riverhead, Suffolk County, New York, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Members of said Agency, including the resolution contained therein, held on May 01, 2001, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all Members of said Agency had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

Newspaper and/or other news media Date given

Times Review

May 4, 2001

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s)
of posted notice Date of Posting

Town Clerks Office ~~here~~

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency on May 1, 2001.

Andrew Johnson
Secretary

State of New York)
County of Suffolk) ss:
Town of Riverhead

THIS IS TO CERTIFY that I, the undersigned, Secretary/Treasurer of the Riverhead Community Development Agency, Town of Riverhead, County of Suffolk, have compared the foregoing copy with the original now on file in this office and which was duly filed on the 2nd day of May 2001, and that the same is a true and correct transcript of said and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the said Riverhead Community Development Agency, this 2nd day of May 2001.

Andrew Johnson
Secretary/Treasurer of the Community Development Agency

05/01/01

Adopted

TOWN OF RIVERHEAD
Community Development Agency

Resolution 12

AUTHORIZES CHAIRMAN TO EXECUTE RUNWAY USE AGREEMENT WITH
UNITED AERIAL ADVERTISING

Member Councilman Cardinale offered the following resolution, which was seconded by Member Councilman Densieski:

WHEREAS, United Aerial Advertising has requested use of the Calverton Airport for the purpose of banner towing, landing, banner storage and takeoff activities from May 25, 2001 through September 4, 2001; and

WHEREAS the Town of Riverhead will receive \$7,000.00 for the three month period payable upon the execution of the Runway Use Agreement.

THEREFORE, BE IT RESOLVED, that the Town Board authorizes the Chairman to execute the license agreement with United Aerial Advertising upon receipt and approval by the Town Attorney of all applicable permits and approvals, including but not limited to the Federal Aviation Administration, the Suffolk County Health Department and New York State Department of Environmental Conservation, adequate insurance and Buyer's consent.

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

The Vote:

| | |
|----------------------|------------|
| Member Densieski | <u>yes</u> |
| Member Cardinale | <u>yes</u> |
| Member Kent | <u>yes</u> |
| Member Lull | <u>yes</u> |
| Chairman Kozakiewicz | <u>yes</u> |

RUNWAY USE AGREEMENT

This agreement, made and entered into this ____ day of __, 2000, between the Town of Riverhead Community Development Agency ("CDA") and United Aerial Advertising., a New Jersey corporation with offices Allaire Airport, Farmingdale, New Jersey 07727.

W I T N E S S E T H

WHEREAS, the CDA owns two runways and related facilities located at Enterprise Park in Calverton ("EPCAL"), New York, and

WHEREAS, United Aerial Advertising wishes to utilize the eastern runway in connection with the operations of its aerial advertising business, which use is a permitted use pursuant to the Town's Zoning Code (Planned Industrial Park District), and

NOW, THEREFORE, and in consideration of the mutual covenants and agreements herein contained, and subject to the licensee's having obtained use of an on site building to use for the storage of banners, CDA does hereby demise and provide to United Aerial Advertising and United Aerial Advertising hereby take from CDA the right to utilize certain facilities, rights, services and privileges as follows:

1. Term: The term of this Agreement shall be for a period of three (3) months commencing May 25, 2001 and ending September 4, 2001, at which time this Agreement shall terminate, unless sooner terminated as provided for herein.

2. Premises: CDA hereby grants United Aerial Advertising the right to utilize the full length of the eastern runway, as shown on Exhibit annexed hereto, as is necessary to conduct its business for taxiing, take-offs, landings and banner storage. CDA further grants United Aerial Advertising the right to utilize the "tie down" area depicted in Exhibit B annexed hereto for the parking of aircraft. United Aerial Advertising agrees not to utilize the premises for any purposes, other than the purposes identified herein, unless otherwise authorized, in writing, by the CDA and subject to any other licenses or approvals, governmental or otherwise, that may be required.

3. Permitted Aircraft: United Aerial Advertising agrees that it shall utilize only the aircraft listed on Exhibit B hereto without prior express written permission from the CDA

4. License Fee: The License fee to the utilization of the runway and taxiways and tie downs shall be Seven Thousand (\$7,000.00) Dollars, payable upon the execution of this agreement.

5. Ingress and Egress: Subject to any applicable rules and regulations governing the use of the runway, CDA grants United Aerial Advertising the right the full free and unrestricted right of ingress and egress in common with others having such right.

6. Signs and Advertising: No signs shall be placed at the premises, other than on the building licensed to be used by United Aerial Advertising pursuant to the license agreement between United Aerial Advertising and the CDA, without first obtaining permission from the CDA and the necessary permits from the Town of Riverhead.

7. Condition of the Facilities: United Aerial Advertising has examined the subject runway and tie down area listed as Exhibit A hereto. United Aerial Advertising is fully familiar with the condition of the runway and its related facilities and agrees to accept the runway and its related facilities, including, but not limited to runway lighting and painting, in "as is" condition. United Aerial Advertising further agrees to maintain the runway and taxiway in a safe and usable condition, free of debris and other foreign objects.

8. Wildlife. United Aerial Advertising is fully aware of the existence of the large numbers of wildlife, including, but not limited to geese and deer, that freely traverse the runway, taxiways and adjacent areas on the subject property. United Aerial Advertising acknowledges that the existence of the wildlife poses a potential hazard to aircraft utilizing the runway. Notwithstanding the foregoing, United Aerial Advertising agrees that it is responsible for ensuring that any wildlife is cleared from runway, taxiways, and adjacent areas as is necessary to enable it to conduct its business as set forth herein. United Aerial Advertising further agrees that it shall indemnify and hold the Town harmless from any liability arising from the existence of wildlife on the runways as described herein.

9. United Aerial Advertising acknowledges the existence of a runway use agreement between the Town of Riverhead Community Development Agency and Skydive Long Island. United Aerial Advertising agrees to coordinate with Skydive Long Island in the use of the runway to prevent conflicts between the two runway users.

10. United Aerial Advertising hereby acknowledges that the airport is currently unattended and that the CDA does not carry out any of the maintenance or operational functions at the airport.

11. United Aerial Advertising hereby releases, holds harmless and indemnifies the CDA and the Town of Riverhead from any liability arising in connection with the use of the runway, taxiways and related facilities, as set forth in this agreement.

12. Assignment. United Aerial Advertising may not assign, transfer or sub-lease the whole, or any part of this agreement, or the subject properties. Nor will United Aerial Advertising allow the use of its rights and privileges granted hereunder, by any entity, without the prior written permission of the CDA.

13. Successors and Assigns: All the covenants, stipulations and agreements herein shall extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

14. Indemnity and Insurance: United Aerial Advertising shall protect, defend and hold the CDA and the Town of Riverhead completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person, or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorneys fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage is caused by the sole negligence of the CDA or the Town of Riverhead in carrying out its obligations hereunder. The provision of this section shall survive the expiration or early termination of this Agreement.

15. United Aerial Advertising further agrees to carry public liability and automobile liability insurance in an amount not less than \$1,000,000.00 combined single limit covering bodily injury and property damage per occurrence in a company(ies) acceptable to the CDA and the Town of Riverhead, in which policy the CDA and the Town of Riverhead shall be named as additional insureds. United Aerial Advertising shall furnish satisfactory evidence that such insurance is in effect and will not be canceled during the term of this Agreement without thirty (30) days prior written notice of such cancellation to Authority.

IN WITNESS WHEREOF, the parties hereto do hereby execute this License as of the date and year first above written.

Town of Riverhead
Community Development Agency

United Aerial Advertising

By: _____

By: _____

Town of Riverhead Community Development Agency

Resolution # 13

Adopted

Authorizes Chairman to Execute License Agreement with Empire State Development Corporation for Use of a Portion of the Calverton Facility for One Year for the Provision of Small Business Assistance to the East End of Long Island

Member Densieski offered the following resolution,

which was seconded by Member Kent

WHEREAS, Empire State Development Corporation has requested a license agreement for 132 square feet in Guard House, as well as shared uses with the Town of Riverhead of the adjoining conference room for up to one year for the purposes of establishing a regional economic development office ; and

WHEREAS, the Town Board desires to encourage additional jobs and tax revenues for the benefit of eastern Long Island residents; and

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

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

WHEREAS, the licensee will receive use of the space at no consideration, but will be responsible for the cost of utilities and all start-up costs including, but not limited to office equipment, furniture, supplies, copy machine, phone(s) and fax machine, that are anticipated for the Licensee's use of the premises.

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

AND BE IT FURTHER RESOLVED, that the Town Clerk shall provide a certified copy of this resolution to Community Development Agency Director Andrea Lohneiss and Empire State Development Corporation Regional Director Henry Mund.

The Vote:

| | |
|----------------------|------------|
| Member Densieski | <u>YES</u> |
| Member Cardinale | <u>NO</u> |
| Member Kent | <u>NO</u> |
| Member Lull | <u>YES</u> |
| Chairman Kozakiewicz | <u>YES</u> |

The Resolution is ADOPTED.

LICENSE

LICENSE ("License"), made as of the ___ day of May 2001, by and between **THE TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY**, having an address at 200 Howell Avenue, Riverhead, New York 11901, Attention: Andrea Lohneiss ("Licensor"), and **Empire State Development Corporation (ESDC)**, a corporation of the State of New York, having an address at 45 Executive Drive, Plainview, NY, 11803 Attention: Henry Mund, Regional Director ("Licensee").

WITNESSETH:

WHEREAS, Licensor desires to license to Licensee, and Licensee desires to license from Licensor, the right to use approximately 132 square feet in Guard House as depicted on Exhibit A (the "License Premises") located at the property formerly known as the Naval Weapons Industrial Reserve Plant, Department of Defense Number 466, Calverton, New York (the "Calverton Site"), as well as shared use of the adjoining conference room, upon all of the terms and conditions hereinafter set forth;

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

1. **LICENSING**. Upon the terms and conditions hereinafter set forth, Licensor hereby licenses to Licensee, and Licensee hereby Licenses from Licensor, the right to use the License Premises.

2. **TERM OF LICENSE**. The term of this License (the "Term") shall commence on May 15, 2001 (the "License Commencement Date") and shall end on May 15, 2002 (the "Expiration Date") or on such earlier date upon which this License shall expire or be canceled or terminated pursuant to any of the conditions or covenants of this License or pursuant to law. Notwithstanding anything to the contrary contained in this License, Licensor shall have the right, exercisable in its sole discretion, to terminate this License effective immediately upon written notice from Licensor to Licensee, if (i) Licensee shall default under or be in breach, of any of its obligations, representations or warranties hereunder and (ii) such default continues for (x) five days after written notice from Licensor with respect to monetary defaults or (y) thirty days after written notice from Licensor with respect to nonmonetary defaults. If Licensor shall so terminate this License, from and after the termination date neither party hereto shall have any rights or obligations hereunder other than those that, pursuant to the express terms hereof, survive termination of this License; provided that Licensee shall remain liable to Licensor for any default or breach by Licensee that occurred prior to such termination. Furthermore, this License is not, and shall not be construed to be, a lease or a sublease and nothing contained in this License shall be construed as granting to Licensee any interest or right as tenant or subtenant or any other interest or right other than the interest of a Licensee in accordance with the terms and provisions hereof.

3. **CONDITIONS OF LICENSE PREMISES**. Licensee agrees to accept the License Premises "as is," and Licensor shall have no obligation to perform any work or repairs on behalf of Licensee. Licensee acknowledges that no representations with respect to the condition of the License Premises, or with respect to any improvement or fixtures thereon or attached thereto,

have been made to it. Licensee acknowledges responsibility for the cost and all start-up costs including, but not limited to office equipment, furniture, supplies, copy machine, phone(s) and fax machine, that are anticipated for the Licensee's use of the premises. Said costs shall be borne by the Licensee. Subsequent to sale of the premises, Licensee shall be responsible for trash collection, cleaning and all utilities.

4. LICENSE FEE. There shall be no license fee.

5. SECURITY DEPOSIT. There shall be no security deposit.

6. USE; COVENANTS. (a) Licensee shall use the License Premises only for the purpose of establishing a regional economic development office from May 15, 2001 through May 15, 2002, to prepare the premises for the same and to clean and restore the License Premises, in each case, in accordance with, and subject to, the terms and provisions of this License.

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

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

(d) Licensee shall be liable for any loss of, or damage to, the Calverton Site incurred in connection with the use and shall make such restoration or repair, or monetary compensation as may be directed by Licensor. Licensee shall maintain, at a minimum, the types and amounts of insurance evidenced by the certificates attached hereto as Exhibit B. Licensee agrees that not less than thirty (30) days prior to the expiration of any insurance required by this License, it will deliver to Licensor's local representative a certificate of insurance or a certified copy of each renewal policy to cover the same risks. Each policy of insurance required hereunder shall name Licensor and Grubb & Ellis Management Services, Inc. as additional insureds. In the event that any item or part of the Calverton Site shall require repair, rebuilding or replacement resulting from loss or damage, the risk of which is assumed under this Section 6, Licensee shall promptly give notice thereof to Licensor and shall, upon demand, either compensate Licensor for such loss or damage, or rebuild, replace or repair the item or items of the Calverton Site so lost or damaged, as Licensor may elect. In the event Licensee shall not have been required to effect such repair, rebuilding, or replacement, and the insurance proceeds allocable to the loss or damage which has created the need for such repair, rebuilding or replacement have been paid to Licensee, Licensee shall promptly refund to Licensor the amount of such proceeds.

(e) Without limiting the generality of any other provision of this Agreement, Licensee hereby covenants and agrees that (i) at all times during the Term, adequate private supervision shall be present at the Calverton Site to protect persons and property at the Calverton Site and (ii) Licensee shall provide ample vehicles, personnel, equipment and containers to clean the License Premises and insure that the same is restored to as good condition, subject to reasonable wear and tear, on the Expiration Date as it was in on the License Commencement Date.

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

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

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

(b) Except as provided in Paragraph 2 and in the immediately following sentence, in the event of a breach by Licensee hereunder, Licensor shall be limited to an action at law for damages. Notwithstanding the foregoing, in the event that Licensee holds over after the expiration of the Term, (i) Licensee shall be obligated to pay Licensor an amount equal to \$250 per diem for each day of the holdover term and (ii) Licensor shall have all of the rights and remedies available to it at law or in equity, including, without limitation, the right to exercise self help and to dispossess Licensee of the License Premises, change the locks on the License Premises, deny Licensee access to the License Premises and take possession of or dispose of any property at the License Premises, all at the cost and expense of Licensee. Except as provided in Paragraph 2, in no event shall Licensor have the right to enjoin the development, production, distribution or exploitation of the event hereunder.

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

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

(c) This indemnification on the part of the Licensee shall include the Town of Riverhead, the Town of Riverhead Community Development Agency, Grubb & Ellis and all and any of its agents.

10. **BROKERS**. Licensee represents that it has not dealt with any broker or finder with respect to this License. Licensee agrees to indemnify and hold Licensor harmless from and against any and all loss, liability, damage, cost and expense (including, but not limited to, court costs and reasonable attorneys' fees and expenses) which Licensor may incur or sustain in connection with any claim or action by any broker or finder that may be asserted against Licensor as a result of any conversations, correspondence or other dealings between Licensee and such broker or finder.

11. **NOTICES**. Any notices to be given under this License shall be in writing and shall be sent by registered or certified mail, return receipt requested. If such notice is directed to Licensee, it shall be addressed to Licensee at 45 Executive Drive, Plainview, NY, Attention: Henry Mund, Regional Director, and if such notice is directed to Licensor, it shall be addressed to Licensor at 200 Howell Avenue, Riverhead, New York 11901, Attention: Andrea Lohneiss. Either party may, by notice in writing, direct that future notices be sent to a different address and to the attention of such other people as either Licensor or Licensee shall designate.

12. **HAZARDOUS SUBSTANCES**. (a) Generally. Licensee shall not generate, store, manufacture, refine, transport, treat, dispose of, or otherwise permit to be present on or about the License Premises, any Hazardous Substances (other than Hazardous Substances (x) customarily used in events such as the Event and (y) used, stored, transported, and disposed of in strict compliance with applicable law). As used herein, the term "Hazardous Substances" shall mean any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any materials containing asbestos, or any other hazardous or toxic substance or material as defined by any Federal, State or local environmental law, rule or regulation, including, without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, the Toxic Substances Control Act, as amended from time to time, the Hazardous Materials Transportation Act, as amended from time to time, and the regulations adopted and the publications promulgated pursuant to each of the foregoing.

(b) Indemnification. Licensee shall indemnify and hold harmless Licensor from and against any and all liabilities, damages, claims, losses, penalties, judgments, causes of action, costs and expenses (including, without limitation, court costs and the reasonable fees and expenses of counsel) which may be incurred by Licensor directly arising out of any breach by Licensee of the obligations imposed upon it under this Section 12. The foregoing indemnity shall survive the expiration or sooner termination of this License.

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

(b) Successors and Assigns. This License shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. The term

"Licensor," as used in this License, shall mean only the owner from time to time of the License Premises, so that in the event of any transfer or assignment of the License Premises, the transferor or assignor shall be and hereby is entirely freed and relieved of all covenants, obligations and liability of Licensor under this License, and it shall be deemed, without further agreement, that the transferee or assignee has assumed and agreed to perform and observe all obligations of Licensor under this License during the period that such transferee or assignee is the owner of the interest of License Premises.

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

(d) Neither Licensor nor any tenant, nor other party now or hereafter having an interest in the Calverton Site, shall have any right of action based upon invasion of privacy, publicity, defamation, or other civil rights, in connection with the exercise of the permission and/or rights herein granted.

IN WITNESS WHEREOF, Licensor and Licensee do hereby execute this License as of the date and year first above written.

LICENSOR:

**THE TOWN OF RIVERHEAD COMMUNITY
DEVELOPMENT AGENCY**

By: _____
Name:
Title:

LICENSEE:

**EMPIRE STATE DEVELOPMENT
CORPORATION**

By: _____
Name:
Title:

EXHIBIT A

132 Square Feet

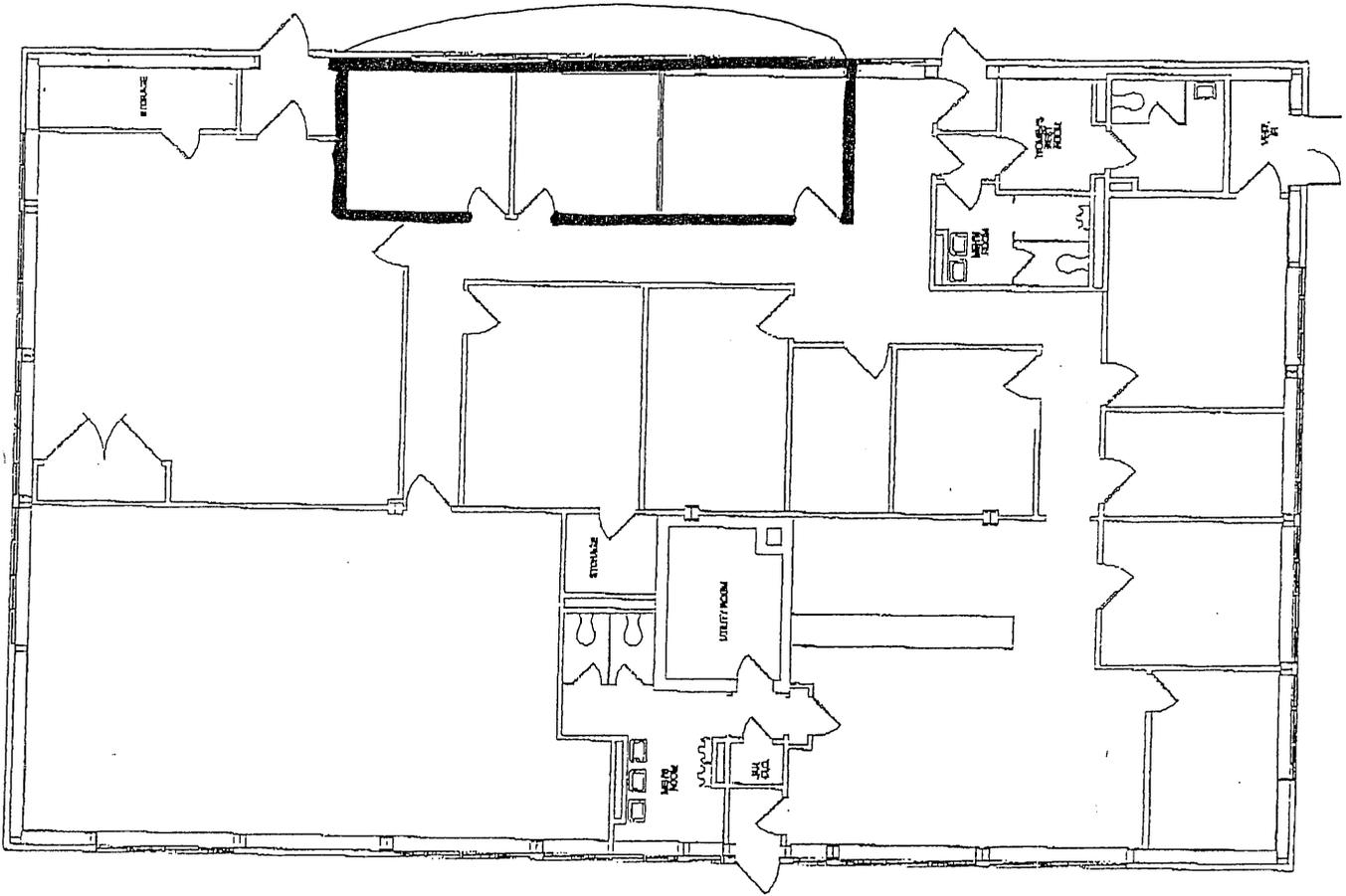


EXHIBIT B

Insurance Certificates:

Liability – minimum \$1 million per occurrence

Fire Damage legal - \$100,000 minimum

Auto liability – minimum \$1 million per occurrence

Building contents – as desired

Worker's compensation – as required by law

Note: The conditions of Paragraph 7 (d) regarding additional insureds, 30 day notification etc.. must be complied with and reflected in the Certificate of Insurance provided by the Licensee prior to execution of the License.