

RESOLUTION NO. 6

At a regular meeting of the Members of the Town of Riverhead Community Development Agency, Suffolk County, New York, held at the Town Hall, 200 Howell Avenue, in Riverhead, new York, in said Town, on October 15, 1996, at 1 o'clock p .M., Prevailing Time.

The meeting was called to order by James R. Stark, Chairman, and upon roll being called, the following were

PRESENT: Chairman-James R. Stark
 Member-Victor Prusinowski
 Member-Mark Kwasna
 Member-James Lull
 Member-Otto Wittmeier

ABSENT:

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

RESOLUTION NO. 6

A RESOLUTION DECLARING AN EVENT OF DEFAULT AND AUTHORIZING THE CHAIRMAN TO ISSUE WRITTEN DEMAND TO CURE UNDER AGREEMENT OF LEASE BETWEEN THE TOWN OF RIVERHEAD COMMUNITY DEVELOPMENT AGENCY AND OKEANOS OCEAN RESEARCH FOUNDATION, INC., DATED AS OF MARCH 27, 1995 REGARDING THE PREMISES LOCATED ON EAST MAIN STREET, RIVERHEAD.

WHEREAS, by Agreement of Lease dated as of March 27, 1995 (the "Lease") between the Town of Riverhead Community Development Agency (the "Agency") and the Okeanos Ocean Research Foundation, Inc. ("Okeanos"), the Agency acquired certain land located on East Main Street, Riverhead, described in the Lease as the "Land" (the "Land"), together with the buildings located thereon and renovated such buildings to create a marine mammal/marine vertebrate/sea turtle rescue, rehabilitation and education center and a public exhibition hall, including equipment, machinery, apparatus, appurtenances and incidental improvements in connection therewith (the "Facility"), paid in excess of \$1,700,000 to purchase the land and provide the Facility and leased the Land and the Facility to Okeanos for a term of twenty-five years (the "Term"); and

WHEREAS, pursuant to Section 3.01 of the Lease, Okeanos agreed to pay to the Agency a monthly installment of rent, in advance, on the first day of each month during the Term from and after September 1, 1995 ("Basic Rent") and agreed to pay, pursuant to Section 3.02 of the Lease, to the Agency certain additional amounts ("Additional Rent"); and

WHEREAS, Okeanos has failed to pay Rent aggregating \$ 122,052.00 and has failed to pay Additional Rent aggregating \$ 15,863.04 and has failed to pay a late charge

thereon as provided in Article 6 of the Lease aggregating \$ 11,014.40 ; and

WHEREAS, pursuant to Section 24.01 of the Lease Okeanos' failure to pay Rent and Additional Rent as hereinabove described, together with a late charge as provided in Article 6 of the Lease, is an "Event of Default" under the Lease (an "Event of Default"); and

WHEREAS, pursuant to Section 24.03 of the Lease if an Event of Default shall occur the Agency may, at any time thereafter, give notice to Okeanos stating that the Lease and the Term shall expire and terminate on the date specified in said notice, which date shall be not less than ten days after the giving of such notice, if Okeanos shall fail to cure the Event of Default; and

WHEREAS, the Agency has tried to assist Okeanos in its activities and has delayed exercising its remedies under the Lease to provide Okeanos every reasonable opportunity to be successful in its stated mission and in raising moneys to meet its obligations under the Lease; and

WHEREAS, it has now become apparent that Okeanos will not be successful in its stated mission and in raising moneys to meet its obligations under the Lease.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. That for reasons stated above, and pursuant to Article 24 of the Lease, the Agency does hereby declare that Okeanos' failure to comply with the terms and conditions and to carry out its obligations under the Lease, and, specifically, failure to pay Rent required to be paid pursuant to Section 3.01

of the Lease, failure to pay Additional Rent required to be paid pursuant to Section 3.02 of the Lease and failure to pay a late charge thereon pursuant to Article 6 of the Lease constitutes and Event of Default pursuant to Section 24.01 of the Lease.

Section 2. That the Chairman be, and he hereby is, authorized and directed to give immediate written notice of the Event of Default to Okeanos and to (i) demand that the Event of Default be cured no later than October 31, 1996 by paying to the Agency the aggregate sum of \$ 148,929.44, including a late charge as specified in Article 6 of the Lease, and (ii) notifying Okeanos that if such aggregate sum is not received by the Agency no later than October 31, 1996 than the Lease and the Term and all rights of Okeanos under the Lease shall expire and terminate on November 1, 1996, that (iii) if such payment shall not be so made by Okeanos and received by the Agency, Okeanos shall then immediately quit and surrender the Land and the Facility and that (iv) if such payment shall not be so made by Okeanos and received by the Agency the provisions of Article 30 of the Lease shall apply.

Section 3. In the event Okeanos fails to pay to the Agency the sum stated in Section 2 hereof by the date therein specified, the Lease and the Term and all rights of Okeanos under the Lease shall expire and terminate on November 1, 1996.

Section 4. This resolution shall take effect immediately.

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

I, the undersigned Secretary of the Town of Riverhead Community Development Agency, 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 October 15, 1996, 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

SUFFOLK COUNTY LIFE

October 18, 1996

(Taken by Joey Mariano from
Community Development)

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 Clerk's Bulletin Board

October 18, 1996

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency on October 18, 1996.

Secretary

(CORPORATE
SEAL)