

At a meeting of the Town of Riverhead Industrial Development Agency, Suffolk County, New York, held at the Town Hall, 200 Howell Avenue, Riverhead, New York, on the 24th day of February, 2010 at 10:30 A.M., Prevailing Time, the following Members of the Agency were:

PRESENT: Kathleen Wojciechowski

Angela DeVito

Lou Kalogeras

Paul Thompson

ABSENT: Hank Boerner

Sean McCabe

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the provision of financial assistance to Atlantis Holding Company, LLC. .

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

<u>AYE</u>	<u>NAY</u>
Wojciechowski	
DeVito	
Kalogeras	
Thompson	

A RESOLUTION DETERMINING THE ATLANTIS MARINE WORLD PROJECT TO BE A PROJECT, APPROVING THE PROVIDING OF FINANCIAL ASSISTANCE TO ATLANTIS HOLDING COMPANY, LLC, AND THE APPROVAL AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, Atlantis Holding Company, LLC, a New York limited liability company qualified to do business in the State of New York ("Atlantis") has made application (the "Application") to the Town of Riverhead Industrial Development Agency, a public benefit corporation and an industrial development agency of the State of New York (the "Agency"), for financial assistance, as hereinafter defined, with respect to (1) the acquisition from the Town of Riverhead Community Development Agency of four parcels of land consisting of approximately 6.1728 acres and located on 431 East Main Street, Riverhead, together with the buildings located thereon, and (ii) the construction and equipping of a new addition to an existing building at 431 Main Street, Riverhead, presently owned by Atlantis, for use as additional exhibit, banquet and conference center space, and construction and equipping of a new building for use as a hotel, and incidental expenses in connection therewith, at an aggregate cost, including costs associated with the financing thereof, estimated to be \$24,323,000 (the "Project") ; and

WHEREAS, the Project, as proposed, will constitute facilities or property primarily used in making retail sales to customers who personally visit such facilities constituting more than one-third of the total Project cost; and

WHEREAS, the Project is located in an area previously determined by the Town Board of the Town of Riverhead (the "Town") to be a highly distressed area and, accordingly, pursuant to Section 862(2)(b) of the General Municipal Law, financial assistance may be provided by the Agency to Atlantis for the Project; and

WHEREAS, the Town has acted as "lead agency," in accordance with the provisions of the State Environmental Quality Review Act ("SEQRA"), with respect to the Project and has

issued a “negative declaration” in accordance with SEQRA with respect to the Project. The Agency has acted as “lead agency,” in accordance with the provisions of SEQRA, with respect to the Agency’s providing financial assistance to Atlantis for the Project and has determined that the providing of financial assistance to Atlantis for the Project, as proposed, will have no significant effect on the environment; and

WHEREAS, by resolution duly adopted by the Members of the Agency on November 9, 2009 (the “Resolution”), the Agency ratified the calling of a public hearing with respect to the providing of financial assistance by the Agency to Atlantis for the Project (the “Public Hearing”), the Public Hearing being noticed as required by law and having been held on November 9, 2009, at 5:15 P.M., Prevailing Time, at the Town Hall, 200 Howell Avenue, in Riverhead, New York; and

WHEREAS, at the Public Hearing all interested parties were provided with reasonable opportunity, both orally and in writing, to present their views with respect to the Project and the providing of financial assistance therefor, as set forth in the notice of the Public Hearing, in the Resolution and in Section 2 of this resolution; NOW, THEREFORE, BE IT

RESOLVED, by the Members of the Town of Riverhead Industrial Development Agency, Suffolk County, New York, as follows:

Section 1. The Agency, based upon its review of the Application and information provided at and with respect to the Public Hearing, hereby determines (i) that the Project will promote the health, general prosperity and the economic welfare of the inhabitants of the Town and serves a public purpose as set forth in Article 18-A of the General Municipal Law, and (ii) is a “project” as defined in Section 854(4) of the General Municipal Law.

Section 2. Subject to the execution of transaction documents as provided in Section 8 hereof, the provision of financial assistance to Atlantis through the provision of an exemption from Mortgage Recording Taxes, the provision of an exemption from Sales and Compensating Use Taxes on certain property, including tangible personal property, and a partial abatement of real property taxes through a Payment-in-Lieu of Tax Agreement requiring payments in an amount less than that which would otherwise be required to be paid as real property taxes ("Financial Assistance"), is hereby approved.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) execute Amendment No. 1 to the Sale Agreement, dated February 26, 2010, between the Agency and Atlantis (the "Amendment to Sale Agreement"); (ii) execute a payment-in-lieu of taxes agreement, dated February 26, 2010, with Atlantis with respect to the Project (the "PILOT Agreement"), (iii) accept a guaranty of Atlantis's obligations under the Sale Agreement, dated as amended by the Amendment to Sale Agreement (as amended, the "Sale Agreement"), from Atlantis and others (the "Guaranty"), and (iv) do all other things necessary in connection with the execution and delivery of the Transaction Documents (as hereinafter defined).

Section 4. The Agency is hereby authorized to accomplish the transaction described in this resolution, and to do all things necessary or appropriate for the accomplishment thereof and all acts heretofore taken by the Agency with respect to such transaction are hereby approved.

Section 5. The form and substance of the Amendment to Sale Agreement (in substantially the form presented to this meeting), are hereby approved.

Section 6. The form and substance of the PILOT Agreement (in substantially the form provided to this meeting) are hereby approved. The parcel covered by this PILOT described in the attached Exhibit A is an assemblage of four parcels. Parcel SCTM # 600-129-4-

21.1 is currently improved with a marina and restaurant with an assessed valuation of three hundred thirty-nine thousand five hundred dollars (\$339,500). Parcel SCTM # 600-129-4-21.2 is vacant land which has an assessed valuation of forty thousand dollars (\$40,000) as stated in correspondence dated November 2, 2009 from the Board of Assessors. Parcel SCTM # 600-129-4-20 is vacant land which has an assessed valuation of fifty thousand dollars (\$50,000) as stated in the November correspondence. Parcel SCTM # 600-129-4-19.1 is improved with an aquarium which has an assessed valuation of two million six hundred seventeen thousand dollars (\$2,617,000). The PILOT payment will be based upon the total of these valuations of three million forty-six thousand dollars (\$3,046,000) unless the construction of the Aquarium expansion, hotel, banquet and conference center (Facility) as set forth in the proceedings approved by resolutions of the Agency adopted December 7, 2009 and February 24, 2010 has commenced. Commencement is defined as the date on which the loan and equity necessary for construction of the facility has been fully funded and available and a valid and subsisting building permit for the Facility has been issued by the Riverhead Town Building Department. If the Commencement Date is prior to December 15, 2010 the PILOT payment for the 2010-2011 and subsequent 9 tax years shall be calculated on an Alternate assessed valuation of six hundred forty-five thousand four hundred dollars (\$645,400). This Alternate valuation reflects the full value of parcel 21.1 three hundred thirty-nine thousand five hundred dollars (\$339,500) the vacant land values of parcels 21.2 and 20 ninety thousand (\$90,000) and valuation of the Aquarium as determined by method set forth in the Payment in Lieu of Tax Agreement dated as of July 1, 1999 between the Riverhead Industrial Development Agency and Atlantis Holding Company, LLC two hundred fifteen thousand nine hundred dollars (\$215,900). It shall be the

obligation of Atlantis to certify the Commencement in writing delivered to the Agency prior to December 15, 2010.

Section 7. The form and substance of the Guaranty (in substantially the form presented to this meeting) are hereby approved.

Section 8.

- (a) The Chairman or the Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Amendment to Sale Agreement and the PILOT Agreement and to accept the Guaranty (hereinafter collectively called the "Transaction Documents") and the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman or the Vice Chairman shall approve. The execution thereof by the Chairman or the Vice Chairman shall constitute conclusive evidence of such approval.
- (b) The Chairman or the Vice Chairman are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representative of the Agency (as defined in and pursuant to the Sale Agreement).

Section 9. The members, officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents, and to execute and deliver all such additional certificates, agreements, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary, or in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of

the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Transaction Documents binding upon the Agency.

Section 10. A copy of this resolution, together with the attachments thereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during regular business hours.

Section 11. This resolution shall take effect immediately.

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

I, the undersigned Secretary of the Town of Riverhead Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Agency, including the resolution contained therein, held on the 24th day of February, 2010, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to and such resolution has not been amended, modified or rescinded and is in full force and effect on the date hereof.

I FURTHER CERTIFY (i) all members of the Agency had due notice of said meeting (ii) pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that notice of the time and place of said meeting was duly given in accordance with such Section 103, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunder set my hand and affixed the seal of the Agency as of the 12th day of September, 2010.

Secretary

(SEAL)