COUNTY OF SUFFOLK

OFFICE OF THE COUNTY EXECUTIVE

Steve Levy
COUNTY EXECUTIVE

February 17, 2011

Presiding Officer William J. Lindsay and
Members of the Suffolk County Legislature
William H. Rogers Legislative Building
725 Veterans Memorial Highway
Smithtown, New York 11787

RE: RESOLUTION NO. 36 – 2011, AUTHORIZING THE COUNTY EXECUTIVE TO ENTER INTO AN AGREEMENT WITH HERITAGE-RIVERHEAD RETAIL DEVELOPERS, LLC AND ACCEPTING A PAYMENT OF MONEY IN LIEU OF PERFORMANCE OF CERTAIN MITIGATION MEASURES, CONSTRUCTED UNDER CAPITAL PROJECT 5529, OLD COUNTRY ROAD, RIVERHEAD, AND AMENDING THE 2011 CAPITAL BUDGET AND PROGRAM AND APPROPRIATING FUNDS IN CONNECTION WITH THE RECONSTRUCTION OF CR 58, OLD COUNTRY ROAD, RIVERHEAD (CP 5529).

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein **RESOLUTION NO. 36 – 2011; AUTHORIZING THE COUNTY EXECUTIVE TO ENTER INTO AN AGREEMENT WITH HERITAGE-RIVERHEAD RETAIL DEVELOPERS, LLC AND ACCEPTING A PAYMENT OF MONEY IN LIEU OF PERFORMANCE OF CERTAIN MITIGATION MEASURES, CONSTRUCTED UNDER CAPITAL PROJECT 5529, OLD COUNTRY ROAD, RIVERHEAD, AND AMENDING THE 2011 CAPITAL BUDGET AND PROGRAM AND APPROPRIATING FUNDS IN CONNECTION WITH THE RECONSTRUCTION OF CR 58, OLD COUNTRY ROAD, RIVERHEAD (CP 5529);** vetoed in its entirety.

First and foremost, as was explained by the County Attorney's office on the evening this resolution was passed, it is the strong legal opinion of our bond counsel that the mitigation payment can only be used to retire the debt on the project, and not rolled into a new project.

It is important to realize that 2011 Operating Budget, as adopted by the Legislature, reflects the receipt of this $1.9 million and allocates that money towards retiring debt, as

LOCATION:
H. LEE DENNISON BUILDING, 12th FLOOR
100 VETERANS MEMORIAL HIGHWAY

MAILING ADDRESS:
P.O. BOX 6100
HAUPPAUGE, NY 11788-0099

OFFICE (631) 853-4000
FAX (631) 853-4818

required by law. If this veto is not sustained, the Legislature will have created a $1.9 million hole in our budget.

Furthermore, the sponsor of this resolution misrepresented the facts and the history of the CR58 project.

The expansion of County Road 58 – the gateway to the North Fork – had been in the pipeline for over a decade but did not move forward because of the lack of federal funds for the nearly $70 million project. Rather than wait for federal funds that were unlikely to come, my administration took the same innovative approach we did on CR 39. We designed the project totally within the county right-of-way, greatly reducing the price by eliminating land acquisition costs, and negating the need for federal aid.

Just as we did with CR39, we reduced the CR58 project from a $70 million job down to $12 million – while still providing two lanes in each direction and a center turning lane.

While it is true that the original plans a decade ago proposed widening up to Route 25, that was only applicable when it was assumed we would receive federal aid. It was never – never – represented in the revised design for CR58 that the project would go all the way to Route 25. It was clearly and consistently stated that the work would go from the Long Island Expressway, through the Roanoke Avenue circle, and up to Ostrander Avenue.

If a legislator now wishes to propose an expansion to this already-successful project, he or she is very welcome to identify a capital program offset or propose raising our debt through further bonding. However the resolution as adopted would only further exacerbate our operating budget with a $1.9 million hole by utilizing the mitigation payment in an unallowable manner.

For these reasons, I strongly urge the Legislature to sustain my veto of this resolution.

Sincerely,

Steve Levy
County Executive of Suffolk County

cc: All Suffolk County Legislators
Tim Laube, Clerk of the Legislature
Christine Malafi, Esq., Suffolk County Attorney
Lynne A. Bizzarro, Esq., Chief Deputy County Attorney
Christopher Kent, Chief Deputy County Executive
Edward Dumas, Chief Deputy County Executive
Connie Corso, Deputy County Executive for Finance and Management

Ken Crannell, Deputy County Executive
Eric Kopp, Assistant Deputy County Executive
Eric Naughton, Budget Director
Dan Aug, Director of Communications
Mark Smith, Deputy Director of Communications

Intro. Res. No. 1000-2011 Laid on Table 1/3/2011
Introduced by Legislators Romaine and Schneiderman

RESOLUTION NO. 36 -2011, AUTHORIZING THE COUNTY EXECUTIVE TO ENTER INTO AN AGREEMENT WITH HERITAGE-RIVERHEAD RETAIL DEVELOPERS, LLC AND ACCEPTING A PAYMENT OF MONEY IN LIEU OF PERFORMANCE OF CERTAIN MITIGATION MEASURES, CONSTRUCTED UNDER CAPITAL PROJECT 5529, OLD COUNTRY ROAD, RIVERHEAD, AND AMENDING THE 2011 CAPITAL BUDGET AND PROGRAM AND APPROPRIATING FUNDS IN CONNECTION WITH THE RECONSTRUCTION OF CR 58, OLD COUNTRY ROAD, RIVERHEAD (CP 5529)

WHEREAS, the Heritage-Riverhead Retail Developer, LLC (Owner) of premises constituting approximately 42.05 acres in the Town of Riverhead, County of Suffolk, desires to construct a retail shopping center at the site; and

WHEREAS, the County and the Owner have identified mitigation measures to be performed by the Owner; and

WHEREAS, the mitigation measures that Owner would have performed have been made by the County under Capital Project No. 5529, CR 58, Old Country Road, Riverhead; and

WHEREAS, these measures were performed by the County in order to expedite the necessary work along CR 58, Old Country Road, Riverhead; and

WHEREAS, the County and the owner have agreed to a payment of cash in lieu of the performance of certain mitigation measures; and

WHEREAS, Resolution No. 1421-2007 appropriated $4,500,000 ($500,000 for engineering and design and $4,000,000 for construction) under Capital Project No. 5529 for the "Reconstruction of CR 58 Old Country Road from Ostrander Avenue to a point approximately 700 feet west of the existing Traffic Circle," Riverhead, (Phase I); and

WHEREAS, Resolution No. 1072-2008 appropriated $8,150,000 ($150,000 for engineering and design and $8,000,000 for construction) under Capital Project No. 5529 for the "Reconstruction of CR 58, Old Country Road, Town of Riverhead, Phase II"; and

WHEREAS, the combined amount of $12,650,000 appropriated for Capital Project No. 5529 is one hundred percent (100%) funded with County General Obligation Serial Bonds; and

WHEREAS, the Owner has agreed to make a payment of cash in lieu of performance of certain mitigation measures in the amount of $1,955,720 to the County for work that has already been done under Capital Project No. 5529, Old Country Road, Riverhead; and

WHEREAS, this amount of $1,955,720 can be accepted and used for construction for Capital Project No. 5529, Reconstruction of CR 58 Old Country Road, Riverhead; and

WHEREAS, Resolution No. 471-1994, as revised by Resolution No. 571-1998, Resolution No. 209-2000 and Resolution No. 461-2006 established the use of a priority ranking system, implemented in the Adopted 2011 Capital Budget, as the basis for funding capital projects such as this project; now, therefore be it

1st **RESOLVED**, that Suffolk County accepts the amount of $1,955,720 from the Owner in lieu of any obligation of the Owner to perform any improvements relating to CR 58, Old Country Road, Riverhead, necessitated as a result of the construction and operation of the facility as per the agreement/memorandum of understanding, attached hereto and hereby made a part of this resolution as Exhibit "A"; and be it further

2nd **RESOLVED**, that the County Treasurer and the County Comptroller are hereby authorized to accept payment in the amount of $1,955,720 in connection with the Capital Project No. 5529 and in accordance with Exhibit "A"; and be it further

3rd **RESOLVED**, that the payment made to the County in the amount of $1,955,720 be accepted and used for construction for Capital Project No. 5529, Reconstruction of CR 58, Old Country Road, Riverhead; and be it further

4th **RESOLVED**, that the County Executive or designee is hereby authorized and directed to execute an agreement/memorandum of understanding, in substantial conformance with the form attached as Exhibit "A", on behalf of the County of Suffolk; and be it further

5th **RESOLVED**, that it is hereby determined that this project, with a priority ranking of 51 is eligible for approval in accordance with the provisions of Resolution No. 471-1994 as revised by Resolution 571-1998, Resolution No. 209-2000 and Resolution No. 461-2006; and be it further

6th **RESOLVED**, that the 2011 Capital Budget and Program be and is hereby amended as follows:

Project Number: 5529
Project Title: Reconstruction of CR 58,Old Country Road, Town of Riverhead

Cost Elements	Total Est'd Cost	Current 2011 Capital Budget & Program	Revised 2011 Capital Budget & Program
3. Construction	$11,057,720	$0	$1,955,720(O)
TOTAL	$24,732,720	$0	$1,955,720

7th **RESOLVED**, that the proceeds of $1,955,720 in impact fees be and they hereby are appropriated as follows:

Project Number	JC	Project Title	Amount
525-CAP-5529.312	50	Reconstruction of CR 58,Old Country Road, Town of Riverhead	$1,955,720

and be it further

8th **RESOLVED**, that the County Comptroller and the County Treasurer are hereby authorized and empowered to take all steps necessary and appropriate to effectuate the transfer of this funding forthwith; and be it further

9th **RESOLVED**, that this Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), Environmental Conservation Law Article 8, hereby finds and determines that this law constitutes a Type II action, pursuant to Section 617.5 (C) (20) and (27) of Title 6 of New York Code of Rules and Regulations ("NYCRR"), in that the resolution implements a program for which SEQRA review was previously completed and, therefore, the resolution constitutes routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment; since this resolution is a Type II action, the Legislature has no further responsibilities under SEQRA.

DATED: February 1, 2011

APPROVED BY:

VETOED

County Executive of Suffolk County

Date: FEB 17 2011

0004133

AGREEMENT

FOR THE PAYMENT OF MONEY

IN LIEU OF PERFORMANCE OF

MITIGATION MEASURES

– between –

HERITAGE-RIVERHEAD RETAIL DEVELOPERS, LLC (as OWNER)

– and –

COUNTY OF SUFFOLK

Dated: December 14, 2009

This Agreement for the Payment of Money in Lieu of Performance of Mitigation Measures (this "Agreement") is made as of this __14_ day of _December_____, 2009, by, between and among HERITAGE-RIVERHEAD RETAIL DEVELOPERS, LLC, a limited liability company duly organized under, and existing by virtue of, the laws of the State of Delaware, with an address at c/o Developers Realty Corporation, Corporate Center West, 433 South Main Street, Suite 310, West Hartford, Connecticut 06110, hereinafter referred to as the "OWNER," and

COUNTY OF SUFFOLK ("COUNTY"), a municipal corporation of the State of New York, having its principal office at the County Center Riverhead, New York 11901, acting through its duly constituted Department of Public Works, ("DPW"), located at 335 Yaphank Avenue, Yaphank, New York 11980-9744.

W I T N E S S E T H :

WHEREAS, OWNER is the owner of approximately 42.05 acres of property with access to County Road 58, hereinafter referred to as CR 58, in the Town of Riverhead, County of Suffolk, and further identified as SCTM# 0600-10100-0100-003000 and #0600-11900-0000-00600, attached hereto and made a part hereof; and

WHEREAS, OWNER desires to construct building space and related facilities, improvements, and permanent installations for a retail shopping center at the property (such property, building space and related facilities, improvements and permanent installations hereinafter referred to as the "Premises"); and

WHEREAS, if the Premises is constructed, pursuant to applicable law, the OWNER is required to either (i) make improvements to certain of the county roads of the County of Suffolk (the "County Roads"), in order to mitigate the impacts that the construction and operation of the Premises will have on the County Roads (all required improvements of any kind to the County Roads, the widening, reconfiguring, or improving of any County Road, the installing and modifying of traffic signals, lights, signs or road striping or markings relating to any County Road, and intersection improvements relating to any County Road, being herein collectively referred to as the "Improvements"), or (ii) in lieu of performing the Improvements, pay to the COUNTY a sum of money sufficient to reimburse the COUNTY for the cost of the COUNTY's performance of the Improvements, which sum the COUNTY and the OWNER have agreed is in the amount of Two Million One Hundred Thousand ($2,100,000.00) Dollars; and

WHEREAS, the COUNTY and the OWNER desire that the OWNER remit to the COUNTY the Payment instead of the OWNER performing the Improvements;

NOW THEREFORE, in consideration of the individual mutual covenants, promises and representations herein contained, the Parties hereto due hereby agree as follows:

1. **Whereas Clauses**

The "Whereas" clauses are an integral part of this Agreement and shall have meaning and effect as though they were set forth at length in numbered paragraphs herein.

2. **Obligation of OWNER**

OWNER agrees to prepare and complete the design and construction documents ("Design") for the Improvements described in Schedule A, attached hereto and made a part hereof. In furtherance of such preparation, the Owner and its contractor(s) shall coordinate the Design with DPW and their consultant bi-weekly or as otherwise required by DPW until the completed Design is approved by DPW.

3. **In Lieu Payment**

The OWNER and the COUNTY hereby agree that the cost of designing and performing any and all Improvements to be performed by the OWNER with respect to any County Roads, as may be required by any applicable law, rule, or regulation, is in the amount of Two Million One Hundred Thousand ($2,100,000.00) Dollars (the "Mitigation Amount"). The OWNER and the COUNTY hereby agree that the OWNER shall pay the Mitigation Amount to the COUNTY as provided for herein, in lieu of any obligation of the OWNER to perform any Improvements, as described in Schedule A, relating to any County Road necessitated as a result of the construction or operation of the Premises. The OWNER shall pay directly to the COUNTY an amount (the "Direct Payment Amount") equal to Two Million One Hundred Thousand ($2,100,000.00) Dollars less ($144,280.00) design cost incurred by OWNER to third parties for the Design and Construction Documents (the "Design Costs"). Provided that the OWNER remits the Direct Payment Amount to the COUNTY as provided for herein, the OWNER shall have no obligation to perform any Improvements necessitated by the construction or operation of the Premises. The Direct Payment Amount less ($144,280.00) design cost, shall be paid in full by the OWNER to the Suffolk County Department of Public Works, at such place designated by the County

by the County within [redacted]) days after (i) receipt of the requisite building permits to commence construction of the Premises ("Permits") and (ii) all requisite and applicable appeal periods having expired with no appeals having been taken by any third party. For purposes of this Agreement, the definition of permits shall include any and all Federal, State, County and local permits and approvals necessary for OWNER to begin construction of the Project.

4. **Failure to Obtain Permits**

Upon COUNTY's receipt of the approved Design, the COUNTY will commence planning for the construction of the Improvements, as detailed in the Design, the attachments, and the exhibits to this Agreement for incorporation in Capital Project 5529 (the "Project"). In the event that the Permits to build the Premises are not obtained within a reasonable time and, in the sole reasonable opinion of the COUNTY, Owner is not diligently pursuing the issuance of the requisite Permits, then the COUNTY shall have the right to terminate this Agreement. In the event that the Permits to build the Premises are obtained and Payment received by the COUNTY, once the COUNTY has let the Project, and provided the Improvements are part of the Project that is let, no refund of the Payment will be made to the OWNER from the COUNTY, regardless of whether construction of the Premises is delayed and/or cancelled.

5. **Completion of Mitigation Measures**

The COUNTY anticipates commencement of the Project in the fall of 2009 with all of the Improvements completed on or about June 2010. Upon the completion of the Improvements, this Agreement shall be deemed satisfied.

6. **Modification**

This Agreement may not be modified or repealed without the prior written consent of both the OWNER and the COUNTY.

7. **OWNER's Representation**

OWNER covenants, warrants and represents that OWNER's entry into, and execution of this Agreement was duly considered and authorized by its organizational body/bodies and pursuant to its/their by-laws and/or internal procedures to sign this Agreement. OWNER further covenants, warrants and represents that this Agreement is signed with the corporate name, followed by the signature and title of an officer or other authorized person signing this Agreement on behalf of the

OWNER. A copy of the OWNER's resolutions authorizing the OWNER to enter into this Agreement are attached hereto as Exhibit "B".

8. **COUNTY's Representation**

The parties acknowledge that COUNTY is a municipal corporation and is entering into and executing this Agreement by virtue of the authority of Suffolk County Resolution No. ____-2009, dated the __ day of _____, 2009 (the "Resolution"), for the purpose and intent expressed in the Resolution, that the Resolution is incorporated herein by reference, and further a copy of such Resolution is annexed hereto and marked "Exhibit C". This Agreement has been authorized by all requisite actions of the COUNTY and constitutes a legally binding agreement of the COUNTY enforceable in accordance with its terms.

9. **Bankruptcy, Insolvency, Etc.**

The filing of an insolvency or bankruptcy petition by the OWNER, whether voluntary or involuntary, or the making by the OWNER of an assignment for the benefit of creditors, except in connection with any financing of the Premises, shall be deemed to be an automatic and immediate default hereunder by the OWNER.

10. **Merger; No Oral Changes**

This Agreement supersedes any contract(s), agreement(s), or understanding(s), written or oral, heretofore made by, between or among any one or more of the parties hereto, and/or any one or more of their predecessors in interest, title or otherwise, concerning the subject matter hereof, and any such contract, agreement or understanding is hereby deemed to be null and void and of no further force or effect, and no party to any such contract, agreement or understanding shall have any rights against, or liabilities to, any other such party as a result thereof.

11. **Severability**

If any section, subsection, paragraph, clause, phrase or provision of this Agreement shall, by a court of competent jurisdiction, be adjudged or determined to be illegal, unlawful, invalid or unconstitutional, the same shall not affect the validity of this Agreement as a whole, or any part or provision hereof, other than the part so adjudged or determined to be illegal, unlawful, invalid or unconstitutional.

12. Notice

A. **Operational Notices** - Any communication, notice, claim for payment, reports, insurance, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the COUNTY or the OWNER or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the COUNTY:
By Certified Mail, Return Receipt Requested in Prepaid Envelope or
by Nationally Recognized Courier Service:

Suffolk County Department of Public Works
335 Yaphank Avenue
Yaphank, New York 11980
Attention: Justin Hipperling Suffolk County Highway Planning and Permits

For the OWNER
By Certified Mail, Return Receipt Requested in Prepaid Envelope or by
Courier Service or by Fax or by E-Mail:

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

B. **Notices Relating to Termination and/or Litigation** In the event the OWNER receives a notice or claim or becomes a party (plaintiff, petitioner, defendant, respondent, third party complainant, third party defendant) to a lawsuit or any legal proceeding related to this Agreement, the OWNER shall immediately deliver to the COUNTY Attorney, at the address set forth below, copies of all papers filed by or against the OWNER. Any communication or notice regarding termination shall be in writing and shall be given to the COUNTY or the OWNER or their designated representative at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows:

For the COUNTY:
By Certified Mail, Return Receipt Requested in Postpaid Envelope or
by Nationally Recognized Courier Service:

Suffolk County Department of Public Works, Attn. Commissioner
335 Yaphank Avenue
Yaphank, New York 11980

and

Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, New York 11788

For the OWNER

By Certified Mail, Return Receipt Requested in Postpaid Envelope or
by Nationally Recognized Courier Service:

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

C. **Delivery** - Notices shall be deemed to have been duly delivered (i) if mailed by certified mail, upon the third business day after the mailing thereof; or (ii) if by nationally recognized overnight courier service, upon the first business day subsequent to the transmittal thereof. "Business Day" shall mean any day except a Saturday, a Sunday, or any day in which commercial banks are required or authorized to close in Suffolk County, New York.

D. **Notice of Successors** - Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s).

13. **Rights Cumulative**

Each right and remedy of the COUNTY or the OWNER under this Agreement shall be in addition to every other right and remedy of the COUNTY or the OWNER and such rights and remedies may be enforced separately or in any combination.

14. **Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws. Venues shall be designated in Suffolk County, New York or the United States District Court for the Eastern District of New York.

15. **No Implied Waiver**

No waiver shall be inferred from any failure or forbearance of the COUNTY to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force

force and effect notwithstanding any such failure or forbearance.

16. **Counterparts**

The parties hereto have duly executed this Agreement in counterparts, any one of which may be considered an original.

17. **Assignment**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

18. **Gratuities**

OWNER represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

19. **Contractor's/Vendor's Public Disclosure Statement**

OWNER represents and warrants that it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code Article V, Section A5-7 and shall file an update of such statement with the said Comptroller on or before the 31st day of January in each year of this Agreement's duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of this Agreement, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Agreement.

Required Form: Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

20. **Suffolk County Local Laws**

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County web site at www.co.suffolk<http://www.co.suffolk.ny.us>. Click on "Laws of Suffolk County" under "Suffolk County Links."

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the last date written below:

Heritage-Riverhead Retail Developers, LLC
By:Riverhead Retail Developers, LLC
Its Manager

By: _____
Joseph R. Baranowski
Member

Date: 2/17/10

Approved as to Legality:
Christine Malafi
Suffolk County Attorney

By: _____
Basia Deren Braddish
Assistant County Attorney

Date: _____

County of Suffolk

By: _____

Name: _____
Deputy County Executive

Date: _____

Approved:
Department of Public Works

By: _____
Gilbert Anderson, P.E.
Commissioner of Public Works

Date: _____

Recommended:
Highway Division

By: _____
William Hillman

Title: _____

Date: _____

MUNICIPAL ACKNOWLEDGMENT

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

On the _____ day of _____, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF CONNECTICUT)
) ss.: West Hartford
COUNTY OF HARTFORD)

On the 17th day of February, 2009, before me, the undersigned, personally appeared Joseph R. Baranowski, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument and that such individual made such appearance before the undersigned in the Town of West Hartford, State of Connecticut.

_____
~~Notary Public~~/Commissioner of the Superior Court for the State of Connecticut
Kevin M. Dowd, Esq.

Schedule A

Party obligations under this document:

The owner through its consultants agrees to provide the following:

1. Existing conditions survey of CR 58 right-of-way from approximately Kroemer Avenue to Mill Road hereinafter known as **"Kroemer-Mill"**
2. Approved construction documents, coordinated with the County and their consultant(s), for the construction of the Kroemer-Mill 5 lane highway section. These documents shall include the following:
    a. Drainage and grading plans.
    b. Utility relocation plans.
    c. Roadway construction plans.
    d. Pavement marking plans.
    e. Traffic signal improvements plans for the intersections of CR 58/Kroemer Avenue and CR 58/Mill Road
3. Coordination with Suffolk County and their consultant(s) with C.P. 5529 the Project including design support during the construction process of Kroemer-Mill.

The County agrees to provide the following:

1. Construction of Kroemer-Mill in conjuction with the construction of C.P. 5529, the Project per the provided and County approved Kroemer-Mill construction documents including, but not limited to, all required improvements of any kind to the County Roads, the widening, reconfiguring, or improving of any County Roads, the installing and modifying of traffic signals (not inclusive of site access signal), lights, signs or road striping or markings relating to any County Road, and intersection improvements relating to any County Roads.
2. Issuance of all necessary County permits for the construction of the premises consisting of access driveway and access traffic signal permits.
3. Coordination with OWNER providing reasonable accommodation for future access driveway for the premises.
4. Coordination with Owner to permit Owner, at Owner's option, to install a sewer lateral under CR 58 during the construction of the Kroemer-Mill 5 lane highway section. Nothing herein is intended to require the County to delay or accelerate such construction in order to accommodate the Owner with respect to installation of the contemplated sewer lateral.

Exhibit A

Attachments:

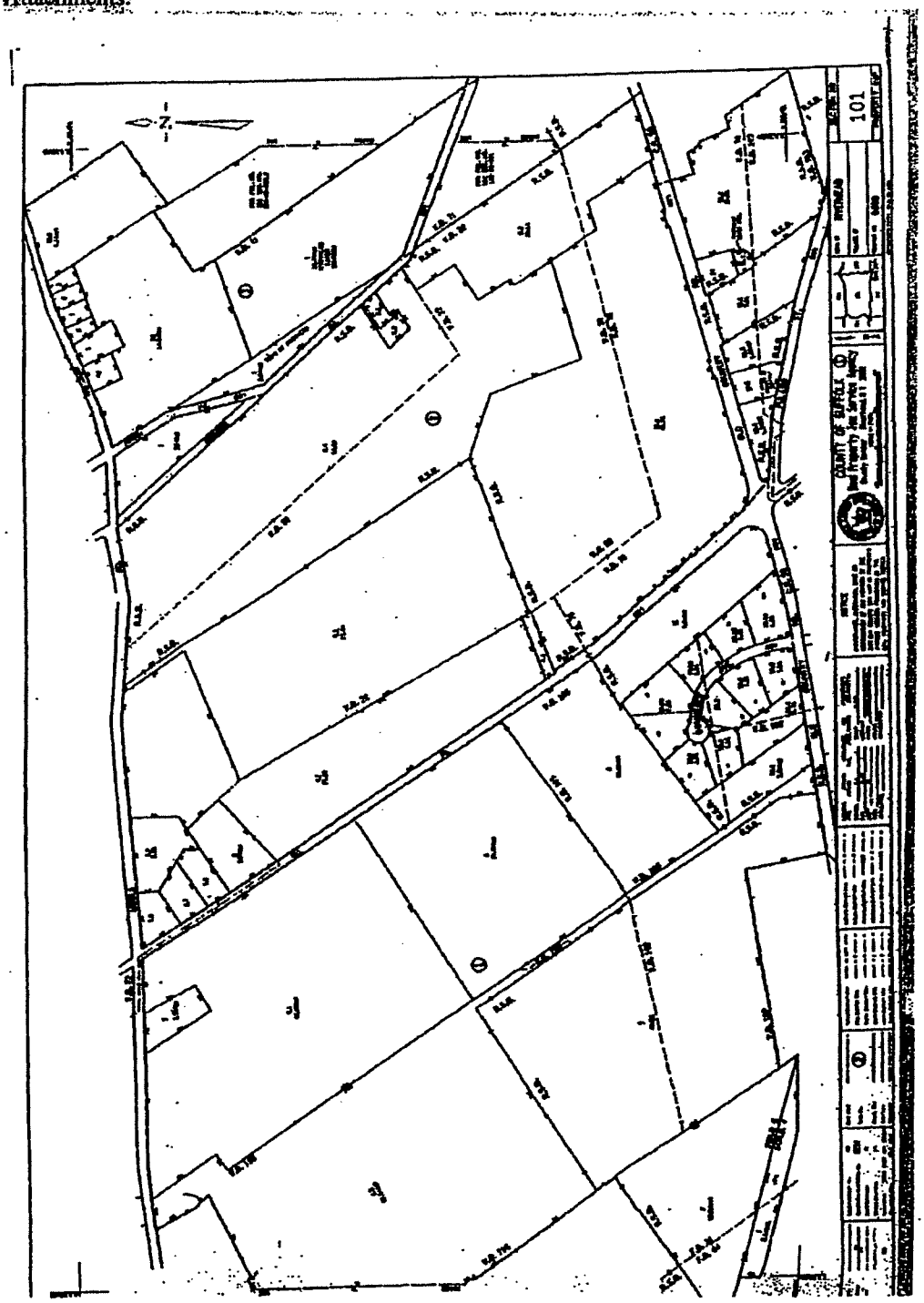

Exhibit B

HERITAGE-RIVERHEAD RETAIL DEVELOPERS, LLC

RESOLUTIONS

The undersigned, Joseph R. Baranowski, as Member of Riverhead Retail Developers, LLC, as Manager of Heritage-Riverhead Retail Developers, LLC (the "Company"), does hereby certify that the following are true and correct Resolutions duly adopted by all of the Members of the Company by written consent in lieu of meeting in writing on the 17th day of February, 2009.

RESOLVED, that Riverhead Retail Developers, LLC and Bradley Operating Limited Partnership, the sole members of the Company, hereby authorized Riverhead Retail Developers, LLC to enter into, on behalf of and in the name of the Company, into a certain agreement between the Company and the County of Suffolk, New York entitled Agreement For The Payment Of Money In Lieu Of Performance Of Mitigation Measures, in a form dated as of February 17, 2009, and as may be further revised and amended.

RESOLVED, THAT THE Company has authorized Riverhead Retail Developers, LLC as its Manager acting through Joseph R. Baranowski as its member, to execute the subject agreement with Suffolk County.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on this 17th day of February, 2009 pursuant to the authority granted by the two Managers and the Company.

Dated: February 17, 2009

Heritage-Riverhead Retail Developers, LLC

By: Riverhead Retail Developers, LLC
Its Manager

By: _____
Joseph R. Baranowski
Member

STATE OF CONNECTICUT)
) ss.: West Hartford
COUNTY OF HARTFORD)

I, Joseph R. Baranowski, being duly sworn say:

I am a Member of Riverhead Retail Developers, LLC, the Manager of Heritage-Riverhead Retail Developers, LLC.

The attached Resolutions are in full force and effect.

Joseph R. Baranowski

Sworn to before me this

17th day of February, 2000

~~Notary Public~~/Commissioner of the Superior Court for the State of Connecticut

Kerik M. David, Esq.

EXHIBIT C

0004133

Suffolk County Form 22
Contractor's/Vendor's Public Disclosure Statement

Pursuant to Section A5-7 of the Suffolk County Administrative Code, this Public Disclosure Statement must be completed by all contractors/vendors that have a contract with Suffolk County, **with the exception of hospitals; educational or governmental entities; not-for-profit corporations; and contracts providing foster care, family day care providers, or child protective consulting services, who do not have to fill out this form at all.**

1. Contractor's/Vendor's Name **Heritage-Riverhead Retail Developers, LLC c/o Developers Realty Corp.**

   Address **433 South Main Street, Suite 310**

   City and State **West Hartford, CT** Zip Code **06110**

2. Contracting Department's Name **Suffolk County Dept. of Public Works**

   Address **335 Yaphank Avenue, Yaphank, NY 11980**

3. Payee Identification or Social Security No. 51-0574365

4. Type of Business __Corporation __Partnership __Sole Proprietorship X Other **(limited Liability)**

5.a Is contractor/vendor entering into or has contractor/vendor entered into a contract with Suffolk County in excess of $1,000? __Yes X No.

5.b Has contractor/vendor entered into three or more contracts, including the one for which you are now completing this form, with Suffolk County, any three of which, when combined, exceed $1,000? __Yes X No.

6. Table of Organization. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, names and addresses of all partners, and names and addresses of all corporate officers. Conspicuously identify any person in this table of organization who is also an officer or an employee of Suffolk County. (Attach additional sheet if necessary.)
   See attached schedule
   No one is an officer or employee of Suffolk County

7. List all names and addresses of those individual shareholders holding more than five percent (5%) interest in the contractor/vendor. Conspicuously identify any shareholder who is also an officer or an employee of Suffolk County. (Attach additional sheet if necessary).
   See attached schedule
   No one is an officer or employee of Suffolk County

8. Does contractor/vendor derive 50% or more of its total revenues from its contractual or vendor relationship with Suffolk County? ___Yes X No.

9. If you answered yes to 8 above, you must submit with this disclosure statement, a complete financial statement listing all assets and liabilities as well as a profit and loss statement. These statements must be certified by a Certified Public Accountant. (Strike this out if not applicable.) **N/A**

10. The undersigned shall include this Contractor's/Vendor's Public Disclosure Statement with the contract. (Describe general nature of the contract.) **See Memorandum of Understanding**

11. **Remedies.** The failure to file a verified public disclosure statement as required under local law shall constitute a material breach of contract. Suffolk County may resort, use or employ any remedies contained in Article II of the Uniform Commercial Code of the State of New York. In addition to all legal remedies, Suffolk County shall be entitled, upon a determination that a breach has occurred, to damages equal to fifteen percent (15%) of the amount of the contract.

12. **Verification.** This section must be signed by an officer or principal of the contractor/vendor authorized to sign for the company for the purpose of executing contracts. The undersigned being sworn, affirms under the penalties of perjury, that he/she has read and understood the foregoing statements and that they are, to his/her own knowledge, true.

Heritage - Riverhead Retail Developers, LLC
By: Riverhead Retail Developers, LLC

Dated: 2/17/10 Signed: By:
Printed Name of Signer: Joseph Baranowski,
Title of Signer: Member
Name of Contractor/Vendor: Heritage - Riverhead Retail Developers, LLC

UNIFORM CERTIFICATE OF ACKNOWLEDGMENT
(Within New York State)

STATE OF NEW YORK)
COUNTY OF) ss.:

On the ____ day of _____ in the year ____ before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
(Signature and office of individual taking acknowledgement)

0004133

UNIFORM CERTIFICATE OF ACKNOWLEDGEMENT
(Without New York State)

STATE OF Connecticut)
)ss.: West Hartford
COUNTY OF Hartford)

On the 17th day of February in the year 2016 before me, the undersigned, personally appeared Joseph Barnowski, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual(s) made such appearance before the undersigned in West Hartford, Connecticut

(Insert the city or other political subdivision and the state or country or other place the acknowledgement was taken)

(Signature and office of individual taking acknowledgement)

Karin M. David, Esq.
Commissioner of the Superior Court
State of Connecticut

0004133

Heritage-Riverhead Retail Developers, LLC
(a Delaware Limited Liability Company)

50% 50%

D/B/A Centro Properties Group 131 Dartmouth Street 6th Floor Boston, MA 02116 Barry Rodenstein Senior Vice President, Northern Region Centro Properties Group 131 Dartmouth Street, 6th Floor Boston, MA 02116 Haig Buchakjian, P.E. Director of Construction, Northeast Region Centro Properties Group 420 Lexington Avenue New York, NY 10170	Riverhead Retail Developers, LLC D/B/A Developers Realty, Inc. Corporate Center West 433 South Main Street Suite 310 West Hartford, CT 06110 Joseph R. Baranowski President and COO Corporate Center West 433 South Main Street Suite 310 West Hartford, CT 06110 Kevin M. Dowd General Counsel and Senior Vice President Corporate Center West 433 South Main Street Suite 310 West Hartford, CT 06110

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Intro. Res. 1000-11 Res. No. 56 February 1, 2011

Motion:
Romaine, Schneiderman, Browning, Muratore, Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga, Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga, Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Muratore, Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga, Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
6						
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO	✓				
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA	✓				
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
14	Wayne R. HORSLEY	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	Jon COOPER	✓				
5	Vivian VILORIA-FISHER, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	17				

MOTION
X Approve
___ Table:
___ Send To Committee
___ Table Subject To Call
___ Lay On The Table
___ Discharge
___ Take Out of Order
___ Reconsider
___ Waive Rule
___ Override Veto
___ Close
___ Recess
APPROVED X FAILED ___
No Motion ___ No Second ___

RESOLUTION DECLARED
X ADOPTED
___ NOT ADOPTED

Roll Call X Voice Vote ___

Tim Laube

Tim Laube, Clerk of the Legislature