

Intro. Res. No. 1902-2014

Laid on Table 10/7/2014

Introduced by Presiding Officer, on request of the County Executive and Legislators Krupski, Browning, Anker, Hahn, Calarco

**RESOLUTION NO. 944 -2014, AUTHORIZING THE ACQUISITION OF LAND UNDER THE NEW SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM (EFFECTIVE DECEMBER 1, 2007) – OPEN SPACE COMPONENT – AND THE NEW SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM (EFFECTIVE DECEMBER 1, 2000) – OPEN SPACE COMPONENT FOR THE CARMANS RIVER WATERSHED - AVALONBAY COMMUNITIES, INC. PROPERTY - TOWN OF BROOKHAVEN – SCTM NOS. 0200-547.00-01.00-019.000, 0200-578.00-01.00-044.000, 0200-610.00-01.00-022.000, 0200-610.00-01.00-023.000 AND 0200-610.00-01.00-024.001)**

**WHEREAS**, Local Law No. 24-2007, “A Charter Law Extending and Accelerating the Suffolk County ¼% Drinking Water Protection Program for Environmental Protection,” Section C12-2(A)(1) authorized the use of 31.10 percent of sales and compensating tax proceeds generated each year for environmental protection, as determined by duly enacted Resolutions of the County of Suffolk; and

**WHEREAS**, adequate funding is provided for, pursuant to Section C12-2(A)(1) of the SUFFOLK COUNTY CHARTER, from 31.10 percent of the sales and compensating tax proceeds, for the acquisition of such land; and

**WHEREAS**, Local Law No. 35-1999, “A Charter Law Adopting Common Sense Tax Stabilization Plan for Sewers, Environmental Protection and County Taxpayers,” Section C12-2(A) authorized the use of 13.55 percent of sales and compensating tax proceeds generated each year for open space acquisition, as determined by duly enacted Resolutions of the County of Suffolk; and

**WHEREAS**, adequate funding is provided for, pursuant to Section C12-2(A) of the SUFFOLK COUNTY CHARTER, from 13.55 percent of the sales and compensating tax proceeds, for the acquisition of open space; and

**WHEREAS**, Resolution No. 621-2004, Appraisal Resolution No. 336-2013 and Procedural Resolution No. 7-2014 authorized planning steps, appraisal and the acquisition of said property; and

**WHEREAS**, the Town of Brookhaven (“Town”) has approved Resolution No. 2013-280 on February 26, 2013 and Resolution No. 2014-106 on January 21, 2014 authorizing the acquisition of the subject property in partnership with the County of Suffolk; and

**WHEREAS**, the Environmental Trust Review Board has reviewed the appraisals and the report of the Internal Appraisal Review Board and has approved the purchase price and authorized the Director of Real Estate and/or her designee to negotiate the acquisition; and

**WHEREAS**, based upon the Environmental Trust Review Board approved value, an offer to acquire the subject property was made to and accepted by the owner of said property; and

**WHEREAS**, contracts to acquire said property were prepared by the office of the County Attorney, executed by the owner of the subject property, the Town, and the Director of Real Estate and/or her designee and approved as to legality by the Office of the County Attorney; and

**WHEREAS**, on November 20, 2007, Suffolk County, as SEQRA Lead Agency, in Resolution No. 1083-2007, issued a SEQRA negative declaration in connection with the proposed future acquisitions of properties for the preservation of open space for passive park purposes as set forth in Resolution No. 625-2004 – Mastic/Shirley Conservation Area Phase I and Resolutions Nos. 621-2004 and/or 877-2005 – Master Lists I and II Reports, respectively; and

**WHEREAS**, the following four properties: SCTM Nos. 0200-547.00-01.00-019.000, 0200-578.00-01.00-044.000, 0200-610.00-01.00-023.000 and 0200-610.00-01.00-024.001, are listed in Resolution No. 625-2004 – Mastic/Shirley Conservation Area Phase I and/or Resolutions Nos. 621-2004 and/or 877-2005 – Master Lists I and/or II Reports, respectively; now, therefore be it

**1st RESOLVED**, that the County of Suffolk hereby approves the acquisition of the subject property set forth below under the New Suffolk County Drinking Water Protection Program, effective as of December 1, 2007, Open Space component, for a total purchase price of Eight Million Eighty-Nine Thousand Two Hundred Forty Six Dollars (\$8,089,246.00±), at Forty-Seven Thousand Three Hundred Dollars (\$47,300.00) per acre for 171.02± acres, which cost is to be shared by the County of Suffolk and the Town, with the County of Suffolk’s share, totaling Four Million Forty-Four Thousand Six Hundred Twenty-Three Dollars (\$4,044,623.00±), for a fifty percent (50%) undivided interest; and the Town’s share, totaling Four Million Forty-Four Thousand Six Hundred Twenty-Three Dollars (\$4,044,623.00±), for a fifty percent (50%) undivided interest, subject to a final survey; and hereby authorizes additional expenses, which shall include, but not be limited to, the cost of surveys, appraisals, environmental audits, title reports and insurance, and tax adjustments:

<b><u>PARCEL:</u></b>	<b>SUFFOLK COUNTY</b>		<b><u>ACRES:</u></b>	<b>REPUTED OWNER</b>
	<b><u>TAX MAP NUMBER:</u></b>			<b><u>AND ADDRESS:</u></b>
No. 1	District	0200	171.02±	AvalonBay Communities, Inc. 58 South Service Road, Suite 303 Melville, NY 11747
	Section	547.00		
	Block	01.00		
	Lot	019.000		
No. 2	District	0200		
	Section	578.00		
	Block	01.00		
	Lot	044.000		
No. 3	District	0200		
	Section	610.00		
	Block	01.00		
	Lot	022.000		

No. 4	District	0200
	Section	610.00
	Block	01.00
	Lot	023.000

No. 5	District	0200
	Section	610.00
	Block	01.00
	Lot	024.001

and be it further

**2<sup>nd</sup>** **RESOLVED**, that the Director of Real Estate and/or her designee, is hereby authorized, empowered, and directed, pursuant to Section C42-3(C)(3) of the SUFFOLK COUNTY CHARTER, to acquire the parcel(s) listed herein above from the reputed owner, the funding for which shall be provided under the New Suffolk County Drinking Water Protection Program, effective as of December 1, 2007, Open Space component, Section C12-2(A)(1) and the New Suffolk County Drinking Water Protection Program, effective December 1, 2000, Open Space component, Section C12-2(A) of the SUFFOLK COUNTY CHARTER, for Four Million Forty-Four Thousand Six Hundred Twenty-Three Dollars (\$4,044,623.00±), subject to a final survey, said amount representing the County's 50% share of the total purchase price; and be it further

**3<sup>rd</sup>** **RESOLVED**, that the County Comptroller and County Treasurer are hereby authorized to reserve and to pay \$2,338,323.00±, from previously appropriated funds in Capital Project 525-CAP-8714.211 and \$1,706,300.00± from previously appropriated funds in Capital Project 525-CAP-8709.211, subject to a final survey, for the New Suffolk County Drinking Water Protection Program, effective as of December 1, 2007, Open Space component, Section C12-2(A)(1) and the New Suffolk County Drinking Water Protection Program, effective December 1, 2000, Open Space component, Section C12-2(A) of the SUFFOLK COUNTY CHARTER, for this acquisition; and be it further

**4<sup>th</sup>** **RESOLVED**, that the title to this acquisition shall be held by the County of Suffolk and the Town, as tenants-in-common, each owning and undivided 50% interest; and be it further

**5<sup>th</sup>** **RESOLVED**, that the Director of Real Estate and/or her designee; the County Planning Department; and the County Department of Public Works are hereby authorized, empowered, and directed to take such actions and to pay such additional expenses as may be necessary and appropriate to consummate such acquisition, including, but not limited to, securing appraisals, title insurance and title reports, obtaining surveys, engineering reports and environmental audits, making tax adjustments and executing such other documents as are required to acquire such County interest in said lands; and be it further

**6<sup>th</sup>** **RESOLVED**, that pursuant to Section C12-2(A)(2)(c) this property is not to be developed and twenty nine (29) Workforce Housing Development Rights, representing the County's fifty percent (50%) interest in the total number of development rights allocated to the property, shall be removed and placed in the Suffolk County Workforce Housing Transfer of Development Rights Program registry pursuant to the Workforce Housing Development Rights

Program as developed by the Department of Planning, consistent with Resolution No. 412-2005, as amended, and approved by the Suffolk County Executive and the Suffolk County Legislature; and be it further

**7<sup>th</sup>** **RESOLVED**, that the acquisition of such parcel(s) meets the following criteria as required under Section C12-2(A)(1) and Section C12-2(A) of the SUFFOLK COUNTY CHARTER:

- b.) lands within the watershed of a coastal stream, as determined by a reasonable planning or hydrogeological study;
- c.) any tract of land located fully or partially within a statutorily designated Special Groundwater Protection Area;
- d.) lands determined by the County Department of Planning to be necessary for maintaining the quality of surface and/or groundwater in Suffolk County; and be it further

**8<sup>th</sup>** **RESOLVED**, that the subject parcel(s) shall be transferred to the County Department of Parks, Recreation and Conservation for passive recreational use; and be it further

**9<sup>th</sup>** **RESOLVED**, that the Director of Real Estate and/or her designee is hereby authorized to negotiate and to enter into any necessary collateral agreements with the Town to effectuate the terms of this resolution; and be it further

**10<sup>th</sup>** **RESOLVED**, if desired, the County of Suffolk, through its Department of Parks, Recreation and Conservation is hereby authorized to negotiate and to enter into a municipal cooperation agreement with the Town for the management of this acquisition, consistent with this program, and the terms and conditions thereof shall be approved by the Suffolk County Attorney in consultation with the respective Commissioner of the County Department of Parks, Recreation and Conservation, who is charged with the management and operation of said property; and, be it further

**11<sup>th</sup>** **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action for the following four parcels: SCTM Nos. 0200-547.00-01.00-019.000, 0200-578.00-01.00-044.000, 0200-610.00-01.00-023.000 and 0200-610.00-01.00-024.001, pursuant to 6 NYCRR Sections 617.5(c)(20) and (27) of the New York Code of Rules and Regulations since such actions are simply legislative decisions administering and implementing the acquisition of property for passive park purposes which will mainly result in a beneficial impact and for which SEQRA Determination of Non-Significance has already been issued in Suffolk County Resolution No. 1083-2007; and be it further

**12<sup>th</sup>** **RESOLVED**, that the above activity for the following one parcel: SCTM No. 0200-610.00-01.00-022.000, is an unlisted action pursuant to the provisions of Title 6 NYCRR, Part 617; and be it further

**13<sup>th</sup>** **RESOLVED**, that the project regarding parcel SCTM No. 0200-610.00-01.00-022.000 will not have a significant effect on the environment for the following reasons:

- 1.) The proposed action will not exceed any of the criteria of 6 NYCRR, Section 617.7, which sets forth thresholds for determining significant

effect on the environment, as demonstrated in the Environmental Assessment Form; and

- 2.) The proposed use of the subject parcel(s) is passive parkland; and
- 3.) if not acquired, the property will most likely be developed for residential purposes; incurring far greater environmental impact than the proposed acquisition and preservation of the site would have; and be it further

**14<sup>th</sup>** **RESOLVED**, that in accordance with Section 450-5(C)(4) of the SUFFOLK COUNTY CODE, the Suffolk County Council on Environmental Quality is hereby directed to prepare and circulate any appropriate notices or determinations in accordance with this resolution.

DATED: November 18, 2014

APPROVED BY:

/s/ Steven Bellone  
County Executive of Suffolk County

Date: December 1, 2014