

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. 765 -2014, AUTHORIZING EXECUTION OF AN INTERMUNICIPAL AGREEMENT WITH THE TOWN OF EAST HAMPTON IN CONNECTION WITH THE DOWNTOWN MONTAUK STABILIZATION PROJECT**

**WHEREAS**, construction of the Fire Island Inlet to Montauk Point, New York Downtown Montauk Hurricane and Storm Damage Reduction Project (hereinafter the "Project", as defined in Article I.A.) was authorized by Section 101 of the River and Harbor Act of 1960, Public Law 86-645;

**WHEREAS**, as a consequence of Superstorm Sandy, the beach in downtown Montauk was largely eroded causing damage to property and commercial buildings which continue to be vulnerable to additional damages from future storms; and

**WHEREAS**, following Superstorm Sandy, Congress enacted The Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24 – 25) (hereinafter "DRAA 13"), wherein, the Secretary of the Army is authorized, at full Federal expense using funds provided in DRAA 13, to complete construction of certain ongoing construction projects, which includes construction of the Project at an estimated total cost of \$8,900,000; and

**WHEREAS**, the Project consists of the one-time placement of material along approximately 3,100 feet of shoreline near downtown Montauk, New York to construct a beach berm cap and a dune with reinforcement of the dune using geotextile bags filled with sand all as generally described in the Report of the Chief of Engineers for the South Shore of Long Island from Fire Island Inlet to Montauk Point, New York, Beach Erosion Control Study and Hurricane Survey dated May 27, 1960, and as modified by the Downtown Montauk Stabilization Project, Hurricane Sandy Limited Reevaluation Report, dated November 7, 2014 and approved by the Division Engineer for North Atlantic Division on November 7, 2014 (hereinafter the "Decision Document") annexed hereto as Exhibit "A"; and

**WHEREAS**, in the Decision Document, it is assumed that if the Project was not implemented, damages to Downtown Montauk caused by coastal erosion could be expected to exceed 4 million dollars in damages to structures and property within the next ten (10) years; and

**WHEREAS**, in order for the project to proceed, the New York State Department of Environmental Conservation (DEC) requires that a local municipality agree to be the local sponsor for the Project; and

**WHEREAS**, Downtown Montauk is a significant recreational destination and economic generator for the County; and

**WHEREAS**, the Town, recognizing the importance of the Project and the need for expedited action, has agreed to act as the local sponsor of the Project provided that the County enter into an Intermunicipal Agreement ("Agreement") to share in the costs of the local sponsor for operation and maintenance of the Project; and

**WHEREAS**, this Intermunicipal Agreement will not be executed until such time as Project Partnership Agreements are duly executed between the United States and DEC and DEC and the Town; and

**WHEREAS**, it is in the best interests of the taxpayers and residents of the County and Town that the Project proceed in order to provide public safety and protect a vital and historic recreational and tourist destination; and

**WHEREAS**, the Project will undergo an environmental assessment by the Federal Government in accordance with the requirements of the National Environmental Protection Act of 1969 (NEPA); and

**WHEREAS**, pursuant to the State Environmental Quality Review Act, N.Y. Environmental Conservation Law Article, 8 ("SEQRA"), Title 6 New York Code of Rules and Regulations ("NYCRR") Part 617, it is anticipated that either the New York State Department of Environmental Conservation ("NYSDEC") or the Town of East Hampton will act as lead agency for the SEQRA review of the Project; and

**WHEREAS**, the County cannot make a final SEQRA determination at this time because the Project plans are not yet finalized and because the County will be bound by the SEQRA determination of the lead agency; and

**WHEREAS**, a coordinated SEQRA review shall be performed prior to execution of this Agreement and the County shall participate in the coordinated SEQRA review as an involved agency; and

**WHEREAS**, execution of the Agreement between the Town and the County and commencement of the Project shall also be subject to an appropriating resolution adoption of a capital project by this Legislature to provide County funding for the Project; and

**WHEREAS**, the County shall not authorize funding for the Project or execute the Agreement prior to completion of a full coordinated SEQRA review of the Project and adoption of any required SEQRA determination or findings by this Legislature; and

**WHEREAS**, commencement of the Project and physical alteration of the Project site shall also be subject to full execution of a project partnership agreement between DEC and the Town for the Project; and

**WHEREAS**, in order to protect the environment, physical alteration of the Project site shall not commence prior to completion of a full coordinated SEQRA review of the Project; now, therefore be it

**1<sup>st</sup>** **RESOLVED**, that the County shall not enter into the Agreement or adopt an appropriating resolution to fund this Project prior to completion of a full coordinated SEQRA review of the Project, with the County acting as an involved agency, pursuant to SEQRA and Chapter 450 of the Suffolk County Code, and adoption of any required SEQRA determination or findings by this Legislature; and be it further

**2<sup>nd</sup>** **RESOLVED**, that, after full execution of a project partnership agreement between DEC and the Town for the Project, and subject to the 1<sup>st</sup> Resolved Clause hereof, the Suffolk County Executive or his designee, is hereby authorized, empowered and directed to

execute the Agreement with the Town substantially in the form submitted herewith as Exhibit "B", and to take all actions necessary to implement the Agreement; and be it further

**3<sup>rd</sup>** **RESOLVED**, that the Suffolk County Executive and/or his designee(s) are further authorized to take such actions and execute and deliver, on behalf of the County, such documents, as may be contemplated by, or necessary or advisable to consummate or otherwise give full effect to, the Project and the Agreement and this resolution, and which are deemed necessary or desirable to effectuate the Project and to perform all acts and do all things required or contemplated to be performed or done by the Agreement or by this resolution or by any agreement, instrument or authorization approved, contemplated or authorized hereby; and be it further

**4<sup>th</sup>** **RESOLVED**, that the Departments of Public Works, Real Property Management and Acquisition and Law are authorized to perform acts necessary to comply with the provisions of the Agreement in accordance this Agreement.

DATED: October 7, 2014

APPROVED BY:

/s/ Steven Bellone  
County Executive of Suffolk County

Date: October 9, 2014