

**WITHDRAWN AS OF 10/15/2015**  
**AMENDED COPY AS OF 9/1/2015**

Intro. Res. No. 1660-2015

Laid on Table 7/28/2015

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2015, ADOPTING LOCAL LAW  
NO. -2015, A LOCAL LAW AUTHORIZING THE COUNTY  
EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF  
THE JOHN J. FOLEY SKILLED NURSING FACILITY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on July 28, 2015, a proposed local law entitled, "**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

**RESOLVED**, that said local law be enacted in final form as follows:

**LOCAL LAW NO. -2015, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO  
EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY  
SKILLED NURSING FACILITY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY  
OF SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature finds and determines that the County of Suffolk owns the facility formerly known as the John J. Foley Skilled Nursing Facility (Resolution No. 213-2011 Removing John J. Foley's name from the Skilled Nursing Facility), an approximately 181,749 square foot building located on approximately 14 acres of property in Yaphank, New York (hereinafter referred to as the "Facility"), which was previously operated as a licensed 264-bed skilled nursing facility, with 12 designated AIDS beds, and a 60-slot Adult Day Health Care Program.

This Legislature further finds that the Facility ceased its skilled nursing and adult day health care operations and surrendered its licenses in 2013 and that the Facility, the surrounding real property, and its associated assets and inventory were declared surplus to the needs of the County by Suffolk County Local Law No. 54-2012.

This Legislature also finds that, pursuant to Suffolk County Resolution No. 515-2013, the Suffolk County Division of Real Property Acquisition and Management was authorized to offer the Facility for sale through a public auction or a Request for Proposal process, but that the resultant offer was far below the amount the County anticipated receiving for such a valuable asset.

This Legislature further finds that pursuant to Suffolk County Resolution No. 304-2014, a six month moratorium was placed on any proposed sale of the Facility to allow for a thorough study and examination of alternative potential uses of the Facility.

This Legislature finds and determines that such moratorium expired in November 2014 and that the County has not found any other practical or financially feasible options for the use of the Facility.

This Legislature further finds that Kenneth Rozenberg, the Chief Executive Officer of Centers Health Care, has indicated that his affiliate, Suffolk Realty Acquisition LLC, is offering twenty million dollars (\$20,000,000) to purchase the Facility, contingent upon, among other things, Suffolk Realty Acquisition LLC receiving appropriate licensing approval from the New York State Department of Health, as well as the County applying for and receiving any zoning or other permits that may be required from local or County authorities.

This Legislature further finds that Daryl Hagler, the managing member of Suffolk Realty Acquisition LLC, has further advised that Suffolk Realty Acquisition LLC is interested in relocating beds from some of its affiliated nursing homes to the Facility, and, to this end, Mr. Rosenberg and Mr. Hagler intend to reestablish the Facility as a skilled nursing facility.

This Legislature also finds that Mr. Rozenberg has indicated that Suffolk Realty Acquisition LLC intends to work with local stakeholders, including, but not limited to, Brookhaven Hospital and the County, in forming partnerships to explore whether any other health care services may be offered at the Facility.

This Legislature further finds and determines that after exhaustively exploring options for the Facility, a direct negotiated sale of the Facility to Suffolk Realty Acquisition LLC for twenty million dollars (\$20,000,000), in substantially the same form as found in the Contract for Sale attached hereto as Exhibit "A", subject to commercially reasonable negotiation by the County Executive and/or his designee(s), is in the best interest of the County.

Therefore, the purpose of this law is to authorize and empower the County Executive to execute a contract for sale of the Facility for twenty million dollars (\$20,000,000) to Suffolk Realty Acquisition LLC in substantially the same form as found in the Contract for Sale attached hereto as Exhibit "A", subject to commercially reasonable negotiation, is in the best interest of the County and further, in light of, among other things, the direct negotiated sale of County property, to supersede all of the provisions of New York County Law Section 215 and any local laws to the contrary of the provisions set forth herein.

## **Section 2. Supersede New York County Law Section 215**

Pursuant to the provisions of Section 2 (b) of the New York County Law, Section 215 of the New York County Law shall not apply, in any manner, to the substantive and/or procedural provisions of this resolution or the local law contemplated therein.

## **Section 3. Approval of Negotiated Sale as Within the Best Interest of the County**

The County hereby approves the negotiated sale of the 181,749 square foot building formerly known as the John J. Foley Skilled Nursing Facility (the "Facility") and approximately 14.06 acres of real property surrounding the Facility to Suffolk Realty Acquisition LLC for the purchase price of twenty million dollars (\$20,000,000) in substantially the same form as found in

the contract for sale attached hereto as Exhibit "A", ("Contract for Sale"), subject to commercially reasonable negotiation by the County Executive and/or his designee(s).

#### **Section 4. Declaration of Surplus Land.**

The Suffolk County Legislature hereby confirms and restates its determination that the 14.06 acres of real property described in "Exhibit 1" of the Contract for Sale, attached hereto as Exhibit "A", which acreage shall be subject to final survey, is surplus to County needs. The Suffolk County Legislature also reaffirms its determination that the Facility and all those assets and inventory located at the Facility, as more specifically set forth in the Contract for Sale, is likewise declared surplus to County needs.

#### **Section 5. Sale of the Facility.**

The sale by the County to Suffolk Realty Acquisition LLC of the County's right, title and interest in and to the Facility and the surrounding approximately 14.06 acres of real property, without recourse, is hereby authorized in exchange for the delivery, to or upon the order of the County, of (i) the payment of the purchase price as defined in the proposed Contract for Sale and (ii) substantially in the same form as set forth in the proposed Contract for Sale attached hereto as Exhibit "A", subject to commercially reasonable negotiation by the County Executive and/or his designee(s).

#### **Section 6. Execution and Delivery of the Contract for Sale.**

The execution and delivery on behalf of and in the name of the County by the County Executive and/or his designee(s) of the Contract for Sale in substantially the same form as found in the Contract for Sale attached hereto as Exhibit "A", subject to commercially reasonable negotiation by the County Executive and/or his designee(s), is hereby authorized and directed.

#### **Section 7. Application for Local Approvals**

The County Executive, or his designee, on behalf of the County or Suffolk Realty Acquisition LLC, as may be required, is hereby authorized to make all those applications necessary to obtain approval for town and County building permits, changes to zoning, waivers, variances, certificates of occupancy and/or any other town or County approvals necessary for the use of the Facility by a private owner and operator as a two hundred sixty four (264) bed skilled nursing facility.

#### **Section 8. Further Actions.**

The County Executive and/or his designee(s) are further authorized to execute and deliver, on behalf of the County, such agreements, instruments or authorizations as may be contemplated by, or necessary or advisable to consummate or otherwise give full effect to, the Contract for Sale and this local law, and which are deemed necessary or desirable to effectuate the transactions contemplated by the Contract for Sale and this local law, and to perform all acts and do all things required or contemplated to be performed or done by the Contract for Sale or by this local law or by any agreement, instrument or authorization approved, contemplated, necessary or authorized hereby.

**Section 9. Applicability.**

This law shall apply to all actions and transactions occurring on or after the effective date of this law.

**Section 10. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 11. SEQRA Determination.**

This Legislature, being the lead agency under the State Environmental Quality Review Act (SEQRA), N.Y. Environmental Conservation Law Article 8, and Chapter 450 of the Suffolk County Code, hereby determines that this local law constitutes an unlisted action, pursuant to 6 N.Y.C.R.R. §617.2(ak), and further determines that that implementation of this action will not have a significant adverse impact on the environment for the following reasons:

The proposed action will not exceed any of the criteria in 6 N.Y.C.R.R. §617.7, which sets forth thresholds for determining significant adverse impacts on the environment, as demonstrated in the Environmental Assessment Form.

This Legislature hereby directs, in accordance with Section 450-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality to prepare and circulate any appropriate notices or determinations in accordance with this local law.

**Section 12. Effective Date.**

This Local Law shall not take effect until at least forty-five (45) days after its adoption, nor until approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting on a proposition for its approval if within forty-five (45) days after its adoption there is filed with the Clerk of the County Legislature a petition protesting against such Local Law in conformity with the provisions of §24 (1) (a) of the MUNICIPAL HOME RULE LAW and upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date: