

RESOLUTION NO. 855 -2016, AUTHORIZING THE MUD CREEK MITIGATION STORMWATER IMPROVEMENTS AND STREAM RESTORATION, TOWN OF BROOKHAVEN, USING THE NEW ENHANCED SUFFOLK COUNTY WATER QUALITY PROTECTION PROGRAM FUNDS (CP 8733)

WHEREAS, Local Law No. 31-2014, a Charter Law Amending the ¼% Suffolk County Drinking Water Protection Program (DWPP) for Enhanced Water Quality Protection, Wastewater Infrastructure and General Fund Property Tax Relief for Suffolk County, created the 2014 Enhanced Suffolk County Water Quality Protection Program, codified in Suffolk County Charter Article XIA; and

WHEREAS, Local Law No. 31-2014 was approved at a referendum in November of 2014, by Suffolk County voters; and

WHEREAS, the 2016 Adopted Capital Budget contains three water quality protection 2014 Referendum Capital Projects totaling \$29.4 million: CP 8732 for land purchases (\$20 million), CP 8733 for water quality projects (\$4.7 million), CP 8734 for sewer improvement projects (\$4.7 million); and

WHEREAS, the Legislature has determined that the Drinking Water Protection Program is essential to the well-being of the County's drinking water supply, and it is in the best interest of the County's residents to preserve the sanctity of the Program and to secure significant environmental and public health benefits; and

WHEREAS, Resolution No. 437-2016 appropriated \$4.7 million in serial bond proceeds for water quality protection and restoration program and land stewardship initiatives projects as set forth in the Enhanced Suffolk County Water Quality Protection Program; and

WHEREAS, Resolution No. 471-1994 as revised by Resolution No. 461-2006, established the use of a priority ranking system, implemented in the Adopted 2016 Capital Budget as the basis for funding capital projects such as this project; and

WHEREAS, funding is requested for this project through the New Enhanced Suffolk County Water Quality Protection Program; and

WHEREAS, Suffolk County Department of Economic Development and Planning has requested funding that will enable the Town of Brookhaven to implement the Mud Creek Mitigation Stormwater Improvements and Stream Restoration Project, at Gazzola Drive; and

WHEREAS, the Suffolk County Water Quality Review Committee at its August 11, 2016 meeting, pursuant to Article XII of the Suffolk County Charter, has recommended funding the Mud Creek Mitigation Stormwater Improvements and Stream Restoration Project as an appropriate use of Suffolk County Water Quality Protection and Restoration Program and Land Stewardship funds; and

WHEREAS, the existing Gazzola Drive culvert is an undersized and clogged 16" steel pipe, limiting the flow of water during both normal and high flow conditions, trapping

sediments up stream of the road, and disrupting movement of fish, aquatic organisms and wildlife; and

WHEREAS, the northern portions of Mud Creek and associated wetlands are severely degraded due to the historic duck farming operations that created artificial barriers and altered stream corridors, as well as the freshwater wetland, and upland habitats; woodlands were converted into pens and open feedlots; streambeds were altered to create swim pond areas for duck use, and waste disposal lagoons; and

WHEREAS, stormwater from roadways, paved surfaces, and residential neighborhoods discharges to Mud Creek at Gazzola Drive, a public road that bisects the former duck farm property, and contributes to the degraded water quality conditions of the creek; and

WHEREAS, the purpose of this project is to replace the existing culvert at Gazzola Drive by an eco-friendly arch culvert to contain runoff and to increase flow capacity during flood events, aid in the movement of groundwater flow during average flow periods, improve passage for aquatic organisms and wildlife, and to address nutrient pollution and low dissolved oxygen impacts to the northern portions due to urban stormwater runoff headwaters of Mud Creek, a tributary to Patchogue Bay and a pathogen impaired waterbody; and

WHEREAS, the Mud Creek Watershed Aquatic Ecosystem Restoration Feasibility Study has been completed under CP 8710.110, and includes final engineering plans, specifications, and all necessary permits, and requisite bid documents for the Gazzola Drive work; and

WHEREAS, the Town of Brookhaven has committed by Town Resolution No. 2016-0531, adopted at the Town Board meeting on June 30, 2016 to accept the grant from the County of Suffolk for this project and to enter into an inter-municipal agreement with the County of Suffolk for this project; and

WHEREAS, the Town of Brookhaven has committed by Existing 2016 Capital act No. H5010-3769-6SW05, to provide matching project funds of \$269,500 or one half the cost of the project, whichever is less; and

WHEREAS, the New York State Department of Environmental Conservation and U.S. Army Corps of Engineers, New York District, have approved the final engineering plans and have issued all required regulatory permits for the Mud Creek Mitigation Stormwater Improvements and Stream Restoration Project; and

WHEREAS, this project will complement the protection and management of the entire Mud Creek Watershed north of Montauk Highway; and

WHEREAS, the project will be initiated within one year of the date of adoption of this Resolution; and

WHEREAS, the project will be completed within three years of the date of adoption of this Resolution; and

WHEREAS, that the Mud Creek Mitigation Stormwater Improvements and Stream Restoration Project, is part of the Suffolk County Proposed Mud Creek Watershed Aquatic Ecosystem Restoration Project, Town of Brookhaven, and that under the State

Environmental Quality Review Act (“SEQRA”) Environmental Conservation Law Article 8, finds and reiterates, as documented in Suffolk County Resolution No. 675-2015, that this proposed action constitutes a Type I Action, pursuant to the provisions of Title 6 NYCRR, Part 617 and Chapter 450 of the Suffolk County Code and the proposed project will not have significant adverse impacts on the environment for the following reasons:

- 1) the proposed action will not exceed any of the criteria set forth in Title 6 NYCRR, Part 617.7, which sets forth thresholds for determining significant effect on the environment, as demonstrated in the Environmental Assessment Form;
- 2) the proposal does not appear to significantly threaten any unique or highly valuable environmental or cultural resources as identified in or regulated by the Environmental Conservation Law of the State of New York or the Suffolk County Charter or the Suffolk County Code;
- 3) a plan will be developed to provide the greatest possible protection to the on-site turtles during the site restoration work and said plan will be communicated to all project construction contractors; and
- 4) all necessary permits/approvals will be obtained from the New York State Department of Environmental Conservation prior to the commencement of site restoration; and

WHEREAS, the County Legislature, by resolution of even date herewith, has authorized the issuance of \$194,900 in Suffolk County Serial Bonds; now, therefore be it

1st **RESOLVED**, that it is hereby determined that this project, with a priority ranking of sixty-nine (69), is eligible for approval in accordance with the provisions of Resolution No. 471-1994 as revised by Resolution No. 461-2006; and be it further

2nd **RESOLVED**, pursuant to the new Article XIIA of the Suffolk County Charter, CP 8733.310 funding shall be used for water quality protection and restoration program and land stewardship initiatives projects as set forth in Section C12-2(B) of the Suffolk County Charter, exclusive of Suffolk County personnel costs; and be it further

3rd **RESOLVED**, that the County Comptroller is hereby authorized to pay \$194,900, from previously appropriated funds in capital project 525-CAP-8733.310 for the New Enhanced Suffolk County Water Quality Protection Program – 2014 Referendum, Water Quality Projects component, Section C12-2(B) of the Suffolk County Charter, for this water quality restoration project; and be it further

4th **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 pursuant to Title 6 NYCRR Part 617.5(C) (18), (20), (21), and (27) as the proposal involves the adoption of regulations, policies, procedures and local legislative decisions in connection with routine or continuing agency administration and management; and be it further

5th **RESOLVED**, that the County Executive or designee, and the Department of Economic Development and Planning, with the approval of the County Attorney, are hereby authorized and empowered to take such actions and execute such documents as may be necessary or desirable, consistent with the purposes and intent of the foregoing resolution.

DATED: October 5, 2016

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: October 20, 2016