

Introduced by Presiding Officer, on request of the County Executive and Legislator Hahn

RESOLUTION NO. 104 -2017, AUTHORIZING THE ACQUISITION OF LAND UNDER THE NEW SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM (EFFECTIVE DECEMBER 1, 2007) – OPEN SPACE COMPONENT AND THE OLD SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM [C12-5(D)] - FOR THE CAPITAL ASSET RETIREMENT FUND, LLC AND TRISTATE CAPITAL HOLDINGS, LLC PROPERTY – BRUSHES CREEK TOWN OF SOUTHOLD – (SCTM NOS. 1000-127.00-03.00-009.002 AND 1000-127.00-08.00-017.002)

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, Article XII of the SUFFOLK COUNTY CHARTER established the Old Suffolk County Drinking Water Protection Program, as amended and effective as of November 30, 2000, the first priority of which being the acquisition of qualified lands to be funded by revenues generated by the quarter percent (1/4%) sales and compensating use tax; and

WHEREAS, in compliance with Sections C12-3(B) and (C) of the SUFFOLK COUNTY CHARTER, as amended and effective as of November 30, 2000, prior to the Division Director of the Division of Real Property Acquisition and Management entering into any negotiations for the acquisition of, and consummation of acquisition of any such parcel, the Board of Trustees of the Department of Parks, Recreation and Conservation shall review and recommend its acquisition; and

WHEREAS, adequate funding is provided for, under the Old Suffolk County Drinking Water Protection Program, pursuant to Section C12-5(D) of Article XII of the SUFFOLK COUNTY CHARTER, as amended and effective as of November 30, 2000, for the acquisition of such land; and

WHEREAS, Resolution No. 248-2015 and Resolution No. 877-2005 authorized planning steps and Procedural Motion No. 5-2016 authorized acquisition of said property; and

WHEREAS, the Town of Southold (“Town”) has approved Resolution No. 2016-791 on August 23, 2016 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 his 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 his 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 property, 1000-127.00-03.00-009.002, as described in the 1st Resolved, is 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, and the Old Suffolk County Drinking Water 12.5D Program, for a total purchase price of Three Hundred Forty-One Thousand Seven Hundred Fifty Dollars (\$341,750±), Lot 009.002 total is Three Hundred Twenty-Five Thousand Dollars (\$325,000), Lot 017.002 total is Sixteen Thousand Seven Hundred Fifty Dollars (\$16,750±), at Twenty Five Thousand Dollars (\$25,000) per acre for 0.67± acres, which cost is to be shared by the County of Suffolk and the Town, with the County of Suffolk's share, totaling Two Hundred Sixty-Nine Thousand Nine Hundred Eighty-Two Dollars and Fifty Cents (\$269,982.50±), for a Seventy-Nine percent (79%) undivided interest; and the Town's share, totaling Seventy One Thousand Seven Hundred Sixty Seven Dollars and Fifty Cents (\$71,767.50±), for a twenty-one percent (21%) 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:

<u>PARCEL:</u>	<u>SUFFOLK COUNTY TAX MAP NUMBER:</u>	<u>ACRES:</u>	<u>REPUTED OWNER AND ADDRESS:</u>
No. 1	District 1000 Section 127.00 Block 03.00 Lot 009.002	2.08±	Capital Asset Retirement Fund, LLC & Tristate Capital Holdings, LLC 37 Drew Drive Eastport, NY 11941
No. 2	District 1000 Section 127.00 Block 08.00 Lot 017.002	0.67±	

and be it further

2nd **RESOLVED**, that the Director of Real Estate and/or his 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) of the SUFFOLK COUNTY CHARTER and under the Old Suffolk County Drinking Water Protection Program, Section C12-5(D) of the SUFFOLK COUNTY CHARTER, as amended and effective as of November 30, 2000, Two Hundred Sixty Nine Thousand Nine Hundred Eighty-Two Dollars and Fifty Cents (\$269,982.50±), subject to a final survey, said amount representing the County's share of the total purchase price; and be it further

3rd **RESOLVED**, that the County Comptroller is hereby authorized to reserve and to pay \$73,165.26±, subject to a final survey, from previously appropriated funds in capital project 525-CAP-8714.211 for the New Suffolk County Drinking Water Protection Program, effective as of December 1, 2007, Open Space component, Section C12-2(A)(1) of the SUFFOLK COUNTY CHARTER and pay \$196,817.24±, subject to a final survey, from previously appropriated funds in MY-176-PLNGBW1 under the Old Drinking Water Protection Program, Section C12-5(D) of the SUFFOLK COUNTY CHARTER, as amended and effective as of November 30, 2000, for this acquisition; and be it further

4th **RESOLVED**, that the title to this acquisition shall be held by the County of Suffolk and the Town, as tenants-in-common, with the County owning a 79% undivided interest and the Town owning a 21% undivided interest; and be it further

5th **RESOLVED**, that the Director of Real Estate and/or his 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

6th **RESOLVED**, that pursuant to Section C12-2(A)(2)(c) this property is not to be developed and Zero (0) Workforce Housing Development Rights, representing the County's percent (79%) 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

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

- b). lands within the watershed of the coastal stream, as determined by a reasonable planning or hydrological study; and be it further

8th **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

9th **RESOLVED**, that the Director of Real Estate and/or his 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

10th **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

11th **RESOLVED**, that the above activity is an unlisted action pursuant to the provisions of Title 6 NYCRR, Part 617; and be it further

12th **RESOLVED**, that the project 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 recreation; and
- 3.) if not acquired, the property will most likely be developed for residential purposes; incurring far greater environmental impact that the proposed acquisition and preservation of the site would have; and be it further

13th **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; and be it further

14th **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 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.

DATED: March 7, 2017

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: March 13, 2017