

**RESOLUTION NO. -2011, AUTHORIZING SUFFOLK
REGIONAL OFF-TRACK BETTING CORPORATION TO FILE A
PETITION UNDER CHAPTER 9 OF THE UNITED STATES
BANKRUPTCY CODE**

WHEREAS, for the reasons set forth below, this Legislature has determined that it is in the best interests of the citizens of Suffolk County for Suffolk Regional Off-Track Betting Corporation, a public benefit corporation of the State of New York ("Suffolk Regional OTB") created by and operating under Article V of the New York Racing, Pari-Mutuel Wagering and Breeding Law, to file a voluntary petition for relief under Chapter 9 of Title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS, for over thirty (30) years the Suffolk Regional OTB has provided a benefit to Suffolk County by generating revenue for the support of government, acting to prevent and curb illegal wagering and bookmaking on horse races, and promoting the horse racing and breeding industries in the State; and

WHEREAS, on February 24, 2011, the Board of Directors of Suffolk Regional OTB unanimously adopted a resolution, pursuant to which the Chairman was authorized and empowered to take all steps, as in the exercise of his business judgment and discharge of his fiduciary responsibilities, necessary to investigate and evaluate on an expedited basis the necessity and appropriateness of Suffolk Regional OTB filing a petition under Chapter 9 of the Bankruptcy Code, and to retain such expert assistance and advisory services from outside professionals as was required to conduct such evaluation and, if so advised, to take steps preparatory to such filing and the prosecution thereof; and

WHEREAS, in the exercise of such authority delegated to him, the Chairman has done so and recommended to the Board that Suffolk Regional OTB promptly submit a plan for adjustment of its indebtedness under said Chapter 9; and

WHEREAS, Suffolk Regional OTB has informed this Legislature that Suffolk Regional OTB is currently insolvent (as that term is defined in the Bankruptcy Code with respect to a municipality) and at significant risk in the immediate future of exhausting unrestricted cash available for continued operations; and

WHEREAS, Suffolk Regional OTB has informed this Legislature that Suffolk Regional OTB has negotiated in good faith and has not reached agreement with the its creditors that may be impaired under a Chapter 9 plan for adjustment of debts of Suffolk Regional OTB, at least in part because such negotiation is impracticable in light of the sheer number of creditors and the need for and current absence of changes in the statutory framework under which Suffolk Regional OTB operates, and believes that one or more creditors may attempt to obtain a preference; and

WHEREAS, it appears to this Legislature that Suffolk Regional OTB has considered available alternatives for restoring a state of financial equilibrium for Suffolk Regional OTB and charting a path to regain profitability, both of which are essential to enabling Suffolk Regional OTB to fulfill the mission that has been assigned to it; and

WHEREAS, it appears to the Legislature that it is in the best interests of Suffolk Regional OTB, its creditors and other interested parties, that a petition for debt adjustment (and avail itself of other rights and protections afforded) under Chapter 9 the Bankruptcy Code be filed by Suffolk Regional OTB; and

WHEREAS, this Legislature sanctions the filing of a petition for relief under Chapter 9 of the Bankruptcy Code and the prosecution thereof; now, therefore be it

1st RESOLVED, that Suffolk Regional OTB should be and is authorized to file a petition for debt adjustment (and avail itself of rights and other protections afforded) under Chapter 9 of the Bankruptcy Code with the United States Bankruptcy Court for the Eastern District of New York; and be it further

2nd RESOLVED, that the President/CEO, Executive Vice President, Secretary, Executive Director/Director of External Affairs, Comptroller, Chief of Staff, Director of Government and Public Affairs, Board Counsel and General Counsel of Suffolk Regional OTB and/or other appropriate corporate officers and employees of the Suffolk Regional OTB be, and they each hereby are, authorized to execute and file all petitions, schedules, lists, applications, motions, pleadings and other ancillary documents, and take any and all additional and further actions as, in consultation with counsel, they deem necessary and appropriate in connection with and in support and aid of said Chapter 9 case, with a view to the expeditious prosecution and successful completion of such case.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

1235

Intro. Res. No. - 2011

Laid on Table 3/8/2011

Introduced by the Presiding Officer on request of the County Executive

**RESOLUTION NO. AUTHORIZING FUNDING FOR
SUFFOLK COUNTY CULTURAL PROGRAMMING FOR 2011**

WHEREAS, the 2011 Operating Budget provides for the funding of cultural programs through Fund 192-6414-4770; and

WHEREAS, Department of Economic Development and Workforce Housing recommends that the cultural tourism project LI Winterfest: Jazz on the Vine be supported for its positive impact on visitation to the East End during the months of February and March; and

WHEREAS, Winterfest was conceived in 2006 to generate increased business on the East End during the slowest part of the year by promoting a calendar of activities and offers. The program has grown to include many businesses, and this is the third year that the promotion has adopted a musical theme; now, therefore, be it

1st RESOLVED, that the Suffolk County Legislature hereby approves the allocation of funding in the amount of \$30,000 for The Long Island Wine Council: \$25,000 to fund the musical groups that provide free jazz concerts for Jazz on the Vine, and \$5,000 for administration of the program, such funding to be paid at the commencement of the pertinent contract; and be it further

2nd RESOLVED, that the County Executive is hereby authorized to enter into an agreement with The Long Island Wine Council in the amount of \$30,000; and be it further

3rd 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 Section 617.5(c)(20), (21), and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

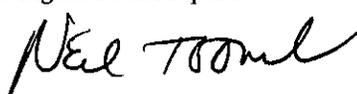
DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

STATEMENT OF FINANCIAL IMPACT
OF PROPOSED SUFFOLK COUNTY LEGISLATION

1. Type of Legislation Resolution <u> X </u> Local Law _____ Charter Law _____		
2. Title of Proposed Legislation – AUTHORIZING 2011 WINTERFEST: JAZZ ON THE VINE FUNDING		
3. Purpose of Proposed Legislation		
4. Will the Proposed Legislation Have a Fiscal Impact? Yes <u> X </u> No _____		
5. If the answer to item 4 is "yes", on what will it impact? (circle appropriate category)		
<u>County</u>	Town	Economic Impact
Village	School District	Other (Specify):
Library District	Fire District	
6. If the answer to item 4 is "yes", Provide Detailed Explanation of Impact Reduces Available dollars from ECD – 192-6414-4770 by \$30,000 .		
7. Total Financial Cost of Funding over 5 Years on Each Affected Political or Other Subdivision.		
8. Proposed Source of Funding Funding will come from revenues generated by the Hotel/Motel Tax Fund 192.		
9. Timing of Impact - FY 2010-2011		
10. Typed Name & Title of Preparer Neil Toomb Intergovernmental Relations Coordinator	11. Signature of Preparer 	12. Date: 3/2/11

REQUEST FOR THE INTRODUCTION OF SUFFOLK COUNTY LEGISLATION
OFFICE OF THE COUNTY EXECUTIVE
County of Suffolk

- (1) Please limit this suggestion form to ONE proposal.
- (2) Describe in detail
- (3) Attach all pertinent backup material.

Submitting Department (Dept. Name & Location): Department of Economic Development and Workforce Housing H. Lee Dennison Bldg. - 2 nd Floor Hauppauge	Department Contact Person (Name & Phone No.): Carolyn E. Fahey 3-4833
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Suggestion Involves:

Technical Amendment _____ New Program _____
Grant Award _____ Contract: New _____ Rev. _____

Summary of Problem: (Explanation of why this legislation is needed.)

AUTHORIZING 2011 WINTERFEST: JAZZ ON THE VINE FUNDING

Proposed Changes in Present Statute: (Please specify section when possible.)

None

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

H. Lee Dennison Building
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, New York 11788-0099
(631) 853-4000

Steve Levy
SUFFOLK COUNTY EXECUTIVE
MEMORANDUM

RECEIVED
2011 MAR -3 P 12:38
OFFICE OF THE COUNTY EXECUTIVE
SUFFOLK COUNTY, NEW YORK

TO: Mr. Timothy Laube
Clerk of the Legislature

FROM: **Brendan Chamberlain**
Intergovernmental Relations Director

DATE: **March 3, 2011**

RE: **Resolution to be Laid on the Table at the March 3, 2011**
Special Meeting

- Authorizing funding for Suffolk County Cultural Programming for 2011

RECEIVED BY A. Pastore DATE 3/3/11 TIME 12:38

BC:gg
Attachment

Intro. Res. No.

1236-11

LOT 3/8/11

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2011, APPROVAL OF AUCTION
RULES FOR THE DISPOSITION OF SURPLUS PROPERTY
ACQUIRED UNDER THE SUFFOLK COUNTY TAX ACT**

WHEREAS, the disposition of property acquired through the Suffolk County Tax Act is regulated pursuant to Article A14 of the Administrative Code, Laws of Suffolk County, Part II (herein the "Code"); and

WHEREAS, §14-30(L) and §712-6 of Code pertain to the formulation and adoption of auction rules and procedures; and

WHEREAS, §712-6 requires the approval by the Suffolk County Legislature of auction rules and regulations formulated by the Department of Environment and Energy, Division of Real Property Acquisition and Management; and

WHEREAS, the Department of Environment and Energy, Division of Real Property Acquisition and Management, has previously filed a copy of the proposed rules for the auction of surplus County real estate with the County Executive and the Clerk of the Legislature and a copy of said proposed rules is annexed as Exhibit "A"; now, therefore be it

1st RESOLVED, that the auction rules annexed as Exhibit "A" are approved for use immediately on filing of this approved resolution with the Clerk of the Legislature.

DATED:

APPROVED BY:

/s/ Steve Levy
County Executive of Suffolk County

Date:

March 2, 2011

Ken Crannell
Deputy County Executive
H. Lee Dennison Bldg. 12th Flr.
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, NY 11788

Re: RESOLUTION NO. -2011, REVIEW OF AUCTION RULES FOR
THE DISPOSITION OF SURPLUS PROPERTY ACQUIRED UNDER
THE SUFFOLK COUNTY TAX ACT

Dear Mr. Crannell:

Enclosed herewith for your approval are the original and one copy of the proposed resolution with documentation pursuant to:

Yearly Approval of Auction Rules.

Please note changes in rules- additions are underlined and deletions in []

I would appreciate your placing this on the legislative agenda.

Very truly yours,

Pamela J. Greene
Director of Division of Real Property
Acquisition and Management

PJG:WRT:slb

Enc: Resolution
Summary Statement
Sponsor's Memo

Copy to:

Christopher E. Kent, Chief Deputy County Executive
Brendan Chamberlain, Director of Intergovernmental Relations (2 hard copies)
Connie R. Corso, Budget Director
CE Reso Review, via e-mail

**INTER-OFFICE COMMUNICATION
COUNTY OF SUFFOLK**

TO: Pamela J. Greene, Division Director
Division of Real Property Acquisition and Management

FROM: Auction/Sales Unit

DATE: March 2, 2011

SUBJECT: DISPOSITION OF REAL PROPERTY
SUBMISSION OF RESOLUTION FOR APPROVAL

Attached are the following documents for your review and approval:

Transmittal Letter

Sponsor's Memo For County Legislation

APPROVED AND RECOMMENDED BY:

Wayne R. Thompson
Property Manager

Date

Note: Resolution package and file to be returned to agent.

**STATEMENT OF FINANCIAL IMPACT
OF PROPOSED SUFFOLK COUNTY LEGISLATION**

1. Type of Legislation

Resolution X Local Law X Charter Law _____

2. Title of Proposed Legislation- Approval of Auction Rules for the Disposition of Surplus Property Acquired Under the Suffolk County Tax Act.

3. Purpose of Proposed Legislation

Annual approval of Auction Rules

4. Will the Proposed Legislation have a fiscal impact? Yes X No _____

5. If the answer to Item 4 is "yes", on what will it impact?

X County _____ Town _____ Economic Impact
_____ Village _____ School District Other (Specify):
_____ Library District _____ Fire District

6. If the answer to item 4 is "yes", Provide detailed explanation of Impact

Auction revenues

7. Total Financial Cost of Funding over 5 years on each affected Political or other subdivision

Unknown

8. Proposed Source of Funding

Unknown

9. Timing of Impact

2011 - 2012

10. Name & Title of Preparer

Signature of Preparer

Date

Wayne R. Thompson,
Property Manager

Exhibit "A"

Auction Terms and Conditions - Definitions

Affiliate: A Business Entity in which the Purchaser has, directly or indirectly, a voting, controlling or ownership interest of twenty percent (20%) or more, or which has such an interest in Purchaser.

Assignment: The transfer or conveyance of a right or contract from one person or Business Entity to another.

Business Entity: A legal being, other than an individual, natural person, e.g., a corporation, limited liability company, partnership, joint venture or syndication. A Business Entity must be duly formed in accordance with all applicable provisions of law and have the legal capacity, among other things, to be sued and to own property in the State of New York.

County: The County of Suffolk.

Deed: An instrument in writing, duly executed and delivered, that conveys title to real property.

Default: A failure by the Purchaser to comply with any provision of the Terms and Conditions.

Director: The Director of the Division of Real Property Acquisition and Management.

Immediate Family: A spouse, issue, including adopted children, sibling or parent.

Lien: A claim or encumbrance of property, e.g., for the payment of a debt.

Landlocked: A parcel of land that has no routes of ingress and egress (by deed, easement or filed map roadways). Note a parcel located on an unopen roadway, a/k/a paper street, is **NOT** landlocked but is considered inaccessible at present.

Memorandum of Sale: The contract between the County and the Purchaser for the purchase of the Property, which incorporates, by reference, the Terms and Conditions of Sale and any special terms and conditions.

Occupancy/Occupy: The Inhabiting of a parcel improved by a residential structure as a person's sole residence.

Principal: Any individual or Business Entity who participates at the auction through a duly authorized agent.

Property: The particular parcel of County-owned real property and any improvements thereon, sold at public auction to the Purchaser.

Purchase Price: The highest bid made and accepted for the Property at the auction.

Purchaser: The successful bidder(s) at the auction sale and, where the Purchaser is a Business Entity, then each partner or any director(s), officer(s), or shareholder(s) having a total of twenty percent (20%) or more of the Purchaser's voting stock, ownership interest or control.

Third party bidder: An individual who bids solely as a duly authorized agent of another individual or Business Entity.

Third party bidding: Bidding on behalf of a Purchaser/Principal through a duly authorized agent.

Title Closing: The transfer of title to or ownership of the Property to the Purchaser; the date upon which such transfer is made.

Upset Price: The amount at which bidding starts on the Property.

AUCTION TERMS AND CONDITIONS

The public auction of surplus land by the County of Suffolk will be conducted by the Division of Real Property Acquisition and Management pursuant to auction terms and conditions approved by the Suffolk County Legislature. This document contains the terms and conditions which might pertain to such auctions. It may be supplemented by the subsequent approval by the Suffolk County legislature of additional or different terms and conditions.

Each separate auction will be governed by those particular terms and conditions included herein that are determined by the Director of the Division of Real Property Acquisition and Management to be applicable to said auction. The terms and conditions that pertain to an auction will be published in the Auction Brochure published for that auction.

- 1. AUCTION INVENTORY** - Properties that will be auctioned by the County include parcels forfeited by the prior owners as a result of failure to pay taxes. The County's rights thereto are pursuant to the Suffolk County Tax Act as set forth in Chapter 982 of the laws of Suffolk county and Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law are believed to have been extinguished by the tax sale proceedings, and/or as a result of forfeiture. Auction parcels may also include parcels acquired by condemnation, but no longer needed as part of the public project. The County reserves the right, in its sole discretion, to withdraw from the auction at any time, any of the properties listed in the Auction Brochure or in any other listing of surplus real property available for auction.
- 2. OFFICIAL IDENTIFICATION** - For purposes of the auction, each parcel is identified by a section, block and lot number as shown on the Suffolk County Tax Map. No other identification is guaranteed. Descriptions in the auction materials pertaining to any auctioned property, such as the size, exact location, street requirements and information as to existing structures, are approximate only. Purchasers should verify all information relative to each property.

3. **NOTIFICATION OF AUCTION** - The Notice of Auction will be published in the official newspapers as required by the Suffolk County Code. In addition to said publication, not less than one month prior to each auction, an Auction Brochure which includes both a list of the properties expected to be offered by auction and a document entitled "Terms and Conditions of Sale 2011 Auction(s)" will be published on the internet at www.co.suffolk.ny.us. *Copies of the Auction Brochure will be available at the Division of Real Property Acquisition and Management Offices and at the Riverhead County Center, the Offices of the Suffolk County Legislature, each Town Hall and various County offices.

* Internet address will be relocated to Dept. of Environment and Energy, Div. of Real Property Acquisition and Management.

4. **TERMS AND CONDITIONS OF SALE** - The "Terms and Conditions of Sale - 2011 Auction(s)" document will specify the rules applicable to the auction for which it is prepared and dated. Failure of the purchaser to comply with the published auction rules, terms and conditions shall constitute a default and may result in cancellation of a sale and forfeiture of both the down payment and the auction fee.

5. **AUCTION RULES** - In addition to those rules and conditions that are set forth in the "Terms and Conditions of Sale - 2011 Auction(s)" all sales of surplus County property will be subject to the following:

- a) Approval of the deed and proposed conveyance by the Suffolk County Legislature, which approval may precede the sale or follow it;
- b) Any state of facts an accurate survey or personal inspection of the premises would disclose;
- c) Applicable zoning/land use/building/health and environmental regulations;
- d) Easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale;
- e) For the immediate tax year, pro rata real estate taxes; and
- f) For assessment purposes, the purchaser shall be deemed to be the owner prior to the next taxable status date following the closing;
- g) The rights, if any, of tenants and persons in possession, and;
- h) Outstanding water and sewer assessments and other unpaid liens or charges (including, but not limited to, demolition charges, interest and penalties, condominium fees) whether they have been billed or not as of the date of the auction, all as specified in the Auction Brochure;
- i) Any covenants, easements or conditions imposed by the County Planning or any other Department and listed in the Auction Brochure, or by the Legislature as part of its approval of the sale;
- j) Purchaser's signing a Certification as part of the bid finalization that he or she has read and understood the Terms and Conditions as set forth in the pertinent Auction Brochure;

- k) Such additional contract terms and conditions as may be set forth in the Auction Brochure or Memorandum of Sale.
6. **NO WARRANTIES** - All real property in the auction, including any building thereon, is sold "**AS IS**" and without any representation or warranty whatsoever as to the physical condition or as to title.
7. **REFUNDS** - In the event that a sale is cancelled or the bid is rejected by the Suffolk County Legislature, the down payment and other monies paid when the Memorandum of Sale was executed will be refunded without interest.
8. **AUCTION PROCEDURES** - As determined by the Director to be appropriate or necessary, the following rules or conditions shall be included in the "Terms and Conditions of Sale - 2011 Auction(s)".
- a) County **general auctions** are Public Auctions at which a person must be present to participate as a bidder. Third party bidding may be accepted provided the bidder identifies the purchaser/principal for whom he or she is acting as an agent and provided the purchaser/principal pre-registers pursuant to paragraph 11 herein. **No absentee bids** are accepted.
- b) The County may conduct **special auctions**, that is, auctions limited to certain properties, based on their type or condition, for example, Brownfield sites; or their potential use, for example, affordable housing sites and commercial properties; or based on any other special circumstance relating to the properties to be auctioned. At special auctions, sealed bids from bidders who are not physically present and third party bidding may be accepted provided the bidder identifies the purchaser/ principal for whom he or she is acting as an agent and provided the purchaser/principal pre-registers pursuant to paragraph 11 herein.
- c) **Registration** shall be required prior to any auction. Prior to the auction, each registered bidder will be assigned a bidding number that must be displayed in order to bid.
- d) **The auction may be divided into Sessions.** The auctioneer will accept bids in increments, as described below, until such time as no further bids are entered. Thereupon the parcel is declared, "Sold" to the highest bidder. All successful bids in one Session must be finalized (see the next subsection regarding finalization) before commencement of the next Session, or the underlying sales will be deemed cancelled.
- e) Directly after the sale of a parcel, the **purchaser or third party bidder, in purchaser's absence, must finalize** the sale by signing the Terms and Conditions of Sale, or Memorandum of Sale, as applicable, and depositing the down payment and the auction fee with the auction cashier. Delay in finalizing the sale may be cause for cancellation. *If a purchaser fails to finalize the purchase of any parcel, he, she or it shall not be permitted to bid on any further parcels and the Director may immediately cancel all other sales that took place at the same auction to the same purchaser.* In the event of cancellation due to failure to finalize a purchase, the subject parcel(s) may be returned to the auction block or withdrawn from the auction.
9. **PRE-AUCTION INFORMATION** - Collecting and verifying any information in regard to auctioned parcels, including, for example, address, location, zoning and land use restrictions, building or health code requirements, taxes or assessed value is the

responsibility of the buyer. Much of this information may be obtained from the Town or Village in which the property is located. The County is not responsible to provide real property information, other than the Suffolk County Tax Map number. Purchaser's misunderstanding or failure to verify property information is not grounds for rescinding or canceling an auction sale. **THE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH ANY AUCTION SALE.**

10. INSPECTION OF PROPERTY - The Auction Brochure will indicate whether the property may be inspected and how arrangements for inspection can be made. Inspection or entry onto the property may be prohibited by the County due to safety or any other reason. Where inspection is permitted, persons intending to participate at the auction should inspect and investigate the property in which they are interested prior to the auction sale. Inspection of commercial and industrial properties must not interfere with businesses operating thereon. Parcels that are improved by occupied homes may only be inspected on the dates and at the times set by the County in its publications, or on the dates and at the times confirmed in writing by the Division of Real Property Acquisition and Management. Entering onto any auction parcel at any other time will be grounds for disqualification from the auction and may amount to a trespass subject to prosecution.

11. REGISTRATION OF BIDDERS - All bidders, except third party bidders, shall be required to register prior to all auctions. In the event of third party bidding, the purchaser/principal shall be required to register prior to the auction. Such registration will be a condition of participation in said auction and shall consist of the execution of a registration form designated for use by the Director and may further require providing an official photographic identification, address, social security number or tax identification number, disclosure statement or other personal or financial documentation that would verify the identity and financial ability of the person or business entity to participate in the auction. As designated by the Director, pre-registration may require filing a bond, deposit or other evidence (as may be required) of financial ability to complete the terms and conditions of the sale at the estimated fair market value.

When third party bidding is permitted, individuals acting on behalf of others, not in attendance at the auction, must produce a "Power of Attorney" or other appropriate authorizing documentation, duly executed and notarized. Incorporated entities (Inc., Corp., LLC.) are required to provide a corporate resolution prior to the auction authorizing the entity's participation in said auction and a corporate resolution authorizing the purchase of real property prior to the transfer of title.

12. FORM OF BIDDING - Each bidder is responsible to signal his or her bid to the auctioneer. Bids may be signaled either by raising the paddle bearing the unique number issued to him or her for purposes of bidding at the auction or, in auctions not requiring individual bidder paddles, by securing a floor usher to signal the desired bid.

13. **MEMORANDUM OF SALE** - The purchaser's offer and agreement to purchase will be formalized in a "Terms and Conditions of Sale" or "Memorandum of Sale", referred to hereafter jointly as the "Memorandum of Sale", as may be utilized at the particular auction. Purchaser or third party bidder in purchaser's absence is obligated to execute the Memorandum of Sale and pay the down payment and auction fee before the end of the auction session at which the property was sold. As a material condition of the Memorandum of Sale:
- a. Purchaser waives any claim to special, consequential or punitive damages, attorney's fees, reimbursement for any expenses incurred in reliance on completion of the sale, improvements of property, or for license fees already paid should the sale subsequently not be approved or closing not occur; and
 - b. Purchaser acknowledges that no property interest, either real or personal, is acquired by purchaser and any and all claims for specific performance and/or any right to file a Notice of Pendency against any property offered for bidding and/or sale should the sale subsequently not be approved or closing not occur are hereby waived.
14. **DOWNPAYMENT** - Following acceptance of the winning bid, and prior to the start of the next auction Session, the purchaser or third party bidder in purchaser's absence shall deposit a down payment in the amount of twenty percent (20%) of the sale price, or as otherwise specified. **ONLY cash, certified checks, bank checks, money orders or traveler's checks are acceptable for the down payment.** If the purchaser fails to produce the acceptable payment, as described, the parcel may be resold at the same auction or withdrawn from the auction, in the sole discretion of the County.
15. **RESTRICTIVE COVENANT ON RESIDENTIALLY-IMPROVED PARCELS** - A parcel offered at auction which is improved by a residential structure, may be offered subject to a restrictive covenant that will be noted in the Auction Brochure and included in the deed conveying the parcel. The covenant requires the owner of the parcel, or his or her children, parents, successors and assigns to occupy said premises. Said restriction requiring owner occupancy shall run with the land for a period of ten (10) years subsequent to the transfer of title from the County of Suffolk. The owner of the parcel may sell the parcel at any time in which case the new owner, his or her children, parents, successors and assigns shall be required to occupy the premises for the balance of the ten 10 year period. The County shall be given written notice of any transfer of the parcel within said ten (10) year period. Said written notice shall be given at least thirty (30) days prior to the transfer of title and shall include the name and address of the proposed new owner and, if the occupant of the premises will be someone other than the proposed new owner, the name and address of the occupant and their relation to the proposed new owner. The Commissioner of the Department of Environment and Energy shall reserve to the County a right of reverter should this restriction be violated. It is the responsibility of the purchaser to note which parcels are sold subject to the said restrictive covenant.

16. SPECIFICALLY DESIGNATED SMALL LOT PARCELS—In order to promote the development of residential dwellings for first time home buyers and/or in order to promote the development of residential dwellings for first time home buyers and/or occupants, parcels which may not meet minimum zoning code requirements of the municipal zoning district in which the parcel is located shall be offered to convey such parcel to the highest bidder at a special auction who: (i) agrees, in writing, within sixty (60) days of the date of such auction, to apply for and diligently pursue, using best efforts and at such bidder's sole cost and expense, a building permit, to allow the construction of a single family residential dwelling on such parcel that substantially conforms in size and appearance to the residential dwellings located within the immediately surrounding residential community; (ii) agrees, in writing, within one hundred eighty (180) days of the date of such auction, to apply for and diligently pursue, using best efforts and at such bidder's sole cost and expense, any and all variances and/or other relief from such minimum zoning requirements; and (iii) agrees, in writing, to accept title to such parcel subject to the covenants contained in this section.

1.) Upon the granting of any required variance or other relief from the minimum zoning requirements of the municipal zoning district in which the parcel is located, and the issuance of a building permit to construct such single family residential dwelling on such parcel, fee title shall be promptly conveyed to such highest bidder by deed containing the following covenants, which covenants shall run with the land:

a.) "The use of the parcel herein described by the grantee is hereby restricted solely to the development of a single family residential dwelling unit for first time home owners or buyers; with all right, title, and interest reverting back to the County of Suffolk, at the sole option of the County of Suffolk, in the event the grantee, at any time, uses or attempts to use the parcel herein described for any other use or purpose, including, without limitation, no use or purpose. This reverter clause shall also apply to any transferee from the grantee who is not a first time home owner or buyer."

b.) "All right, title, and interest to the parcel herein described shall revert back to the County of Suffolk should any one or more of the following events occur:

[1.] If the grantee, or any transferee from the grantee who is not a first time home owner or buyer, fails to substantially complete the construction of a single family residential dwelling upon the parcel described herein within three (3) years from the date of transfer to the grantee, unless one or more extensions of time is granted, in writing, for good cause shown, by the Suffolk County Director of Affordable Housing or any successor thereto. Notwithstanding the foregoing, such extensions shall not exceed, in the aggregate, a period of four (4) years from the date of transfer to the grantee, unless approved by a duly enacted resolution of the County of Suffolk;

[2.] If the income of the first time home owner or buyer, at the time of occupancy of the single family dwelling constructed on the parcel described herein, should exceed 80% of the HUD established median income for the Nassau-Suffolk Primary Metropolitan Statistical Area adjusted by family size;

[3.] If the sale price of the single family dwelling constructed on the parcel described herein exceeds 60% of the median sales price for Suffolk County single family dwellings, based upon the State of New York Mortgage Agency Guidelines;

[4.] If the first time home owner or buyer of the single family dwelling constructed on the parcel described herein fails to occupy such single family dwelling as his and/or her primary residence for a period of ten (10) consecutive years from the time of occupancy of such single family dwelling; provided, however, that the right, title and interest to the parcel herein described shall not revert to the County of Suffolk if:

[a.] the first time home owner or buyer sells to a first time home owner or buyer meeting the income qualifications set forth in paragraph (1.)(b.)[2.], or as amended; and

[b.] any gain realized from such sale up to and including the fifth anniversary of ownership, and declining ratably thereafter to fifty (50%) percent of any realized gain during the sixth year of ownership up to and including the tenth anniversary of ownership, shall be paid to the County of Suffolk; and

[c.] the income qualifications and the formula for recapture of realized gain set forth in this paragraph shall apply to each and every subsequent sale;

[5.] If all or any portion of the single family residential dwelling is rented or leased to any other person, whether or not by written agreement;

[6.] If the grantee fails to certify to the Suffolk County Director of Affordable Housing, (or his or her designee), prior to closing of the title by a first time home buyer, or occupancy by a first time home owner, as the case may be:

[a.] the dates of completion and occupancy of the single family dwelling constructed on the parcel described herein; and

[b.] the total income, from all sources, of all occupants of the single family dwelling constructed on the parcel described herein; and

[c.] in the case of a first time home buyer, the sales price of the single family dwelling constructed on the parcel described herein; and

[d.] the single family dwelling constructed on the parcel described herein

meets all applicable building and zoning codes, rules and regulations;

[7.] If the grantee fails to provide the Suffolk County Director of Affordable Housing, (or his or her designee), with a detailed, annual written report no later than December 31 of each year commencing in the year immediately subsequent to the date of this deed, which report shall include any and all information as may be required by the said Director, including, but not limited to, the status of the development and/or sale of the parcel described herein, and an accounting of all sums directly or indirectly attributable to the use of the parcel described herein.”

17. **PURCHASER IDENTIFICATION** - Prior to closing, the purchaser shall provide information necessary to complete forms and documents required for recording the deed in the Suffolk County Clerk's Office, including, among others as may be requested, the NYS Department of Taxation and Finance TP-584 form.
18. **FORMER OWNER BIDDING RESTRICTED** - The former owner of the property, or his agent, shall not be permitted to bid on the property or purchase same at the public auction, unless his or her bid amount exceeds the total of tax arrears, penalties and interest or surcharges that would have been due as of the day of the auction, without regard to limits on the time to redeem. If the former owner or his agent is the successful bidder at auction all liens existing prior to the foreclosure will be reinstated and added to the auction price.
19. **ASSIGNMENT RESTRICTED** - A Memorandum of Sale executed at the auction cannot be assigned unless the Director agrees thereto in writing. Assignments shall only be approved upon good cause shown. In the event that an assignment is approved, a fee of no less than \$300 can be charged.
20. **BROKERS** - The County of Suffolk will not pay any broker's commissions or fees. If a broker or attorney acting in the capacity of a broker is authorized to bid as the designee or agent of the actual purchaser, it is the sole responsibility of the purchaser to pay any brokerage fees or commissions earned thereby.
21. **PARTICIPATION BY SUFFOLK COUNTY EMPLOYEES PROHIBITED** - County employees and/or their immediate families, whether or not residing with the employees, are not permitted to participate as a purchaser or bidder at a County auction. Purchasers will be required to furnish an affidavit at the closing to the effect that the Purchasers are not employees or immediate family members of any Suffolk County Employee.
22. **SALE SUBJECT TO APPROVAL BY LEGISLATURE** - The Suffolk County Code requires that the disposition of surplus property must be approved by the County Legislature. A list of proposed auction sales will be presented to the Legislature for

review and approval. All offers to sell are conditioned on approval from the County Legislature which in its sole discretion, can decline to approve.

23. **SALE SUBJECT TO CANCELLATION BY COUNTY** - At the County's discretion, sales remain subject to cancellation even after legislative approval, but prior to the title closing in the event that insurable title cannot be conveyed, or for other good cause as determined to exist by the Director. In the event that a sale is cancelled due to the purchaser's violation of any of the conditions set forth herein, any monies paid by or on behalf of the purchaser to the County shall be forfeited by purchaser and shall be retained by the County.
24. **RISK OF LOSS** - Damage by fire or other casualty loss that occurs between the sale and the title closing, the repair of which exceeds 10% of the purchase price as determined by the Director in his or her sole discretion, may permit the purchaser to cancel the sale. If the damage is less than 10% of the purchase price, the Division of Real Property Acquisition and Management may cancel the sale, or may reduce the purchase price, after verifying the amount and value of damage by an appraisal by up to 10% in order to induce the purchaser to close.
25. **TITLE CLOSINGS** - Closings can be scheduled only after the legislative resolution approving the sale is filed with the County Clerk. The County will use its best efforts to close within six months of this approval. Closing dates for the sale of properties purchased at auction will be determined by the Director. Notice of a closing date will be sent to the purchaser, at least ten (10) calendar days in advance. The County reserves the right, in its sole discretion, to extend the time for closing or to compel the completion of the sale by an action for specific performance. If an adjournment is requested by the purchaser, then the Director may declare the adjourned date, or any subsequent adjourned date to be the final law date set for closing of title. On purchaser's failure to accept delivery of the deed on the final law date the sale may be cancelled and all monies paid to date may be retained by the County. In such event, purchaser will have no further rights or any claim regarding the sale or the parcel.
26. **METHOD OF PAYMENT** - Except for the auction fee (see below) **cash, certified checks, bank checks, money orders or traveler's checks are the only forms of payment acceptable** for amounts due at auction or closing. At the discretion of the Director, such certified or bank checks, money orders or traveler's checks, if payable to the order of the Purchaser, may be endorsed over to the Division of Real Property Acquisition and Management. The balance of the purchase price together with the pro rata share of taxes for a parcel sold at auction shall be due and payable at the time of the closing of title.
27. **AUCTION FEES** - In addition to the amount of the accepted winning bid, the purchaser of each parcel must pay an auction administrative fee (generally 1%, or up to 3% of the

sales price), but not less than \$25, if auction fees are required for the subject auction. The auction fee is separate and apart from the purchase price and must be paid by separate check or cash. Payment of the auction fee may be made by any of the methods mentioned in the immediately prior section or by personal check. There will be a \$25 fee imposed as an additional closing cost for checks that are not collectible after one presentation to the bank. Auction fees offset the costs of advertising, printing and other expenses of this auction and may be increased or decreased as appropriate to the auction, but may not exceed 3% of the winning bid without approval of the County Legislature.

Additionally in accordance with Local Law No. 40-2007, a local law to offset the cost of maintaining surplus County Property, there shall be imposed on the purchase of all surplus County property sold at public auction a surcharge for each parcel purchased, in addition to any other fees and/or surcharges imposed, which surcharge shall be collected at closing and in accordance with the Auction Terms and Conditions promulgated by the County Division of Real Property Acquisition and Management, and which surcharge shall be deposited with the Suffolk County Sheriff for the sole purpose of funding the Sheriff's Labor Assistance Program (SLAP) or any successor program thereto. This surcharge shall be collected according to the following schedule:

- A) a .5% surcharge on winning bids between \$0 and \$50,000;
- B) a .75% surcharge on winning bids between \$50,001 and \$100,000; an
- C) a 1% surcharge on winning bids between \$100,001 and \$250,000, said surcharge to be applied only to the first \$250,000 for winning bids exceeding that amount.

28. **DEFAULT BY THE PURCHASER** - If, due to failure on the part of the purchaser, title does not close on any auctioned parcel, the down payment and auction fee are subject to forfeiture as liquidated damages for the County's auction costs, overhead expenses and loss of the transaction. *In the event of a default on one parcel, the Defaulting Purchaser may not be permitted to close on any other parcels for which he or she is the successful bidder.* If the purchaser fails to pay the balance of the purchase price as herein required, the deposit and auction fee shall be forfeited.
29. **UPSET PRICE** - Bidding will begin at the upset price as specified in the Auction Brochure.
30. **BIDDING INCREMENTS** - During the auction, the auctioneer will announce the minimum increments required to advance bidding. A bid will not be accepted unless it meets or exceeds the increment then in effect. The Director may modify the Bidding Increments at any time without notice. Generally, increments will increase as a multiple of each \$20,000 that the sale price increases.

Typical increments are as follows:

<i>Bid Amount (Range)</i>	<i>Minimum Increment of Subsequent Bid</i>
\$ 5,000 to \$ 25,000	\$ 500
\$25,000 to \$ 50,000	\$1,000
\$50,000 to \$100,000	\$2,000

31. **OCCUPANCY PRIOR TO CLOSING** - After the close of the Auction, the purchaser of any parcel may contact the Division of Real Property Acquisition and Management to attempt to arrange for a license agreement that would permit inspection or use and occupancy of the auctioned parcel prior to closing. A license agreement may be approved at the discretion of the Director, on such terms as the Director may deem reasonable. No entry onto the auctioned property is permitted without a license agreement.
32. **PERSONAL PROPERTY** - No personal property is included in the sale of any of the parcels auctioned by Suffolk County, except as may remain on the premises after the closing. The disposition of any personal property, located on any parcel following the closing shall be the responsibility of the purchaser.
33. **DEED FORMAT** - The Auction Brochure will set forth the type of deed approved by the legislature for conveyance of each parcel to the winning bidder. One of three types of deeds may be employed:
- a) Bargain and Sale Deed without Covenants, or with Covenants against Grantor's Acts;
 - b) Quitclaim Deed;
 - c) Directed Deed (from the Treasurer to the Purchaser.)
34. **QUITCLAIM DEED** - A quitclaim deed issued to convey a parcel sold at auction may contain the following provisions:

"Nothing contained in any description herein is intended to convey more than the assessed owner owned at the time of the levy of the tax, the non-payment of which resulted in the tax sale. There is no representation as to the extent of the acreage conveyed herein";

"Excepting and reserving all the right, title and interest of the County of Suffolk in and to any portion or interest of the lands herein conveyed, which interest was heretofore acquired other than pursuant to the provisions of the Real Property Tax Law of the State of New York".

35. **OTHER DEED/CLOSING CONDITIONS** - If an auctioned parcel is contiguous with other real property owned by the Purchaser, the County may require as a condition of closing that Purchaser request the Town Assessor in writing to combine the two parcels; Purchaser shall not convey either parcel(s) without also conveying the adjoining parcel to the same grantee, unless approved by the local planning board. These restrictions shall run with the land.
36. **CLOSING COSTS** - The Purchaser is responsible to pay all closing costs, unless specific provision was otherwise made in advance and approved by the County Legislature. All closings will take place at the Division of Real Property Acquisition and Management, or the Department of Law, unless otherwise agreed to in writing no less than one week in advance of the closing. If the Purchaser demands a closing in Suffolk County other than at County offices, an attendance fee will be charged at the rate of \$250 Base Fee for the first two hours, excluding travel time, plus \$150 for every hour, or fraction thereof, thereafter. For closings in Nassau County, the Base Fee will be \$350; in New York City or the boroughs thereof, the Base Fee is \$450.
37. **TITLE INSURANCE** - All objections to title (including survey objections) must be submitted to the Director within 45 days after the date the sale is approved by the County Legislature or the objections are deemed to be waived. In the instance of a Bargain and Sale Deed without Covenants against Grantor's Acts, or a Bargain and Sale Deed with Covenants against Grantor's Acts, the County may , but is not obligated to, deliver such title as a title company licensed in the State of New York and approved to do business with the County will insure. The County may pre-qualify certain parcels for title insurance. Where it is noted in the brochure that certain parcels have already been examined by a named title company; the Purchaser may choose to use that title company or a different qualifying company.
38. **TITLE OBJECTIONS** - If the purchaser's title company refuses to insure without exceptions, the County may select a different, equally-qualified title company. Purchaser agrees to accept insurance from the alternative insurer, provided no additional cost results thereby, over and above the cost of insurance from the first company. If the purchaser's title company will not insure title without exceptions, and if the Director chooses not to pursue insurance from an alternative title insurer, the Director may cancel the transaction and return the down payment and auction fee. In such event, the parties will have no further rights one against the other.
39. **DISPUTE RESOLUTION FINAL** - The decision of the Director regarding any dispute related to the auction or the conveyance of auctioned property is final. The Director reserves the right to reject any bid for failure to comply with auction procedures, or for any other reason related to the conduct of the auction, or to cancel an approved sale if the County elects not to proceed or if the purchaser fails to complete his or her obligations in timely fashion.
40. **FORM OF COMMUNICATION** - In connection with a "limited auction", that is, an auction among persons owning property adjacent to the parcel to be sold pursuant to §A42-4(H)(3) or (4), the County will send an "Initial Inquiry Response" to solicit the interest of each such owner in participating in an auction. The form is sent to the owner at the address listed with the County Treasurer by certified mail, return receipt requested. All subsequent communications or notices may be sent by regular mail. For

publicly advertised auctions, all communications with prospective participants or with purchasers will be sent by regular mail to the address that they provide.

41. **NO WARRANTY OF VACANCY** - The County makes no warranty that the premises will be delivered vacant. If an auctioned property becomes occupied following the sale, then following closing and recording of the deed, an eviction, if necessary, will be the responsibility of the Purchaser. The County expects not to place a licensee, other than the prospective purchaser, in any auctioned premises after the auction. However, it will do so in order to safeguard the premises or for other property management reasons.
42. **PERMISSION TO REMOVE SIGN** - The purchaser on each auction parcel may remove the auction sign after signing the Memorandum of Sale and tendering the down payment.
43. **INELIGIBILITY TO PURCHASE** No bidder, or purchaser/principal in the event of third party bidding, including, without limitation, any business entity or subsidiary, parent or affiliate thereof, or any trustee(s), director(s), officer(s) or shareholder(s) with voting interests or owning a total of twenty percent (20%) or more of any of the foregoing, who or which is or has been in default in or on any contract, obligation or agreement of any kind or nature whatsoever entered into with the County, or any of its agencies, within a period of five (5) years prior to the date of the auction sale, will be accepted as an eligible bidder for any property. Such obligations include, among other things, the obligation to pay in full all Suffolk County property taxes and charges when due. If the purchaser owns, alone or with others, any other property for which outstanding and delinquent taxes are owed to Suffolk County, those delinquent taxes must be paid in full prior to closing on any parcels purchased at auction.

The County reserves the right to deny access to the auction, cancel a sale or exercise its right of reversion herein, if an investigation reveals to the Director's satisfaction that the registration form is not adequately, properly and/or truthfully completed; if the identification supplied is not sufficient, if the purchaser or bidder is deemed to be financially unqualified; if the purchaser or bidder has been found guilty of any housing code or building code violation which violation resulted in death or personal injury or has been found guilty of any crime or violation under any Federal, State, County, including but not limited to Articles 7 and 12 of the Suffolk County Sanitary Code, Local Law or permit involving the treatment, handling, storage and/or disposal of any toxic and/or hazardous substance, material or waste; or has been found guilty of any predatory and/or discriminatory lending practices involving, but not limited to, violations of the Racketeer Influenced and Corrupt Organization Act, the Equal Credit Opportunity Act, the Federal Fair Housing Act, the Real Estate Settlement Procedures Act, the Federal Truth in Lending Act, the N.Y. General Business Law or the Suffolk County Human Rights Law or if the taking of title and/or occupancy by purchaser will result in a violation of any Federal, State, County or Local Law.

44. **FINAL SALE** – Except as provided in paragraph 45 hereinafter, all sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall Suffolk County be or become liable for any defects in title for any cause whatsoever; no claim, demand or suit of any nature shall exist against Suffolk County in favor of the purchaser, its heirs, success or assigns, arising from this sale.
45. **MATERIAL MISREPRESENTATION** – If any material misrepresentation, omission or false statement relating to any representation required herein is discovered after the title closing, the County may avail itself of all remedies available to it at law, it being acknowledged that these representations are being relied upon by the County and are material to this transaction. If such misrepresentation, omission or false statement occurs, the purchaser understands that he/she/it may be charged with fraud, and/or intent to defraud. In addition, in such event, the County reserves the right to pursue the purchaser and others for cancellation of the transaction. This clause shall survive the title closing. The verified registration statement is a sworn statement and the making of a false representation or intentional omission in it may be punishable as a crime.
46. **CERTIFICATION OF NON-AGENCY** – The purchaser shall be required to certify that he/she is not representing the former owner(s) of the property and has no intent to defraud Suffolk County of the unpaid taxes, assessment, penalties and charges, which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom Suffolk County foreclosed. If such conveyance occurs, the purchaser understands that he/she may be charged with fraud, and/or intent to defraud. In addition, in such event, the County reserves the right to pursue the purchaser, the former owner and others for cancellation of the transaction, and/or any deficiency between the purchase price at auction and such sums as may be owed to Suffolk County as related to the property.
47. **JURISDICTION** – Bidder and/or purchaser at this auction agrees that the sole forum for any dispute or cause of action arising out of this auction shall be the Supreme Court of the State of New York, County of Suffolk and related Appellate Courts.

1237

Intro. Res. No. -2011
Introduced by Legislator Romaine

Laid on Table 3/8/11

**RESOLUTION NO. -2011, REMOVING JOHN J. FOLEY'S
NAME FROM THE SKILLED NURSING FACILITY**

WHEREAS, John J. Foley served the people of Brookhaven Town and Suffolk County as a town board member and long-time member of the Suffolk County Legislature; and

WHEREAS, John J. Foley was an indomitable advocate for public education and public health services in our County; and

WHEREAS, John J. Foley's enormous contributions in the area of public health were recognized when the County's skilled nursing facility was renamed in his honor, by the enactment of Resolution No. 357-1996; and

WHEREAS, Mr. Foley passed away in 2009; and

WHEREAS, the Suffolk County Legislature has approved the sale of the Foley Skilled Nursing Facility to a private operator; and

WHEREAS, John J. Foley's family requested that his name be removed from the skilled nursing facility in the event that it ever passed from public ownership into private hands; now, therefore be it

1st RESOLVED, that Resolution No. 357-1996 is hereby repealed; and be it further

2nd RESOLVED, that any private entity which purchases the skilled nursing facility is prohibited from using John J. Foley's name or likeness at the skilled nursing facility after ownership passes to the private entity; and be it further

3rd RESOLVED, that the County of Suffolk shall not enter into a contract for the sale of the skilled nursing facility to any private entity which uses John J. Foley's name in its business or corporate name; 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 Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

1238

Intro. Res. No. -2011
Introduced by Presiding Officer Lindsay

Laid on Table 3/8/2011

**RESOLUTION NO. -2011, AUTHORIZING THE TRANSFER OF
ONE (1) SURPLUS COUNTY PRINTER TO THE SUFFOLK
COUNTY VANDERBILT MUSEUM**

WHEREAS, the Suffolk County Legislature has notified the Department of Public Works: Purchasing Division that this printer has been taken out of service because of obsolescent technology; and

WHEREAS, this equipment has been declared surplus property; and

WHEREAS, the Suffolk County Vanderbilt Museum has requested the donation of one (1) printer and associated peripheral equipment from the County; and

WHEREAS, the Suffolk County Vanderbilt Museum is willing to assume responsibility for the removal and transportation of this equipment; now, therefore be it

1st RESOLVED, that the Suffolk County Legislature is hereby authorized, empowered, and directed, to transfer the following surplus equipment to the following not-for-profit organization, for use within its facilities for nominal consideration:

TO:
Suffolk County Vanderbilt Museum
180 Little Neck Road
Centerport, NY 11721

Contact: Lance Reinheimer
Telephone: 631-854-5562

Item (Quantity)	Serial Number
Printer (1) HP Laserjet 2100	USGZ052091

and be it further

2nd RESOLVED, that the above described surplus County personal property is hereby declared to be of scrap value only and is transferred to the above listed non-profit for nominal consideration, pursuant to Section 8-4(C)(2)(a) of the SUFFOLK COUNTY CHARTER; and be it further

3rd RESOLVED, that the above named organization shall assume responsibility for the removal and transportation of said equipment; 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 Section 617.5(c)(20), (21), and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency

administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED:

APPROVED BY:

County Executive of Suffolk County

DATE:

T:\BRO\Printer for Vanderbilt.doc

Intro. Res. No. 1239-11

Laid on the Table 3/8/11

Introduced by the Presiding Officer at the Request of the County Executive

RESOLUTION NO. -2011, AMENDING THE 2011 OPERATING BUDGET AND APPROPRIATING FUNDS IN CONNECTION WITH BONDING A SETTLEMENT FOR A BUS LIABILITY CASE

WHEREAS, a settlement was approved in a Bus Liability case by the Ways and Means Committee for a total amount of Seven Hundred Fifty Thousand (\$750,000) Dollars; and

WHEREAS, the settlement is a mandated expense that must be paid by the County; and

WHEREAS, sufficient funds to satisfy Bus Liability orders, judgments and settlements are not available in the 2011 Operating Budget; and

WHEREAS, the County Legislature, by Resolution of even date herewith, has authorized the issuance of Seven Hundred Fifty Thousand (\$750,000) Dollars in Suffolk County Serial Bonds to cover the cost of the above referenced settlement; now, therefore be it

1st RESOLVED, that this settlement in the amount of Seven Hundred Fifty Thousand (\$750,000) Dollars be bonded and paid under the authority of the Office of Risk Management, County Department of Civil Services, in conjunction with the County Department of Audit and Control and the County Executive's Budget Office; and be it further

2nd RESOLVED, that the proceeds of Seven Hundred Fifty Thousand (\$750,000) Dollars in Suffolk County Serial Bonds be and are hereby appropriated as follows:

REVENUES:

038-2780 Proceeds: Debt \$750,000

APPROPRIATIONS:

	Miscellaneous	
	Bus Liability Insurance	
	038-MSC-1916	
	Mandated	
8505 – Settlements		\$750,000

DATED:

APPROVED BY:

County Executive of the County of Suffolk

Date of Approval:

1241

Intro. Res. No. -2011
Introduced by Legislator Vilorina-Fisher

Laid on Table 3/8/11

**RESOLUTION NO. -2011, REAPPOINTING MEMBER OF
THE COUNCIL ON ENVIRONMENTAL QUALITY (R.
LAWRENCE SWANSON)**

WHEREAS, appointments to the Council on Environmental Quality (CEQ) are now within the exclusive purview of the County Legislature under Section 1-3 of the SUFFOLK COUNTY CHARTER; and

WHEREAS, the term of office of **R. Lawrence Swanson** expires on March 21, 2011; now, therefore be it

1st RESOLVED, that **R. Lawrence Swanson**, currently residing in St. James, New York, is hereby reappointed as a member of the Suffolk County Council on Environmental Quality, pursuant to Section 1-3(A) of the SUFFOLK COUNTY CHARTER, for a term of office to expire March 21, 2016.

DATED:

EFFECTIVE PURSUANT TO SECTION 2-15(A) OF THE SUFFOLK COUNTY CHARTER

S:\reslr-reappt-swanson-CEQ

1243

Intro. Res. No. -2011
Introduced by Legislator Romaine

Laid on Table 3/8/11

**RESOLUTION NO. -2011, ADOPTING LOCAL LAW NO.
-2011, A LOCAL LAW TO ESTABLISH POLICY FOR COUNTY
FUNDING NOTICES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on , 2011, a proposed local law entitled, "**A LOCAL LAW TO ESTABLISH POLICY FOR COUNTY FUNDING NOTICES**" now, therefore, be it

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

LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO ESTABLISH POLICY FOR COUNTY FUNDING
NOTICES**

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk utilizes many outside agencies to provide services to veterans, seniors, young people, handicapped citizens and other segments of the population.

This Legislature further finds that the Suffolk County Attorney has developed a contract provision that requires outside agencies funded by the County to credit an individual elected official for their funding in its publications and advertising.

This Legislature further finds that while it is appropriate for the County of Suffolk to advise its residents that it is delivering services through contracts with outside agencies, it is inappropriate for any individual elected or appointed official, department, office or agency to claim credit for such funding. Further, it is inappropriate for any elected official to seek political benefit in such a manner.

Therefore, the purpose of this law is to bar contract provisions that require outside agencies to credit individual officials or agencies for their funding.

Section 2. Amendments.

Chapter 143 of the SUFFOLK COUNTY CODE is hereby amended as follows:

**Chapter 143,
PURCHASING AND CONTRACTS**

* * * * *

**ARTICLE V,
Guidelines and Requirements for Contract Agencies**

* * * *

§ 143-30. Requirements.

* * * *

E. No County contract shall include a provision that requires a contract agency to name or credit any individual elected official, officer, department, office or agency of the County of Suffolk in their print materials, advertising or publications for funding received from the County of Suffolk. County contracts may only require a contract agency to include language in their print materials, publications, and advertising that the County of Suffolk has provided funding to the contract agency.

* * * *

Section 3. Applicability.

This law shall apply to all County contracts entered into with contract agencies on or after the effective date of this law.

Section 4. 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 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

___ Underlining denotes addition of new language

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

s:\laws\l-policy-funding-notices

OFFICE OF THE COUNTY LEGISLATURE

COUNTY OF SUFFOLK

GEORGE NOLAN
COUNSEL TO THE LEGISLATURE
email: george.nolan@suffolkcountyny.gov



WILLIAM H. ROGERS BUILDING
P.O. BOX 6100
HAUPPAUGE, NY 11788-0099
(631) 853-5494 (PHONE)
(631) 853-4415 (FAX)

DATE: March 7, 2011

TO: CLERK OF THE COUNTY LEGISLATURE

RE: MEMORANDUM OF COUNSEL TO THE LEGISLATURE PURSUANT TO RULE 28

PROPOSED LOCAL LAW YEAR 2011

TITLE: I.R. NO. -2011; A LOCAL LAW TO ESTABLISH POLICY FOR COUNTY FUNDING NOTICES

SPONSOR: LEGISLATOR ROMAINE

DATE OF RECEIPT BY COUNSEL: 3/7/11 PUBLIC HEARING: 3/22/11

DATE ADOPTED/NOT ADOPTED: _____ CERTIFIED COPY RECEIVED: _____

This proposed local law would amend Chapter 143 of the SUFFOLK COUNTY CODE to prohibit County contracts with contract agencies from including provisions which name or credit any individual elected official, officer, department, office or agency of the County in their print materials, advertising or publications for funding received from the County.

This law will not prohibit contract agencies from stating that the County of Suffolk has provided funding to them in any printed materials, publications or advertising.

This law will take effect immediately upon its filing in the Office of the Secretary of State.

A handwritten signature in black ink, appearing to read "George Nolan", is written over the text of the memorandum.

GEORGE NOLAN
Counsel to the Legislature

GN:

s:\rule28\28-county funding notices

1244

Intro. Res. No. -2011
Introduced by Legislator Eddington

Laid on Table 3/8/11

**RESOLUTION NO. -2011, ACCEPTING A CONDITIONAL
GIFT TO FUND THE INSTALLATION OF THE SHOTSPOTTER
® GUNSHOT LOCATION SYSTEM IN NORTH BELLPORT**

WHEREAS, communities throughout Suffolk County are experiencing an increase in gun violence; and

WHEREAS, the community of North Bellport has seen a dramatic rise in the number of criminal incidents involving guns, including an increase in the number of gunshots fired in the area; and

WHEREAS, during a nine month period in 2010, North Bellport experienced fifteen gun crimes, including seven victims who were shot, yet only one weapons arrest was made during that same period; and

WHEREAS, Resolution No. 1276-2010 authorized the County of Suffolk to establish a pilot program to install the ShotSpotter ® Gunshot Location System in Huntington Station; and

WHEREAS, installing ShotSpotter ® in North Bellport would allow the Suffolk County Police Department to get an accurate accounting of the number of gunshots discharged in the area; and

WHEREAS, ShotSpotter ® will also provide real time location information to law enforcement each time a gun is discharged, allowing police and emergency services to respond immediately to the scene; and

WHEREAS, the Town of Brookhaven is considering a resolution to provide \$80,000 towards the installation of ShotSpotter ® in North Bellport; and

WHEREAS, the Knapp Swezey Foundation wishes to provide Suffolk County with a conditional gift of \$120,000 for the installation of the ShotSpotter ® Gunshot Location System in North Bellport; and

WHEREAS, in accepting the gift from the Knapp Swezey Foundation, Suffolk County agrees to maintain and operate the ShotSpotter ® System in the future, for a minimum of five years; and

WHEREAS, the County should accept the conditional gift of the Knapp Swezey Foundation to provide ShotSpotter ® System in North Bellport; now, therefore be it

1st RESOLVED, that the County of Suffolk hereby accepts a gift of \$120,000 from the Knapp Swezey Foundation; and be it further

2nd RESOLVED, that the County Treasurer accepts these funds on behalf of the County of Suffolk; and be it further

3rd **RESOLVED**, that this gift shall be used by the County of Suffolk solely for the installation of the ShotSpotter ® Gunshot Location System in North Bellport; and

4th **RESOLVED**, that the County of Suffolk agrees to maintain and operate the ShotSpotter ® Gunshot Location System in North Bellport for a minimum of five years; and be it further

5th **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 Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

s:\res\r-knapp swezey gift shotspotter

Intro. Res No. 1245-11
Introduced by the Presiding Officer at the Request of the County Clerk

Laid on Table 3 /8/11

RESOLUTION NO. -2011, AUTHORIZING THE COUNTY CLERK TO FILE AN APPLICATION FOR ADDITIONAL STATE MORTGAGE TAX REIMBURSEMENT

WHEREAS, Section 262 of the NEW YORK TAX LAW allows the County Clerk to receive all necessary expenses, as approved and allowed by the New York State Tax Commission, by retention from mortgage proceeds actually collected; and

WHEREAS, the Suffolk County Clerk's Office has sought and retrieved mortgage tax reimbursement in the amount of \$ 1,692,455.00 for 2009-2010; and

WHEREAS, the County Clerk's basic expenses in collecting mortgage tax has increased; and

WHEREAS, the County Clerk's Office collected \$90,122,585.00 in mortgage tax in 2010 compared to \$ 98,445,126.00 collected in 2009; and

WHEREAS, the Suffolk County Clerk is now entitled to retain annually from the mortgage tax collected which moneys could be utilized to offset budgetary shortfalls or tax increases in the County operating budget; and

WHEREAS, the County Clerk, has determined that her Office is eligible to retain \$ 1,692,455.00 of mortgage tax collected to offset expenses in her office, now, therefore be it

RESOLVED, that the Suffolk County Clerk is hereby authorized, empowered, and directed, pursuant to Section 18-2 of the SUFFOLK COUNTY CHARTER, to file an application with the New York State Commissioner of Taxation and Finance, for additional funding in the amount of \$ 1,692,455.00 that the County of Suffolk may be entitled to as a result of actual collection of the New York State mortgage tax proceeds by the Suffolk County Clerk's Office, as set forth in Exhibit "A" attached hereto and made part hereof.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date of Approval:

EXHIBIT "A"

2011

MORTGAGE TAX COST ANALYSIS
NON PERSONNEL COSTS

I.	Support Costs - Data Processing Total Data Processing Costs - \$ 732,408 38% Attributable	\$ 278,315
II.	General Office Supplies Total - \$104,763 38% Attributable	\$ 39,810
III.	Postage 41,863 Mortgages at 1.51	\$ 63,213
IV.	Service and Maintenance of Equipment Total - \$ 130,815 38% Attributable	\$ 49,710
V.	Rental of Office Space 6,174 Square Feet \$20.00 per Square Foot	\$ 123,480
	SUB TOTAL	\$554,528

MORTGAGE TAX PERSONNEL COSTS

Total costs include 30% for Fringe Benefits
See attached Personnel Cost Analysis

SUB TOTAL \$ 1,137,927

TOTAL MORTGAGE TAX COSTS \$ 1,692,455

1246

Intro. Res. No. -2011
Introduced by Legislator Cooper

Laid on Table 3/8/11

**RESOLUTION NO. -2011, ADOPTING LOCAL LAW
NO. -2011, A LOCAL LAW MANDATING COMPLIANCE
WITH FINANCIAL DISCLOSURE REQUIREMENTS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on , 2011, a proposed local law entitled, "**A LOCAL LAW MANDATING COMPLIANCE WITH FINANCIAL DISCLOSURE REQUIREMENTS**"; now, therefore be it

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

LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW MANDATING COMPLIANCE WITH FINANCIAL
DISCLOSURE REQUIREMENTS**

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted its Financial Disclosure Law to ensure to the citizens of Suffolk County a government free from conflicts of interest, to discourage and detect corruption and to strengthen public confidence in the integrity of its public servants.

This Legislature also finds and determines that in accordance with the Financial Disclosure Law, hundreds of Suffolk County employees file a financial disclosure statement each year.

This Legislature also determines that the form and content of Suffolk County's Financial Disclosure Statement is set forth in great detail and clarity in Chapter 61 of the SUFFOLK COUNTY CODE.

This Legislature finds that the Suffolk County Ethics Commission has allowed some County officials to file a different disclosure statement, one which contains far less information than the County's statement.

This Legislature further finds that is manifestly unfair to allow certain County officials to shield financial information while hundreds of other employees fully comply with the law's disclosure requirements.

This Legislature also finds that the failure to enforce financial disclosure requirements evenly and uniformly will only cause further erosion of confidence in public institutions.

Therefore, the purpose of this local law is to reinforce and reiterate, on a prospective basis, that all County officers and employees subject to financial disclosure

requirements must file the County's approved disclosure statement in order to comply with local law.

Section 2. Amendments.

Chapter 61 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 61, FINANCIAL DISCLOSURE

* * * *

§ 61-6. Powers of Suffolk County Ethics Commission.

B. It shall be the duty of the Board to receive and file the approved disclosure statement of those officers and employees required to file the same, pursuant to this chapter. Any officer or employee who knowingly fails to file the approved disclosure statement or files an incomplete or partially or wholly unanswered statement or otherwise fails to comply with the directives of the Board in mandating compliance with this chapter shall have his name and title disclosed by the Board to the Clerk and the County Executive. The Board shall advise these officers of the extent of noncompliance. This disclosure, however, shall not be made where the employee cures the deficiency in the statement within 15 days of the Board's notification to the noncomplying employee by certified mail of its intention to disclose pursuant to this subsection.

* * * *

§61-7. Filing of statement required.

Notwithstanding any other provision of law to the contrary, [E] each and every County officer and employee, except for [members of the Suffolk County Pine Barrens Review Commission,] members of the Board of Trustees of Parks, Recreation and Conservation and members of the Suffolk County Planning Commission, shall file with the Board [a] the approved disclosure statement set forth in this chapter, answering each and every question [set forth] and providing the information requested by the Board and included in the statement. Members [of the Suffolk County Pine Barrens Review Commission, members] of the Board of Trustees of Parks, Recreation and Conservation and members of the Suffolk County Planning Commission shall use the financial disclosure form marked Exhibit AA.

* * * *

Section 6. Applicability.

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

Section 7. 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 8. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 9. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

S:\laws\2011\l-compliance-financial-disclosure(refile)

OFFICE OF THE COUNTY LEGISLATURE
COUNTY OF SUFFOLK

GEORGE NOLAN
COUNSEL TO THE LEGISLATURE
email: george.nolan@suffolkcountyny.gov



WILLIAM H. ROGERS BUILDING
P.O. Box 6100
HAUPPAUGE, NY 11788-0099
(631) 853-5494 (PHONE)
(631) 853-4415 (FAX)

DATE: MARCH 8, 2011
TO: CLERK OF THE COUNTY LEGISLATURE
RE: MEMORANDUM OF COUNSEL TO THE LEGISLATURE PURSUANT TO RULE 28

PROPOSED LOCAL LAW YEAR 2011

TITLE: I.R. NO. -2011; A LOCAL LAW MANDATING COMPLIANCE WITH FINANCIAL
DISCLOSURE REQUIREMENTS

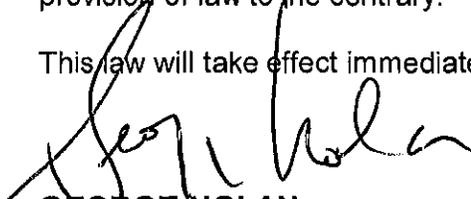
SPONSOR: LEGISLATOR COOPER

DATE OF RECEIPT BY COUNSEL: 3/8/2011 PUBLIC HEARING: 3/22/2011

DATE ADOPTED/NOT ADOPTED: _____ CERTIFIED COPY RECEIVED: _____

This proposed local law would reiterate that all County elected officials and employees subject to the County's financial disclosure requirements must file the County's approved financial disclosure form set forth in Chapter 61 of the Suffolk County Code, notwithstanding any other provision of law to the contrary.

This law will take effect immediately upon its filing in the Office of the Secretary of State.


GEORGE NOLAN
Counsel to the Legislature

GN:mjk

s:\rule28\28-compliance-financial-disclosure-requirements(refile)

1247

Intro. Res. No. -2011

La. '08n Table 3/8/2011

Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. -2011, ADOPTING LOCAL LAW NO. -2011, A CHARTER LAW LIMITING ANNUAL INCREASES IN THE COUNTY EXPENSE BUDGET TO NO MORE THAN 2%

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on March 8, 2011, a proposed local law entitled, "**A CHARTER LAW LIMITING ANNUAL INCREASES IN THE COUNTY EXPENSE BUDGET AND TAX LEVY TO NO MORE THAN 2%;**" 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 form as follows:

LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK

A CHARTER LAW LIMITING ANNUAL INCREASES IN THE COUNTY EXPENSE BUDGET TO NO MORE THAN 2%

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Suffolk County must curb out of control spending and take the necessary steps to avoid falling into a deeper fiscal crisis than that which is already afflicting our County and State;

This Legislature also finds and determines that balancing the budget is of utmost priority for Suffolk County Governance;

This Legislature finds that in order to secure the balancing of the budget, curbing spending and trimming excess is crucial;

Therefore, the purpose of this law is to ensure that the Suffolk County expense budget for any fiscal year shall not exceed the adopted and approved expense budget for the prior fiscal year by more than 2%.

Section 2. Amendments.

Article IV
County Budget & Capital Program

I.) Subsection (B) of Section C4-6 of Article IV of the Suffolk County Charter is hereby amended as follows:

The proposed expense budget for any fiscal year shall not exceed the adopted and approved expense budget for the prior fiscal year by more than 2% [4%] or the amount of the increase in the gross national product price deflator, whichever is

greater, measured by the Bureau of Labor Statistics for the period of the fiscal year preceding the year in which the initial public hearings on the proposed county budget are held, as calculated against the adopted and approved expense budget for the prior fiscal year. For the purposes of this subsection, "expense budget" shall include all expenditures and all revenues except outlays of federal and state grants or aid, receipts of federal or state grants or aid, outlays by the County of Suffolk for goods or services statutorily required by the state or federal government and outlays used for repayment of all debt principal. The expense budget for the community college shall be treated as a separate budget for the purposes of compliance with the provisions of this subsection. The amount of real property tax revenues and non-real-property-tax revenues attributable to the community college budget shall continue to be the ratio between the two sources of revenue as shall have applied to the expense budget adopted and approved for the prior fiscal year. The proposed expense budget for any fiscal year shall also be submitted by the Executive to the County Legislature in such a form as to require the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), calculated together, or net tax levy, [calculated together,] exclusive of the amount necessary to be raised by tax on real estate to provide for the interest on and principal of all indebtedness in the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), not to exceed the combined Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service) or net tax levy for the prior fiscal year, exclusive of the amount necessary to be raised by tax on real estate to provide for the interest on and principal of all indebtedness in the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service) by more than 4% or the amount of the increase in the gross national product (GNP) price deflator, whichever is greater, measured by the Bureau of Labor Statistics for the period of the fiscal year immediately preceding the year in which the initial public hearings on the proposed county expense budget are held.

II.) Subsection (E) of section C4-10 of Article IV of the Suffolk County Charter is hereby amended as follows:

The adopted expense budget for any fiscal year shall not exceed the adopted and approved expense budget for the prior fiscal year by more than 2% [4%] or the amount of the increase in the gross national product (GNP) price deflator, whichever is greater, measured by the Bureau of Labor Statistics for the period of the fiscal year preceding the year in which the initial public hearings on the proposed county budget are held, as calculated against the adopted and approved expense budget for the prior fiscal year. For the purposes of this subsection, "expense budget" shall include all expenditures and all revenues, except outlays of federal or state grants or aid, receipts of federal or state grants or aid, outlays

by the County of Suffolk for goods or services statutorily required by the state or federal government and outlays used for repayment of all debt principal. The adopted expense budget for any fiscal year shall also be in such a form as to require the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), calculated together, or net tax levy, exclusive of the amount necessary to be raised by tax on real estate to provide for the interest on and principal of all indebtedness in the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), not to exceed the combined Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service) or net tax levy for the prior fiscal year, exclusive of the amount necessary to be raised by tax on real estate to provide for the interest on and principal of all indebtedness in the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service) by more than 4% or the amount of the increase in the gross national product (GNP) price deflator, whichever is greater, measured by the Bureau of Labor Statistics for the period of the fiscal year immediately preceding the year in which the initial public hearings on the proposed county expense budget are held. "Outlays for goods or services statutorily required by the state or federal government" shall not mean the cost to deliver statutorily required goods or services if the pertinent state or federal statute does not mandate a specific level, quantity or degree of goods or services to be provided by the County of Suffolk. Increases in expenditures required by the Governmental Accounting Standards Board through its generally accepted accounting principles for governmental units shall be deemed outlays by the County of Suffolk for goods or services statutorily required by the state or federal government.

III.) Subsection (A) of section C4-12 of the Suffolk County Charter is hereby amended as follows:

When the county budget shall have been finally adopted, the County Legislature shall levy all taxes and assessments in the manner and within the time prescribed by law, except that no county expense budget shall be adopted or approved for any fiscal year which requires the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), calculated together, or net tax levy, [calculated together,] exclusive of the amount necessary to be raised by tax on real estate to provide for the interest on and principal of all indebtedness in the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), [not] to exceed the combined Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service), or net tax levy for the prior fiscal year, exclusive of the amount

necessary to be raised by tax on real estate to provide for the interest on and principal of all indebtedness in the Suffolk County General Fund and Police District Fund or any captive service fund (nursing, self-insurance and interdepartment operation and service) by more than 4% or the amount of the increase in the gross national product (GNP) price deflator, whichever is greater, measured by the Bureau of Labor Statistics for the period of the fiscal year immediately preceding the year in which the initial public hearings on the proposed county expense budget are held, unless such net tax levy in excess of the limitations contained herein is approved by an affirmative vote of three-fourths (3/4) of the entire membership of the Suffolk County Legislature directed solely to that specific purpose. The Suffolk County Executive and Suffolk County Legislature shall ensure that the combined net tax levies do not exceed the limit set forth in such resolution or the limit contained in § C4-12A of this Article. The effects of prior year ending fund balances shall be excluded from the calculation of the net tax levy.

Section 3. Applicability.

This law shall apply to all proposed adopted and expense budgets submitted on or after January 1, 2012.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person 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 hereof, 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 or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect January 1 following the next ensuing general election if approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk

voting upon a proposition for its approval in conformity with the provisions of Section 34 of the NEW YORK MUNICIPAL HOME RULE LAW.

Section 7. Form of Proposition.

The question to be submitted to the electorate pursuant to Section 6 of this law shall read as follows:

**SHALL RESOLUTION NO. 2011, A
CHARTER LAW LIMITING ANNUAL INCREASES
IN THE COUNTY EXPENSE BUDGET TO NO
MORE THAN 2%, BE APPROVED?**

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

OFFICE OF THE COUNTY LEGISLATURE

COUNTY OF SUFFOLK

GEORGE NOLAN
COUNSEL TO THE LEGISLATURE
email: george.nolan@suffolkcountyny.gov



WILLIAM H. ROGERS BUILDING
P.O. Box 6100
HAUPPAUGE, NY 11788-0099
(631) 853-5494 (PHONE)
(631) 853-4415 (FAX)

DATE: March 7, 2011

TO: CLERK OF THE COUNTY LEGISLATURE

RE: MEMORANDUM OF COUNSEL TO THE LEGISLATURE PURSUANT TO RULE 28

PROPOSED LOCAL LAW YEAR 2011

TITLE: I.R. NO. -2011; A CHARTER LAW LIMITING ANNUAL INCREASES IN THE COUNTY
EXPENSE BUDGET TO NO MORE THAN 2%

SPONSOR: THE PRESIDING OFFICER, ON REQUEST OF THE COUNTY EXECUTIVE

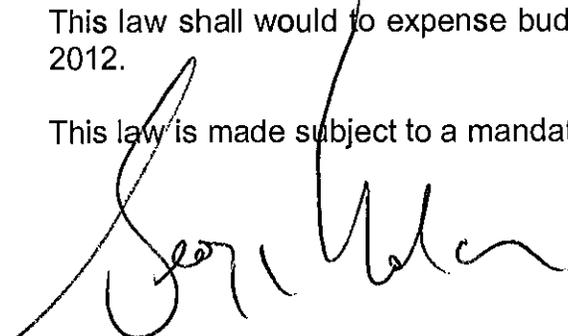
DATE OF RECEIPT BY COUNSEL: 3/7/11 PUBLIC HEARING: 3/22/11

DATE ADOPTED/NOT ADOPTED: _____ CERTIFIED COPY RECEIVED: _____

This proposed charter law would amend Section C4-10 of the SUFFOLK COUNTY CHARTER to lower the County's expense cap from 4% to 2%.

This law shall would to expense budgets submitted and adopted on or after January 1, 2012.

This law is made subject to a mandatory referendum.


GEORGE NOLAN
Counsel to the Legislature

GN:mjk

s:\rule28\28-county exec 2% tax cap

**RESOLUTION NO. -2011, APPROPRIATING FUNDS
IN CONNECTION WITH THE HEALTH AND SPORTS FACILITY
- EASTERN CAMPUS (CP 2120)**

WHEREAS, the President of Suffolk County Community College and the Board of Trustees have requested funds for the implementation of the Master Plan Update – Phase I estimated at \$65,274,000; and

WHEREAS, the New York State Legislature and the Governor have included funding in the New York State Budget to cover the State’s share estimated at \$32,547,000; and

WHEREAS, sufficient funds have been included in the 2011 Capital Budget and Program to cover the County’s cost of the project; 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 2011 Capital Budget as the basis for funding capital projects such as this project; and

WHEREAS, the County Legislature, by Resolution of even date herewith, has authorized the issuance of \$500,000 in Suffolk County Serial Bonds; now, therefore be it

1st RESOLVED, that this Legislature, being a funding agency, hereby finds and determines in accordance with the State Environmental Quality Review Act (SEQRA) that the adoption of this law is a Type II action, pursuant to Title 6 NYCRR Part 617.5(c)(18) and (27), since it constitutes a local legislative decision in connection with information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soil studies that do not commit the agency to undertake, fund or approve any Type 1 or Unlisted action. As a Type II action, the Legislature has no further responsibilities under SEQRA; and be it further

2nd RESOLVED, that it is hereby determined that this project, with a priority ranking of thirty-eight (38), 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

3rd RESOLVED, that the proceeds of \$500,000 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>Project Title</u>	<u>JC</u>	<u>Amount</u>
525-CAP-2120.110 (Fund 818-Debt Service)	Planning for the Health and Sport Facility - Easter Campus	30	\$500,000

and be it further

4th RESOLVED, that State Aid be and it hereby is appropriated as follows:

<u>Project No.</u>	<u>Project Title</u>	<u>JC</u>	<u>Amount</u>
525-CAP-2120.110 (Fund 818-Debt Service)	Planning for the Health and Sports Facility - Eastern Campus	30	\$500,000

RESOLUTION NO. -2011, APPROPRIATING FUNDS IN CONNECTION WITH THE INSTALLATION OF COOLING SYSTEMS (CP 2138)

WHEREAS, the President of Suffolk County Community College and the Board of Trustees have requested funds for the implementation of the Master Plan Update – Phase I estimated at \$65,274,000; and

WHEREAS, the New York State Legislature and the Governor have included funding in the New York State Budget to cover the State’s share estimated at \$32,547,000; and

WHEREAS, sufficient funds have been included in the 2011 Capital Budget and Program to cover the County’s cost of the project; 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 2011 Capital Budget as the basis for funding capital projects such as this project; and

WHEREAS, the County Legislature, by Resolution of even date herewith, has authorized the issuance of \$3,500,000 in Suffolk County Serial Bonds; now, therefore be it

1st RESOLVED, that this Legislature, being a funding agency, hereby finds and determines in accordance with the State Environmental Quality Review Act (SEQRA) that the adoption of this law is a Type II action, pursuant to Title 6 NYCRR Part 617.5(c)(2) and (27), since it constitutes a local legislative decision in connection with replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site. As a Type II action, the Legislature has no further responsibilities under SEQRA; and be it further

2nd RESOLVED, that it is hereby determined that this project, with a priority ranking of forty-four (44), 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

3rd RESOLVED, that the proceeds of \$3,500,000 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>Project Title</u>	<u>JC</u>	<u>Amount</u>
525-CAP-2138.310 (Fund 818-Debt Service)	Construction for Installation of Cooling Systems – College Wide	30	\$3,500,000

and be it further

4th RESOLVED, that State Aid be and it hereby is appropriated as follows:

<u>Project No.</u>	<u>Project Title</u>	<u>JC</u>	<u>Amount</u>
525-CAP-2138.310 (Fund 818-Debt Service)	Construction for Installation of Cooling Systems – College Wide	30	\$3,500,000

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

S:\res\r-cooling-systems

RESOLUTION NO. -2011, APPROPRIATING FUNDS IN CONNECTION WITH THE PARTIAL RENOVATION OF THE PECONIC BUILDING (CP 2181)

WHEREAS, the President of Suffolk County Community College and the Board of Trustees have requested funds for the implementation of the Master Plan Update – Phase I estimated at \$65,274,000; and

WHEREAS, the New York State Legislature and the Governor have included funding in the New York State Budget to cover the State’s share estimated at \$32,547,000; and

WHEREAS, sufficient funds have been included in the 2011 Capital Budget and Program to cover the County’s cost of the project; 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 2011 Capital Budget as the basis for funding capital projects such as this project; and

WHEREAS, the County Legislature, by Resolution of even date herewith, has authorized the issuance of \$655,000 in Suffolk County Serial Bonds; now, therefore be it

1st RESOLVED, that this Legislature, being a funding agency, hereby finds and determines in accordance with the State Environmental Quality Review Act (SEQRA) that the adoption of this law is a Type II action, pursuant to Title 6 NYCRR Part 617.5(c)(2), (25), and (27) since it constitutes a local legislative decision in connection with replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, and, the purchase of furnishings, equipment and supplies. As a Type II action, the Legislature has no further responsibilities under SEQRA; and be it further

2nd RESOLVED, that it is hereby determined that this project, with a priority ranking of forty-two (42), 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

3rd RESOLVED, that the proceeds of \$655,000 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>Project Title</u>	<u>JC</u>	<u>Amount</u>
525-CAP-2181.310 (Fund 818 - Debt Service)	Construction for the Partial Renovation of the Peconic Building	30	\$525,000
525-CAP-2181.510 (Fund 818 - Debt Service)	Furniture and Equipment for the Partial Renovation of the Peconic Building	30	\$130,000

and be it further

4th RESOLVED, that State Aid be and it hereby is appropriated as follows:

<u>Project No.</u>	<u>Project Title</u>	<u>JC</u>	<u>Amount</u>
525-CAP-2181.310 (Fund 818-Debt Service)	Construction for the Partial Renovation of the Peconic Building	30	\$525,000
525-CAP-2181.510 (Fund 818-Debt Service)	Furniture and Equipment for the Partial Renovation of the Peconic Building	30	\$130,000

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

S:\res\r-Peconic-Building

RESOLUTION NO. -2011, APPROPRIATING FUNDS IN CONNECTION WITH THE PURCHASE OF COMMUNICATIONS EQUIPMENT FOR SHERIFF'S OFFICE (CP 3060)

WHEREAS, the Sheriff's Office radio communications system must be upgraded due to upcoming changes in FCC Rules and Regulations; and

WHEREAS, the Sheriff of Suffolk County has requested funds for Capital Project 3060 for the replacement and upgrade of mobile data terminals (MDTs) in the Sheriff's Office marked vehicles to allow for fully integrated communications between over the air and computer aided dispatch; and

WHEREAS, there are sufficient funds within the 2011 Capital Budget and Program to cover the cost of said request under Capital Program Number 3060; 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 2011 Capital Budget, as the basis for funding capital projects such as this project; and

WHEREAS, the County Legislature, by resolution of even date herewith, has authorized the issuance of \$312,000 in Suffolk County Serial Bonds; now, therefore be it

1st RESOLVED, that this Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), Environmental Conservation Law Article 8, hereby finds and determines that this constitutes a Type II action, pursuant to Volume 6 of the New York Code of Rules and Regulations ("NYCRR") Section 617.5 (25) and (27), in that the resolution concerns purchasing of furnishings, equipment and supplies, other than land, radioactive material, pesticides, herbicides or other hazardous materials, and adoption of a local legislative decision in connection with the same; and be it further

2nd RESOLVED, that it is hereby determined that this project, with a priority ranking of seventy-five (75), 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

3rd RESOLVED, that the proceeds of \$312,000 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>J.C.</u>	<u>Project Title</u>	<u>Amount</u>
525-CAP-3060.512 (Fund 001-Debt Service)	18	Purchase of Communications Equipment for Sheriff's Office	\$312,000

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

RESOLUTION NO. -2011, APPROPRIATING FUNDS IN CONNECTION WITH IMPROVEMENTS TO THE COUNTY CORRECTIONAL FACILITY C – 141, RIVERHEAD (CP 3014)

WHEREAS, the Sheriff of Suffolk County has requested additional funds for Capital Project 3014, which addresses the repair or replacement of infrastructure throughout the Riverhead Maximum and Medium Security Correctional Facilities (County Correctional Facility C – 141) along with the administrative wing of the building; and

WHEREAS, these repairs or replacements include, but are not limited to, mechanical and electrical systems, asphalt paving and drainage, exterior concrete stairs, walkways and curbs, exterior lighting systems, building roofs and waterproofing, and other general building improvements; and these physical assets are at the end of their useful life, which, if not repaired or replaced, could create safety hazards; and

WHEREAS, the majority of these renovations, repairs and improvements are interrelated and require a definitive schedule of funding; and

WHEREAS, there are sufficient funds within the 2011 Capital Budget and Program to cover the planning and construction costs of said request under Capital Program Number 3014; 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 2011 Capital Budget, as the basis for funding capital projects such as this project; and

WHEREAS, the County Legislature, by resolution of even date herewith, has authorized the issuance of \$1,700,000 in Suffolk County Serial Bonds; now, therefore be it

1st **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 Section 617.5 (c)(1),(2),(20) and (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and Chapter 279 of the Suffolk County Administrative Code, as the administration and adoption of this legislative decision involves the maintenance, repair and replacement of a structure or facility, in kind, on the same site involving no substantial changes in an existing structure or facility; and be it further

2nd **RESOLVED**, that it is hereby determined that this project, with a priority ranking of fifty-nine (59), 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

3rd **RESOLVED**, that the proceeds of \$1,700,000 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>J.C.</u>	<u>Project Title</u>	<u>Amount</u>
525-CAP-3014.321 (Fund 001-Debt Service)	25	Improvements to the County Correctional Facility C-141-Riverhead	\$1,000,000

RESOLUTION NO. -2011, APPROPRIATING FUNDS IN CONNECTION WITH RENOVATIONS TO THE ORIGINAL PORTIONS OF THE YAPHANK CORRECTIONAL FACILITY (CP 3009)

WHEREAS, the Sheriff of Suffolk County has requested additional funds for Capital Project 3009, which addresses the repair or replacement of infrastructure throughout the original portions of the Yaphank Correctional Facility; and

WHEREAS, with a capacity to house 504 inmates, and an anticipated growth in the County's inmate population over the next decade, this original portion of the complex must continue to be used for years to come; and

WHEREAS, this maintenance, repair and upgrade will include renovations and improvements to various structural and mechanical systems to include, but are not limited to, plumbing, HVAC, electrical, and building roofs and waterproofing, along with repairs and renovations to the existing dormitories, and other general building improvements; and these physical assets are at the end of their useful life, which, if not repaired or replaced, could create safety hazards; and

WHEREAS, the majority of these renovations, repairs and improvements are interrelated and require a definitive schedule of funding; and

WHEREAS, there are sufficient funds within the 2011 Capital Budget and Program to cover the planning and construction costs of said request under Capital Program Number 3009; 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 2011 Capital Budget, as the basis for funding capital projects such as this project; and

WHEREAS, the County Legislature, by resolution of even date herewith, has authorized the issuance of \$350,000 in Suffolk County Serial Bonds; now, therefore be it

1st 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 Section 617.5 (c)(1),(2),(20) and (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and Chapter 279 of the Suffolk County Administrative Code, as the administration and adoption of this legislative decision involves the maintenance, repair and replacement of a structure or facility, in kind, on the same site involving no substantial changes in an existing structure or facility; and be it further

2nd RESOLVED, that it is hereby determined that this project, with a priority ranking of fifty-nine (59), 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

3rd RESOLVED, that the proceeds of \$350,000 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>J.C.</u>	<u>Project Title</u>	<u>Amount</u>
525-CAP-3009.112 (Fund 001-Debt Service)	25	Renovations at the Yaphank Correctional Facility	\$100,000
525-CAP-3009.316 (Fund 001-Debt Service)	25	Renovations at the Yaphank Correctional Facility	\$150,000
525-CAP-3009.512 (Fund 001-Debt Service)	25	Renovations at the Yaphank Correctional Facility	\$100,000

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

S:\res\l-renovations-yaphank