

RESOLUTION NO. 1051 -2012, AUTHORIZING AN AGREEMENT WITH THE TOWN OF BROOKHAVEN FOR THE IMPROVEMENT AND MAINTENANCE OF A NON-MOTORIZED PATH ALONG THE BED OF THE DAVID OVERTON ROAD IN CORAM

WHEREAS, the County owns property known as "The Bed of the David Overton Road" located on two parcels – 200-495-5-3.2 f/k/a Lot 3.0 and 200-495-5-7.2 f/k/a Lot 7.1 – in Coram, Town of Brookhaven, County of Suffolk, State of New York, as active parkland; and

WHEREAS, in 2011 the Town of Brookhaven was awarded a grant from SAFETEA-LU for a non-motorized path along the David Overton Road in Coram; and

WHEREAS, in order to move forward with the path, it is necessary that the Town of Brookhaven enter into a maintenance agreement with the Suffolk County Parks Department for the bed of the David Overton Road; and

WHEREAS, the Town has expressed its commitment to perform certain services and to improve and maintain the property known as the "Bed of the David Overton Road"; and

WHEREAS, the parties wish to enter into a memorandum of agreement to fully set forth their various duties and obligations to maintain and improve a bicycle path on the bed of the David Overton Road, a copy of which is presented with this Resolution and filed with the Clerk of the Suffolk County Legislature; now, therefore be it

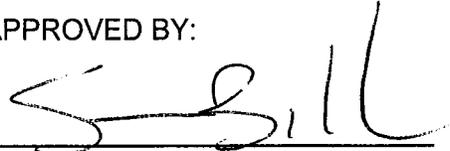
1st **RESOLVED**, the Suffolk County Commissioner of the Department of Parks, Recreation, and Conservation be and is hereby authorized pursuant to Section C28-4(D) of the Charter, to execute an agreement with the Town of Brookhaven, in accordance with the Memorandum of Agreement presented to the members of the Legislature at this meeting, with such ministerial and non-substantive changes therein as the County Executive and/or his designee(s) may approve; and be it further

2nd **RESOLVED**, that the design of the path shall be subject to the approval of the Department of Parks, Recreation and Conservation and the Parks Board of Trustees; 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 law constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 N.Y.C.R.R.) 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.

DATED: November 20, 2012

APPROVED BY:



County Executive of Suffolk County

Date: 11-28-2012

Intermunicipal Agreement
Between
Town of Brookhaven and County of Suffolk
Maintenance and Improvement of
David Overton Road

This Agreement made this _____ day of _____, 2012 by and between the **Town of Brookhaven ("Town")**, a municipal corporation, organized under the laws of the State of New York, having its principle place of business at One Independence Hill, Farmingville, New York, and the **County of Suffolk ("County")**, a municipal corporation of the State of New York, having its principal at offices at the County Center, Riverhead, New York 11901, acting through its duly constituted **Suffolk County Department of Parks Recreation and Conservation (Parks)**, located at located at Montauk Highway, West Sayville, New York, with a mailing address at P.O. Box 144 West Sayville, New York 11796.

TERM OF AGREEMENT: The term of this Agreement shall commence on the date of full execution and shall expire twenty (20) years.

TOTAL COST OF AGREEMENT: No cost to the County.

TERMS AND CONDITIONS: Shall be as set forth in Article I through II of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the latest date written below.

TOWN OF BROOKHAVEN

COUNTY OF SUFFOLK

By: _____
Name:
Title: Supervisor/Deputy Supervisor
Date:

By: _____
Name: GREG DAWSON
Title: Commissioner, Dept. of Parks
Recreation and Conservation
Date:

Approved As To Legality:
Dennis M. Cohen, County Attorney

By: _____
Name: Basia Deren Braddish
Assistant County Attorney
Date:

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Article I

WHEREAS, the parties hereto desire to enter into an Agreement for the purpose of outlining which parties shall improve and maintain certain property known as "The Bed of the David Overton Road" located in Coram, Town of Brookhaven, County of Suffolk, State of New York, as active parkland and

WHEREAS, in 2011 the Town of Brookhaven was awarded a grant from SAFETEA-LU for a non-motorized path along the David Overton Road in Coram; and

WHEREAS, in order to move forward with the path, it is necessary that the Town of Brookhaven enter into a maintenance agreement with the Suffolk County Parks Department for the bed of the David Overton Road; and

WHEREAS, the Town has expressed its commitment to perform certain services and to improve and maintain the property known as the "Bed of the David Overton Road", and

WHEREAS, the parties wish to enter into this Agreement to fully set forth their various duties and obligations to maintain and improve a bicycle path located on the bed of the David Overton Road.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. Description:** In consideration of and subject to the terms, covenants, agreements, provisions, conditions, and limitations set forth in this Agreement, the County hereby agrees to provide access to the Town, for construction and maintenance of a bicycle path, over what is known as David Overton Road, as identified on the map attached hereto as Exhibit A (the "Path"), together with rights-of way for ingress and egress to the Path over the adjoining lands of the County (the "Property").

- 2. Purpose:** The parties hereby acknowledge that there is an agreement dated the 29th day of April, 2012 between the New York State Office of Parks, Recreation & Historic Preservation and the Town of Brookhaven regarding the maintenance and improvement of the Path. Nothing in this Agreement shall be deemed to violate any term of the aforestated agreement with the State, and the parties hereto agree to abide by all the terms and specifications of the State Agreement which is attached hereto as Exhibit B. Any and all improvements made to the property, at any time, shall be made in accordance with Resolution No. 2012-631 of the Town of Brookhaven, and with plans submitted to and approved, in writing, by the Suffolk County Department of Parks prior

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to the commencement of any work. The parties acknowledge that these plans have not yet been created and attached to this Agreement, but will be created and attached to this Agreement as per section 4 below.

The parties acknowledge that the County is a municipal corporation and is entering into and executing this Lease by virtue of the authority of Resolution No. ____-2012 of the Suffolk County Legislature, for use of the Path by the Town to construct, maintain, repair, replace, and operate a bicycle path (the "Project"). The Town acknowledges and agrees to use the Path as specified herein, and for no other purpose. The Town shall be solely responsible for obtaining all permits, approvals and consents required for the Project at the Town's sole cost and expense. The County shall provide the Town with all reasonable cooperation in connection with the County's efforts to obtain the requisite permits, approvals and consents.

3. Term and Termination:

- a. **Term.** This Agreement shall cover the period set forth on page one of this Agreement, unless sooner terminated as provided below. Upon receipt of a Termination Notice, as that term is defined below, the Town shall promptly discontinue all work and/or services, unless otherwise direct by the Termination Notice.
- b. **Termination.** The County shall have the right to terminate this Agreement in whole or in part, in writing, in the event of failure by the Town to fulfill any of the terms and conditions under this Agreement.

4. Plans and Specifications: The Town agrees to create plans and specifications (the "Plans and Specifications") at the Town's sole cost and expense, and to submit the Plans and Specifications to the County for review and approval. The Town agrees that it will not commence any construction activities relating to the installation of the Path until the County's formal written approval of the Town's Plans and Specifications have been received, which approval will not be unreasonably withheld, delayed or conditioned and which shall be provided within ninety (90) days of submission of complete Plans and Specifications. Upon such formal written approval, the Plans and Specifications shall become part of this Agreement, to be referred to as **Exhibit C**. In addition, the Town shall provide Parks with at least fourteen (14) days notice prior to the commencement of any construction activities.

5. Conduct of Work and Right of Entry: The Town shall be permitted to enter and exit through the Property, with all necessary equipment, to perform the construction and maintenance of the Path, under this Agreement (the "Work"). The Town hereby agrees to use reasonable efforts in connection with its access of the County's Property to cause minimal amount of interference with the normal use of the Property. The Town will provide an advance schedule of the dates and

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times when the Work will be performed.

6. Cost of Work: Any and all costs and expenses of performing the Work shall be completely borne and are the sole obligation of the Town.

7. Duties and Obligations:

- a. The Town shall construct and maintain a bicycle trail as shown on the Plans and Specifications attached hereto as **Exhibit C**.
- b. Maintenance of the Path shall be performed to the reasonable satisfaction of the Commissioner of Parks, and shall comply with Suffolk County's Organic Maintenance Plan.
- c. The Town shall comply with applicable Federal, State and local laws, rules, regulations, codes and ordinances in the performance of this Agreement, and shall obtain, pay for and comply with all conditions contained in any permits, approvals and renewals thereof, which are required to be obtained in the legal performance of this Agreement.

8. Town Responsible for Performance of Respective Contractors.

- a. If the Town enters into contracts for the performance of Work under this Agreement, the Town shall be solely responsible to the County for performance, whether the Work is performed by the Town or its contractors. Nothing in any contract shall impair the rights of the County under this Agreement. No contractual relationship shall be deemed to exist between any contractor and the County. Nothing in this Agreement shall impair any right of contribution or indemnification that the Town may have against any contractor or other third party.

9. Indemnification: To the fullest extent permitted by law, the Town shall defend, indemnify, and hold harmless the County and its officers, officials, members, employees, servants, contractors, agents, and other persons (the "County Indemnified Parties") from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and reasonable attorneys' fees, arising out of or incident to: (i) any construction, repairs, work or thing done in, on or about the Property by the Town, its agents, employees, contractors, representatives, licensees or invitees; or (ii) any accident, injury or death to any person or damage to any property occurring in, on, or about the premises or the appurtenances thereof, and from any loss, damage, expenses, costs, or liability arising from any fault or negligence by the Town, its agents, employees, contractors, or representatives; or (iii) any failure on the Town's part to comply with any of the covenants, terms and conditions contained in this Agreement and/or any breach of any representation made by the Town under this Agreement. The Town shall defend the County in any suit, including appeals, or at the County's option, pay reasonable attorney's fees for defense of any such suit, in connection with the Work described or referred to in this Agreement.

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10. Insurance:

- a. The Town shall procure and continuously maintain, without interruption, during the Term of this Agreement, insurance in amounts and types specified by the County. The Town further agrees to require its contractors and subcontractors in connection with any work or services performed for the County related to this Agreement, to procure, pay the entire premium for, and maintain throughout the term of this Agreement, insurance in amounts and types equal to that specified by the County for the Town. Unless otherwise specified by the County and agreed to by the Town in writing, such insurance shall be as follows:
 - i. COMMERCIAL GENERAL LIABILITY INSURANCE, including contractual coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury and Two Million Dollars (\$2,000,000.00) per occurrence for property damage. The County shall be named an additional insured.
 - ii. AUTOMOBILE LIABILITY INSURANCE, (if any vehicles are used by the Town in the performance of this Agreement including owned, non-owned, and hired cars) in an amount not less than Five Hundred Thousand Dollars (\$500,000) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000) for property damage per occurrence
 - iii. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE, in compliance with all applicable New York State laws and regulations and DISABILITY BENEFITS INSURANCE, if required by law. The Town shall furnish to the County, prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law § 108, this Permit shall be void and of no effect unless the Town shall provide and maintain coverage during the term of this Permit for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
 - iv. PROFESSIONAL LIABILITY INSURANCE (ERRORS AND OMISSIONS), that covers any damage arising out of the Town's performance of professional services caused by an error, omission, or negligent acts, in an amount not less than Two Million Dollars (\$2,000,000) on either a per occurrence or claims made coverage basis.
 - v. In the event the Town maintains a COMPREHENSIVE GENERAL LIABILITY INSURANCE policy form in lieu of Commercial General Liability, said policy must include all of the above requirements plus premises/operations, independent contractors, contractual, and broad form property damage.

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- b. All policies providing such coverage shall be issued by insurance companies with an A.M. best rating of A- or better. All insurance shall be obtained from companies licensed to do business in the State of New York.
- c. The Town shall furnish to the County, prior to the execution of the Agreement, declaration pages for each policy of insurance, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements. In the case of commercial general liability insurance, the Town shall furnish the County, prior to execution of the Agreement, a declaration page and insuring agreement and endorsement page evidencing the County of Suffolk's status as an additional insured on said policy, and upon demand, a true and certified original copy of such policy evidencing compliance with the aforesaid insurance requirements. Where work or services under this Agreement are performed by a third party, the Town must require the third party to provide that the County be named as an additional insured on all required policies, as well as require the contractor/subcontractor to provide the County with all required evidence of insurance.
- d. All such declaration pages, certificates, and other evidence of insurance shall provide for the County to be notified in writing thirty (30) days prior to any cancellation, non-renewal, or material change in said policies. Required limits of insurance are not to be modified by deductibles that the County deems excessive without the County's written permission. All such declaration pages, certificates, policies and other evidence of insurance and notices shall be mailed to the Department and to the Suffolk County Risk Management and Benefit Division at 100 Veterans Memorial Highway, 2nd Floor, Hauppauge, New York 11788, or such other address of which the County shall have given the Town written notice.
- e. If the Town, as a municipal corporation, has a self-insurance program under which it acts as a self-insurer for any such required coverage, it may provide self-funded coverage. Declarations and certificates, or other evidence of such self-insurance in lieu of insurance issued by insurance companies shall be provided prior to the commencement of the Work and shall continue to serve as evidence of such self-funded coverage until such time that the Town ceases to be self-insured. In the event that the Town ceases to be self-insured, the Town shall immediately comply with the provisions of subsections a through d under this Section and provide declarations pages within five (5) days of ceasing to be self-insured.
- f. In the event the Town fails to provide the declaration pages or certificates of insurance, or fails to maintain any insurance required by this Agreement, the Agreement shall immediately be deemed terminated.

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- g.** Approval of the insurance by the County shall not relieve or decrease the liability of the Town. The Town shall assume all responsibility for the insurance requirements of any applicable contractors.
- h.** Notwithstanding the foregoing, it is specifically understood and agreed that the County shall have the right upon notice to the Town given from time to time and at any time to require the Town to increase any or all of the foregoing limits in amounts that the County may reasonably require, and the Town shall promptly comply therewith and shall promptly submit a certificate or certificates evidencing the same to the County.
- i.** Each policy of insurance required by this **Section 10** shall contain a provision that the insurer shall not, without obtaining express advance permission from the Suffolk County Attorney, raise any defense involving in any way the jurisdiction of the court over the person of the County, the immunity of the County, its officers, agents or employees, the governmental nature of the County or the provisions of any statutes respecting suits against the County.

11. Experience and Qualifications: The Town represents and warrants that it has and shall possess, and that its employees, agents, contractors and sub-contractors, have and shall possess, the knowledge and experience necessary to qualify them for the particular duties they perform under this Agreement.

12. No Assignment: The Town shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or any of its right, title and interest therein, or its power to execute this Agreement or assign to any other person or corporation. Any attempt to do any of the foregoing shall be of no force and effect.

13. Certification: The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid Agreements with the County, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of five percent (5%) (or more) of any party to this Agreement.

14. Federal Copyright Act: The Town hereby represents and warrants the Town, will not infringe upon any copyrighted work or material in accordance with the Federal Copyright Act during the performance of this Agreement. Furthermore, the Town agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorney's fees, arising out of the acts or omissions or the negligence of the Town in connection with the services

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described or referred to in this Agreement. The Town shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or, at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Town, its officers, officials, employees, subcontractors, lessees, licensees, invitees or agents, if any, in connection with the services described or referred to in this Agreement.

15. Lawful Hiring of Employees Law in Connection with Contracts for Construction or Future Construction: This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Chapter 234, as more fully set forth in the Exhibit entitled "Suffolk County Legislative Requirements." In accordance with this law, Contractor or employer, as the case may be, and any subcontractor or owner, as the case may be, agree to maintain the documentation mandated to be kept by this law on the Construction Site at all times. Contractor or employer, as the case may be, and any subcontractor or owner, as the case may be, further agree that employee sign-in sheets and register/log books shall be kept on the Construction Site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign in sheets/register/log books to indicate their presence on the Construction Site during such working hours.

16. Set-Off Rights: The Project Sponsor shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the Project Sponsor's option to withhold, for the purposes of set-off, any moneys due the COMPANY under this Agreement up to any amounts due and owing to the Project Sponsor with regard to this Agreement and/or any other contract with any County department or agency, including any contract for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the County of Suffolk for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Project Sponsor shall exercise its set-off rights in accordance with normal County practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the County agency, its representatives, or the County Comptroller, and only after legal consultation with

17. Certification as to Relationships: The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid Agreements with the County of Suffolk, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of five percent (5%) (or more) of any party to this Agreement.

18. No Implied Waiver: No waiver shall be inferred from any failure or forbearance by the Project Sponsor to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

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19. Cooperation on Claims: Each of the parties hereto agrees to render diligently to the other party, without additional compensation, any and all cooperation, that may be required to defend the other party, its employees and designated representatives against any claim, demand or action that may be brought against the other party, its employees or designated representatives in connection with this

20. No Intended Third party Beneficiaries: This Agreement is entered into solely for the benefit of the Town and the County. No third party shall be deemed a beneficiary of this Agreement, and no third party shall have the right to make any claim or assert any right under this agreement.

21. Independent Contractor: It is expressly agreed that the Town and the County's status under this Agreement is that of independent contractors. Neither party, nor any person hired by such party, shall be considered an employee of the other party for any purpose.

22. Notices: Unless otherwise expressly provided herein, all notices shall be in writing and shall be deemed sufficiently given if sent by regular first class mail and certified mail, or personally delivered during business hours as follows: 1.) to the Town at the address on page 1 of the Agreement and 2.) to the County, to Parks at the address on page 1, or as to either of the foregoing, to such other address as the addressee shall have indicated by prior written notice to the addressor. All notices received by the Town relating to a legal claim shall be immediately sent to Parks and also to the County Attorney at 100 Veterans Memorial Highway, P.O. Box 6100, (Sixth Floor), Hauppauge, New York, 11788. The County shall report to the Town in writing within ten (10) days of the initiation by or against it of any legal action or proceeding in connection with or relating to the Agreement.

23. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws. Venues shall be designated in Suffolk County; New York or the United States District Court for the Eastern District of New York.

24. Merger; No Oral Changes: It is expressly agreed that this Agreement represents the entire agreement of the parties, that all previous understandings are merged in this Agreement. No modification of this Agreement shall be valid unless written in the form of an Amendment and executed by both parties

25. Severability: It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

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Article II

Suffolk County Legislative Requirements

1. Contractor’s/Vendor’s Public Disclosure Statement

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of section A5-7 of Article V of the Suffolk County Code.

Unless certified by an officer of the Contractor as being exempt from the requirements of section A5-7 of Article V of the Suffolk County Code, the Contractor represents and warrants that it has filed with the Comptroller the verified public disclosure statement required by Suffolk County Administrative Code Article V, section A5-7 and shall file an update of such statement with the Comptroller on or before the 31st day of January in each year of the Contract’s duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of the Contract, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Contract.

Required Form:

Suffolk County Form SCEX 22; entitled “Contractor’s/Vendor’s Public Disclosure Statement”

2. Living Wage Law

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 575, of the Suffolk County Code.

This Contract is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living

Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

Required Forms:

Suffolk County Living Wage Form LW-1; entitled “Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract).”

Suffolk County Living Wage Form LW-38; entitled “Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit.”

3. Use of County Resources to Interfere with Collective Bargaining Activities

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article I of Chapter 803 of the Suffolk County Code.

County Contractors (as defined by section 803-2) shall comply with all requirements of Chapter 803 of the Suffolk County Code, including the following prohibitions:

- a. The Contractor shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse the Contractor for any costs incurred to assist, promote, or deter union organizing.
- c. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If the Services are performed on County property, the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, non-intimidation agreement, and a majority authorization card agreement.

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If the Services are for the provision of human services and are not to be performed on County property, the Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Chapter 803, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

Required Form:

Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration - Subject to Audit."

4. Lawful Hiring of Employees Law

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 353 of the Suffolk County Code.

This Contract is subject to the Lawful Hiring of Employees Law of the County of Suffolk. It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the Contract, and whenever a new contractor or subcontractor is hired under the terms of the Contract.

The Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of the Contract.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate the Contract for violations of this Law and to seek other remedies available under the law.

The documentation mandated to be kept by this law shall at all times be kept on site. Employee sign-in sheets and register/log books shall be kept on site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign-in sheets/register/log books to indicate their presence on the site during such working hours.

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Required Forms:

Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor – Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. Section 1324a) With Respect To Lawful Hiring of Employees."

Suffolk County Lawful Hiring of Employees Law Form LHE-2; entitled "Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees"

5. Gratuities

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 664 of the Suffolk County Code.

The Contractor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of the County or the State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement.

6. Prohibition Against Contracting with Corporations that Reincorporate Overseas

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of sections A4-13 and A4-14 of Article IV of the Suffolk County Code.

The Contractor represents that it is in compliance with sections A4-13 and A4-14 of Article IV of the Suffolk County Code. Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. Child Sexual Abuse Reporting Policy

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 880 of the Suffolk County Code.

The Contractor shall comply with Article II of Chapter 880, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy," as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of the Contract with regard to child sexual abuse reporting policy.

8. Non Responsible Bidder

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 189 of the Suffolk County Code.

Upon signing the Contract, the Contractor certifies that it has not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under section 189-5 of the Suffolk County Code under "Nonresponsible Bidder."

9. Use of Funds in Prosecution of Civil Actions Prohibited

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article III of Chapter 893 of the Suffolk County Code.

The Contractor shall not use any of the moneys, in part or in whole, and either directly or indirectly, received under the Contract in connection with the prosecution of any civil action against the County in any jurisdiction or any judicial or administrative forum.

10. Youth Sports

It shall be the duty of the Contractor to read, become familiar with, and comply with Article III of Chapter 730 of the Suffolk County Code.

All contract agencies that conduct youth sports programs are required to develop and maintain a written plan or policy addressing incidents of possible or actual concussion or other head injuries among sports program participants. Such plan or policy must be submitted prior to the award of a County contract, grant or funding. Receipt of such plan or policy by the County does not represent approval or endorsement of any such plan or policy, nor shall the County be subject to any liability in connection with any such plan or policy.

Intermunicipal Agreement
Between
Town of Brookhaven and County of Suffolk
Maintenance and Improvement of
David Overton Road

11. Work Experience Participation

If the Contractor is a not-for-profit or governmental agency or institution, each of the Contractor's locations in the County at which the Services are provided shall be a work site for public-assistance clients of Suffolk County pursuant to Chapter 281 of the Suffolk County Code at all times during the Term of the Contract. If no Memorandum of Understanding ("MOU") with the Suffolk County Department of Labor for work experience is in effect at the beginning of the Term of the Contract, the Contractor, if it is a not-for-profit or governmental agency or institution, shall enter into such MOU as soon as possible after the execution of the

Contract and failure to enter into or to perform in accordance with such MOU shall be deemed to be a failure to perform in accordance with the Contract, for which the County may withhold payment, terminate the Contract or exercise such other remedies as may be appropriate in the circumstances.

12. Suffolk County Local Laws Website Address

Suffolk County Local Laws, Rules and Regulations can be accessed on the homepage of the Suffolk County Legislature.

End of Text for Article II

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on November 20, 2012 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Motion:
 Romaine, Schneiderman, Browning, Muratore, Anker
 Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:
 Romaine, Schneiderman, Browning, Muratore, Anker
 Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:
 Romaine, Schneiderman, Browning, Muratore, Anker
 Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R	
1	Edward P. ROMAINE	18					
2	Jay H. SCHNEIDERMAN						
3	Kate M. BROWNING						
4	Thomas MURATORE						
5	Kara HAHN						
6	Sarah S. ANKER						
7	Rob CALARCO						
9	Ricardo MONTANO						
10	Thomas CILMI						
11	Thomas F. BARRAGA						
12	John M. KENNEDY, JR.						
13	Lynne C. NOWICK						
15	DuWayne GREGORY						
16	Steven H. STERN						
17	Lou D'AMARO						
18	William SPENCER						
14	Wayne R. HORSLEY, D.P.O.						
8	William J. LINDSAY, P.O.						
Totals							

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
<input type="checkbox"/> Send To Committee
<input type="checkbox"/> Table Subject To Call
<input type="checkbox"/> Lay On The Table
<input type="checkbox"/> Discharge
<input type="checkbox"/> Take Out of Order
<input type="checkbox"/> Reconsider
<input type="checkbox"/> Waive Rule
<input type="checkbox"/> Override Veto
<input type="checkbox"/> Close
<input type="checkbox"/> Recess
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
<input type="checkbox"/> NOT ADOPTED

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote *4*