

RESOLUTION NO. 643 -2013, AUTHORIZING THE LEASE OF PORTIONS OF LIPA OWNED RIGHT-OF-WAY FROM CRYSTAL BROOK HOLLOW ROAD EAST TO WADING RIVER FOR A PEDESTRIAN AND BICYCLE PATH

WHEREAS, Federal Highway Administration (FHWA) funding has been allocated to Suffolk County for purposes of designing and constructing a pedestrian and bicycle path (the "Path") on Long Island Power Authority (LIPA) owned right-of-way in the Towns of Brookhaven and Riverhead, Suffolk County; and

WHEREAS, in furtherance of this project, LIPA has agreed to lease to the County a thirty (30) foot wide portion of LIPA owned electrical transmission and distribution right-of-way land, constituting approximately 129.9 acres in the Towns of Brookhaven and Riverhead for a period of twenty-five (25) years for purposes of constructing the Path, which Lease shall only be effective upon receipt by the County of the affirmative commitment of FHWA funding for the Path; and

WHEREAS, the lease and location of the path is subject to conditions that the Path will not interfere with LIPA's responsibility to provide electrical service; and

WHEREAS, pursuant to the lease the County shall be responsible for the construction, maintenance, repair, replacement and operation of the Path in the LIPA right-of-way, and would further be responsible for any costs incurred in the event that LIPA determines that the Path poses an interference with LIPA's responsibility to provide electrical service and that it is necessary to relocate a portion of the Path; and

WHEREAS, it is noted that, in some instances where it is not practical to relocate the Path if so required by LIPA, the County may be responsible for providing for the partial recovery of Federal funds if the Path has not fulfilled its full useful life; 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 law constitutes a Type II action pursuant to Section 617.59(c)(20) and (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and within the meaning of Section 8-0109 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. Furthermore, in accordance with Section 1-4(A)(1)(d) of the Suffolk County Charter and Section 279-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality is directed to prepare and circulate all appropriate notices of determination of non-applicability or non-significance in accordance with this law; and be it further

2nd **RESOLVED**, that the County Executive be and hereby is authorized to execute a "no-rent" Lease with LIPA, for a term of twenty-five (25) years in accordance with the terms and conditions of this resolution and in substantial conformance with the form annexed.

DATED: July 30, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: August 14, 2013