

**RESOLUTION NO. 440-2021, AUTHORIZING THE SALE OF COUNTY-OWNED REAL PROPERTY PURSUANT TO SECTION 72-H OF THE GENERAL MUNICIPAL LAW TO THE TOWN OF BROOKHAVEN FOR AFFORDABLE HOUSING PURPOSE (SCTM NO. 0200-978.10-03.00-028.000)**

**WHEREAS**, the County of Suffolk is the fee owner of the following described parcel:

**ALL**, that certain plot, piece or parcel of land, with any buildings and improvements thereon erected, situate, lying and being in Town of Brookhaven, County of Suffolk, and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0200, Section 978.10, Block 03.00, Lot 028.000, and acquired by tax deed on December 27, 2016, from John M. Kennedy Jr., the County Comptroller of Suffolk County, New York, and recorded on February 7, 2017, in Liber 12899, CP 786, and otherwise known and designated as and by the Lot Number 30, as shown on a certain map entitled "Bellport Acres," situated at Bellport, Town of Brookhaven, Suffolk County, New York and filed in the Suffolk County Clerk's Office at Riverhead on October 2, 1953, as Map No. 2126, also known as 39 Carver Boulevard, Bellport; and

**WHEREAS**, the real property above described is approximately 75' x 155' in size (11,625 square feet) with a preliminary value range of \$12,000 to \$18,000, and has a county investment of \$117,198.22 which property is surplus to the needs of the County of Suffolk; and

**WHEREAS**, section 72-h of the General Municipal Law permits the sale of real property between Municipal Corporations; and

**WHEREAS**, the Town of Brookhaven, has requested the County of Suffolk convey the above-described parcel to it (see annexed Resolution hereto marked as "Exhibit A"); and

**WHEREAS**, the transfer of this parcel is pursuant to and in accordance with Local Law No. 13-2000, 2-2002 and 17-2004 which established and modified the Suffolk County Housing Opportunities Program; and

**WHEREAS**, the Suffolk County Department of Economic Development and Planning has approved the use of this parcel for the purposes stated above; now, therefore be it

**1<sup>st</sup> RESOLVED**, the subject parcels shall be conveyed to the Town of Brookhaven, solely for construction of affordable housing, together with the following restrictive covenants that will run with the land so conveyed and, additionally, if any one or more of the following occurs, the subject premises shall revert to the grantor as herein provided and as provided in any deed evidencing the transfer of the subject premises from the grantor to the grantee:

1. If the grantee does not use the subject premises solely and exclusively for affordable housing purposes; in accordance with the approved plan submitted by the grantee. Such reverter clauses contained herein shall apply to the grantee, or

any transferee from the grantee undertaking the construction, reconstruction or rehabilitation of affordable housing on the subject premises.

2. If the grantee fails to construct or complete construction of affordable housing on said property with unit(s) occupied by eligible purchasers within three (3) years from the date of transfer unless an extension of time is granted in writing, for good cause shown, by the Suffolk County Director of Real Estate, and/or his designee. Such extension shall not exceed two (2) two-year extensions unless approved by duly enacted resolution of the grantor.
3. If the income, at initial occupancy or any transfer thereafter, of the occupant should exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size.
4. If the purchase price of the homeownership unit(s) after all subsidies are applied should exceed the amount equal to 80% of the HUD-established area median income limit for the Nassau-Suffolk PMSA, with adjustments for bedroom size not exceeding the HUD policy on occupancy standards under the Fair Housing Act, multiplied by 2.5.
5. If the rent should exceed HUD-established fair market rent for Nassau-Suffolk PMSA based upon bedroom size;
6. If the property does not remain the principal residence of the owner, or in the possession of the tenants who meet the income limits and rental limits set forth in § A36-2B of the Suffolk County Administrative Code and above in perpetuity.
7. If the grantee or any subsequent grantee thereafter fails to certify to the Suffolk County Director of Real Estate, and /or his designee prior to closing of the title with any affordable housing grantee that the rental, initial sale or any resale thereafter complies with the requirements as set forth above and in accordance with §A36-2B of the Suffolk County Administrative Code which shall include but not be limited to:
  - a. The Purchaser is a First-Time Homebuyer as defined in Article XXXVI of the Suffolk County Administrative Code; and
  - b. The income of any purchaser and/or tenant does not exceed 80% of the HUD-established area median income limits for the Nassau-Suffolk PMSA adjusted by family size; and
  - c. The purchase price of the homeownership unit, after all subsidies are applied does not exceed the amount equal to 80% of the HUD-established area median income limit for the Nassau-Suffolk PMSA, with adjustments for bedroom size not exceeding the HUD policy on occupancy standards under the Fair Housing Act multiplied by 2.5; and
  - d. The resale price of the homeownership unit, after subsidies are applied, does not exceed the amount equal to 80% of the HUD-established area median income limit for the Nassau-Suffolk PMSA, with adjustments for bedroom size not exceeding the HUD policy on occupancy standards under the Fair

Housing Act multiplied by 2.5, plus an amount not to exceed 50% of any documented capital improvements, as defined in §A36-1 of the Suffolk County Administrative Code, made by the seller and approved by the Grantee, up to a maximum amount of \$25,000; and

- e. The rent shall not exceed the HUD-established fair market rent for the Nassau-Suffolk PMSA based on bedroom size; and
  - f. The affordable housing unit or units meet local building and zoning codes; and
8. If the grantee shall fail to provide the Suffolk County Director of Real Estate and/or his designee, with an annual written report, no later than December 31 of each year commencing December 31, 2021, on the subject premises, including, but not limited to: the exact and precise use to which the subject premises has been put; the rental price of the unit(s); the sales price generated by the initial purchase and any resale thereafter of such affordable homes; whether or not the parcel has been utilized for affordable housing purposes and whether or not the restrictive covenants to ensure such utilization contained in any such deeds of conveyance have been adhered to; or
9. If any subsequent grantee fails to comply with all applicable state, federal, and local regulations pertaining to price, income eligibility and marketing standards for affordable housing programs.

and be it further

**2<sup>nd</sup>** **RESOLVED**, the grantee will be restricted in its use of the subject parcel and will use said parcel solely and exclusively for affordable housing with all right title and interest reverting to the County of Suffolk in the event that the grantee at any time, uses or attempts to use said subject parcel for other than affordable housing or attempts to sell, transfer or otherwise dispose of or does, in fact, sell transfer or otherwise dispose of said subject parcel with said parcel being used thereafter for other than affordable housing; and be it further

**3<sup>rd</sup>** **RESOLVED**, that neither grantee nor any subsequent grantee shall bill or charge back to grantor any cost incurred or projected to be incurred for the cleaning up, removal and disposal of any debris, waste and /or contamination on said property. In the event that such charge back or bill is rendered to the grantor the transfer shall be void ab initio and the realty shall revert to the grantor; and be it further

**4<sup>th</sup>** **RESOLVED**, that it is intended and agreed that the agreements and covenants contained in the deed evidencing transfer of subject premises shall be covenants running with the land and that they shall be, in any event, and without regard to technical classification of designation, legal or otherwise, and except only by law, binding for the benefit and in favor of, and enforceable by, the grantor, it being further understood that such agreements and covenants shall be binding only upon the grantee, if it be a municipality or any assignee of the grantee, undertaking the construction, reconstruction or rehabilitation of affordable housing, only for such period as they shall have title to or an interest in or possession of the property or part thereof; and be it further

**5<sup>th</sup>** **RESOLVED**, the conveyance of the parcel described to the Town of Brookhaven for the purposes described herein shall be for the sum of One and 00/100 Dollars (\$1.00) and pro rata taxes, and, upon payment of such sum, all subsequent grantees of such subject premises shall comply with all applicable state, federal, and local regulations pertaining to the price, income eligibility and marketing standards for affordable housing programs; and be it further

**6<sup>th</sup>** **RESOLVED**, that the Director of Real Estate, and/or his designee, be and hereby is authorized to execute and acknowledge a quitclaim deed to transfer the interest of Suffolk County in the above-described property upon the above-described terms and conditions. In the event that the grantee shall fail to accept the deed and take title to the property within ninety (90) days of the approval of this resolution, authority for said transfer shall be null and void, and such transfer shall not thereafter be made; and be it further

**7<sup>th</sup>** **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that the adoption of this resolution is a Type II Action pursuant to Title 6 of the New York Codes, Rules and Regulations (6 NYCRR) Part 617.5(c)(26)(33) as this action involves routine or continuing agency administration and management, not including new programs or a major reordering of priorities. As such, this Legislature has no further responsibilities under SEQRA.

DATED: June 8, 2021

APPROVED BY:

/s/ Steven Bellone  
County Executive of Suffolk County

Date: June 16, 2021