

RESOLUTION NO. 1113-2021, 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 PURPOSES

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 010.000 and acquired by tax deed on October 11, 2021, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on October 19, 2011, in Liber 12674, CP 323; and

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 011.000 and acquired by tax deed on October 11, 2011, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on October 19, 2011, in Liber 12674, CP 323; and

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 012.000 and acquired by tax deed on April 17, 1984, from Jean H. Tuthill, the County Treasurer of Suffolk County, New York, and recorded on April 17, 1984, in Liber 9546, CP 282; and

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 013.000 and acquired by tax deed on October 11, 2011, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on October 19, 2011, in Liber 12674, CP 323; and

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 059.000 and acquired by tax deed on October 11, 2011, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on October 19, 2011, in Liber 12674, CP 323; and

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 014.001 and acquired by tax deed on August 27, 2012, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on August 28, 2012, in Liber 12703, CP 480; and

WHEREAS, that certain plot, piece or parcel of land with any buildings and improvements thereon erected, situate, lying and being in the 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 973.80, Block 05.00, Lot 015.000 and acquired by tax deed on October 11, 2011, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on October 19, 2011, in Liber 12674, CP 323; and

WHEREAS, the County of Suffolk is the fee owner of certain parcels which are described above, and which are further described in Exhibit "A" attached hereto; and

WHEREAS, said parcels are 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 "B"); and

WHEREAS, the transfer of these parcels are pursuant to and in accordance with Local Law Nos. 13-2000, 2-2002 and 17-2004 which established and modified the Affordable Housing Opportunities Program; and

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

1st **RESOLVED**, the subject parcels shall be conveyed to the Town of Brookhaven, solely for the purposes 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 or in support of an affordable housing community; 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 which undertakes the construction, reconstruction or rehabilitation of affordable housing or which uses the property for affordable housing purposes on the subject premises or in support of an affordable housing community;

2. If the grantee fails to utilize said property for affordable housing purposes or construct or complete construction of affordable housing unit or units on said property, or fails to use said property in support of an affordable housing project 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, of any of the units for which said property provides support, should exceed 80% of the HUD established median income for the Nassau-Suffolk PMSA based on family size;

4. If the subsidized purchase price of homes in the affordable housing community for which the property provides support should exceed 60% of median sales price for Suffolk County based upon the State of New York Mortgage Agency Guidelines;

5. If the rent for units in the affordable housing community for which the property provides support should exceed HUD established fair market rent for Nassau-Suffolk PMSA based upon bedroom size;

6. If the affordable housing unit or units for which said property provides support are owner-occupied, but the unit or units fail(s) to remain the principal residence(s) of the owner(s) for a period of five (5) consecutive years. If the affordable housing unit or units are tenant-occupied, but any of units fail(s) to remain affordable for ten (10) consecutive years;

7. If the grantee 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 unit grantee

- a. the dates of completion and occupancy for any affordable housing unit or units constructed or rehabilitated which said property provides support; and
- b. the total household income, from all sources, of the purchaser or purchasers of the units and his or her family; and
- c. the total purchase or rental price of the affordable housing unit or units sold or otherwise transferred which the property provides support; and
- d. the affordable housing unit or units meet local building and zoning codes;

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, 2022 on the affordable housing community for which the subject premises provides support, including, but not limited to, the exact and precise use to which the subject premises has been put to along with the net proceeds generated by the initial purchase of the units in the affordable housing community; 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

2nd **RESOLVED**, the grantee will be restricted in its use of the subject parcels and will use said parcels solely and exclusively for affordable housing purposes 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 parcels for other than affordable housing purposes or attempts to sell, transfer or otherwise dispose of or does, in fact, sell transfer or otherwise dispose of said subject parcels with said parcels being used thereafter for other than affordable housing purposes; and be it further

3rd **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 properties. 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

4th **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. If the units provided support by the subject property are no longer required to be affordable, then these covenants shall cease to run with the land; and be it further

5th **RESOLVED**, the conveyance of the parcel described to the Town of Brookhaven for the purposes described herein shall be for the sum of One Dollar, 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

6th **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 properties 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

7th **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)(26), (27), and/or (33) 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.

DATED: December 21, 2021

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: December 28, 2021