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RESOLUTION NO. __ - 2018

A RESOLUTION TO AMEND RESOLUTION NO. 107-2013, A RESOLUTION
ESTABLISHING THE LONG ISLAND COMMISSION ON AQUIFER PROTECTION

APPROVED AS TO FORM



Majority Counsel

2018 JUN - 3 PM 3:11

LEGISLATIVE COUNSEL

WHEREAS, the Long Island Commission on Aquifer Protection (“LICAP”) was created by Resolution No. 107-2013, and

WHEREAS, LICAP has met thirty (30) times and held public hearings on eight different days since its inception; and

WHEREAS, LICAP, pursuant to this Legislature’s direction, has prepared a State of the Aquifer Report (“SOTAR”) and updated it; and

WHEREAS, LICAP, pursuant to this Legislature’s direction, has prepared and issued an Interim Groundwater Resources Management Plan (“IGRMP”); and

WHEREAS, LICAP voting and non-voting members considered the items to be included within the IGRMP; and

WHEREAS, the IGRMP contains recommendations for improving the quantity and quality of Long Island's groundwater and related water resources; and

WHEREAS, this Legislature finds that LICAP, through the SOTAR, the IGRMP, its public meetings and hearings has provided valuable information and collaboration among water quality professionals, health departments, elected officials, advocates and other interested parties in Nassau and Suffolk counties; and

WHEREAS, LICAP is set to expire and terminate on December 27, 2018 unless it is reauthorized and extended by resolutions of the Suffolk and Nassau County Legislatures; and

WHEREAS, this County Legislature has determined that it is in the best interest of the County to reauthorize LICAP for five (5) years from December 27, 2018; and

WHEREAS, this County Legislature further determines that LICAP shall focus on, but not be limited to, the tasks as presented herein during its extended term; and

WHEREAS, the Soil and Water Conservation District of Nassau and Suffolk counties possess enormous knowledge and expertise about the conservation of water resources and their representatives on the LICAP board would enhance LICAP's efforts; now, therefore be it

RESOLVED, that Resolution 107-2013 shall be amended by the terms of this Resolution and any inconsistent terms shall be interpreted in favor of this Resolution; and be it further

RESOLVED, that the Long Island Commission for Aquifer Protection ("LICAP") is hereby reestablished; and be it further

RESOLVED, that the Nassau County Executive is hereby empowered and authorized to enter into an inter-municipal agreement with Suffolk County, which agreement will set forth the terms and conditions under which the LICAP will operate, such agreement to be consistent with the terms of this resolution; and be it further

RESOLVED, that the LICAP shall consist of eleven members. Seven entities shall have a permanent membership position, the Suffolk County Water Authority, the Long Island Water Conference, the Nassau-Suffolk Water Commissioner's Association, the Nassau and Suffolk Departments of Health, and the Nassau and Suffolk Soil and Water Conservation Districts. Each entity or member may designate a representative to attend meetings and such representative shall serve at the pleasure of his or her designating entity. There shall be four appointed members, two members to be appointed from Nassau County and two members to be appointed from Suffolk County, as set forth below. A quorum of the LICAP shall consist of no fewer than six

voting members, which, at a minimum, must include three of the permanent members and at least one member from Nassau County and at least one member from Suffolk County; any subcommittee of the Council shall contain equal representation from each County at least one permanent member; and be it further

RESOLVED, that the Nassau County Executive and the Presiding Officer of the Nassau County Legislature shall each, subject to the approval of the Nassau County Legislature, appoint one member to the LICAP, each of whom shall reside in Nassau County. Each appointment shall be for a four-year term except the initial members of the LICAP shall have staggered terms, with the two Suffolk members having initial terms of one and four years and the two Nassau members having initial terms of two and three years. All members appointed pursuant to this resolved clause should have a background in hydrology, geology, hydrogeology, public sanitation, public health, engineering, academia with a specialization in the study of groundwater issues, environmental protection and advocacy, or employment with a public water provider. Such members shall continue to hold office until their successors are appointed and qualified, provided that the appointment of a successor to a member who has continued to hold office after the expiration of his or her original term shall be for the unexpired portion of the new term; and, provided further, that the vacancies in the LICAP occurring as a result of something other than the expiration of the term shall be filled by the appointing authority, subject to the approval of the Legislature, for the unexpired term; and be it further

RESOLVED, that the Nassau County Executive, the Presiding Officer of the Nassau County Legislature, the Minority Leader of the Nassau County Legislature, the Commissioner of

the Nassau Department of Public Works, the Commissioner of the Nassau County Department of Parks, Recreation and Museums, and the Director of the Nassau County Planning Commission, or the representatives, shall serve as ex-officio members of the LICAP, but shall not be entitled to vote, and a representative from the New York State Department Environmental Conservation, the United States Geologic Survey and the Long Island Groundwater Research Institute shall be invited to serve as ex-officio members; and be it further

RESOLVED, that the members of the LICAP shall receive no salary or compensation for their services; and be it further

RESOLVED, that any LICAP member may be removed by their appointing or designating authority for cause, including a member's failure to attend at least half of all regularly scheduled meetings during the calendar year; and be it further

RESOLVED; the Chair and Vice-Chair the LICAP shall rotate between the Suffolk County Water Authority, the Long Island Water Conference and the Nassau-Suffolk Water Commissioner's Association on a two year basis. The first Chair shall be the Suffolk County Water Authority's representative. The Chair shall keep a record of its resolutions, transactions, findings and determinations, which shall be public record, and shall adopt and file with the Clerks of the Nassau County and Suffolk County Legislatures by-laws governing its operations, including by-laws governing procurement that comply with all state requirements and, to the extent possible and reasonable, provide for competitive solicitation of goods and services; and be it further

RESOLVED, that the LICAP shall meet quarterly, or more often as agreed to by the LICAP. Notice of such meetings shall be provided, and such meetings shall be open to the public in compliance with the provisions of the Public Officers Law. Minutes of the meetings shall be kept and meeting agendas and minutes shall be provided to all LICAP members and ex-officio members; and be it further

RESOLVED, that the LICAP is hereby authorized and empowered to receive and expend public and private funds, including grants from non-profit foundations, agencies, corporations, including public benefit corporations, and private entities, contract with public corporations for in-kind services, contract with public corporations to authorize the public corporation to apply for, hold, receive, and disburse funds on behalf of and the direction of LICAP and may apply for and accept grants, donations, subsidies, or other funding from the federal, state and local governments, and enter into contracts for and agree to accept such grants, donations or subsidies in accordance with its approved purposes and make grants to public education and/or research institutions, such funds to be used for research purposes, provided that no more than 15% of the LICAP funds are used to pay for overhead or associated costs; and be it further

RESOLVED, the LICAP shall have the power and authority to enter into agreements with consultants and experts and to pay for their services, and to provide for such other expenses as may be necessary and proper within the appropriation's therefor; and be it further

RESOLVED, that the members of the LICAP shall be subject to the Codes of Ethics contained in Chapter 77 of the Suffolk County Code or section 2218 of the Nassau County Charter and sections 22-4.2 and 22-4.3 of the Nassau County Administrative Code depending on their place of residence; notwithstanding the foregoing, LICAP staff members employed by a public corporation with its own Code of Ethics shall be subject only to the employing entity's Code of Ethics; and be it further

RESOLVED, LICAP members and the firm in which they work for, or are associated with, shall be prohibited from providing any paid services to LICAP; and be it further

RESOLVED, that the LICAP shall prepare and release a State of the Aquifer Report (the "Report") within one year of its first meeting and thereafter provide annual updates of the Report. The Report and its updates shall be issued to the Nassau and Suffolk County Executives, the Nassau and Suffolk County Legislatures, and public water purveyors in Nassau and Suffolk Counties, and posted on the LICAP website; and be it further

RESOLVED, that LICAP, on an annual basis, shall conduct at least one public hearing in each County for the purpose of soliciting information necessary for the Report's preparation on issues of regional concern affecting the SSA from members of the public and organizations involved in groundwater research, management and advocacy; and be it further

RESOLVED, LICAP shall establish two standing committees, the 2040 Water Resources and Infrastructure Subcommittee (2040 WRIS) and the Water Resource Opportunities

Subcommittee (WROS). The 2040 WRIS shall develop a 2040 WRIS Plan to identify long-term risks to the water supply industry created by global climate change. The 2040 WRIS Plan shall recommend short term measures to strengthen public water distribution systems against these long-term risks, including, but not limited to, the development of well placement criteria, mechanism for hardening water distribution system infrastructure in coastal areas and loss mitigation strategies, including methods for isolating vulnerable portions of distribution system during an event. The WROS will identify and quantify short term risks, if any, to groundwater resources; and be it further

RESOLVED, within three years of the Report, LICAP shall issue a Groundwater Resources Management Plan (the "Plan") that includes, but is not limited to, the following:

- a. Qualitative and quantitative groundwater data,
- b. Anthropogenic threats to groundwater quality and quantity,
- c. Existing regulatory ground water management regimes,
- d. Assessment of adequacy of existing groundwater management regulations,
- e. Development of recommendations,
- f. Methods for implementing their commendations and proposed regulatory amendments, and
- g. Implementation program, including stakeholders, roles and responsibilities, prioritization of actions, schedule and costs; and be it further

RESOLVED, in preparing the Plan, the LICAP may:

- a. conduct surveys, studies, and research programs that address regional groundwater needs, including general protection, enhancement, quality of life, sustainable growth and development dependent on the SSA, and distribute information and recommendations resulting from such surveys, studies, and research programs,
- b. consult and cooperate with the state government, its political subdivisions, and public and private entities in matters related to regional groundwater protection issues, and
- c. establish relationships with local universities and colleges on groundwater protection issues; and be it further

RESOLVED, the LICAP shall provide public notice upon completion of a draft Groundwater Resources Management Plan and shall conduct at least one public hearing in each County on such draft prior to the issuance of the Plan; and be it further

RESOLVED, notice of all hearings conducted pursuant to this resolution shall comply with the requirements of the Public Officers Law and shall, in addition, be provided to appropriate organizations identified by the LICAP; and be it further

RESOLVED, if the LICAP maintains funds in its exclusive custody and control or enters into any agreement providing for the payment of LICAP funds, it shall, consistent with the

requirements of General Municipal Law §239-h, engage a certified public accountant to complete an annual financial audit and audit of the internal control structure of the LICAP, a copy of which shall be included in the annual report:

- a. the LICAP shall file with the Nassau and Suffolk County Executives and the Nassau and Suffolk Legislatures the terms and conditions of its employment consultant agreements within 30 days of entering into such agreements, and
- b. the LICAP shall be subject to audit by the Nassau and Suffolk County Comptrollers. LICAP need not prepare such reports, if either County, on LICAP's behalf, engages a third party to perform work at the direction of LICAP or if either County hires employees to work on LICAP projects; and be it further

RESOLVED, the LICAP shall focus its efforts solely on quality and quantity of groundwater in the SSA and methods for preventing further degradation of such waters, improving these waters and ensuring their quality and quantity for future generations and those issues as requested by either County Executive and/or either County Legislature; and be it further

RESOLVED, that LICAP shall annually update its SOTAR by selecting topic(s) that merit further examination and providing the results of such examination in each annual SOTAR update; and be it further

RESOLVED, that LICAP shall seek to establish a subcommittee to work cooperatively with the Project Management Team of the New York Long Island Nitrogen Action Plan

Initiative, among other water resource protection initiatives, to identify opportunities for collaboration between the entities; and be it further

RESOLVED, that LICAP shall seek to expand the scope of WaterTraq to include drinking water quality/test results information from all of Long Island's providers, including both treated and raw water results; and be it further

RESOLVED, that LICAP shall monitor and seek the implementation of the IGRMP's recommendation via legislative or regulatory action; and be it further

RESOLVED, that LICAP shall develop and implement an Island wide comprehensive public education program related to the value of water and conservation initiatives engaging all levels of government, not-for-profits, business entities and other stakeholders; and be it further

RESOLVED, that LICAP shall prepare and submit recommendations to the New York State Department of Environmental Conservation on opportunities to use Natural Resources Damages Funds to improve groundwater quantity and quality on Long Island; and be it further

RESOLVED, that LICAP shall complete the 2040 Water Resources and Infrastructure Plan and the Water Resources Opportunities Plan; and be it further

RESOLVED, that the County shall annually provide to LICAP a minimum of \$50,000 to undertake the tasks set forth in this resolution; however, LICAP may only expend these funds if

the amounts provided by Suffolk County and Nassau County are equal and in the event of a disparity between the annual appropriation of the two, LICAP shall terminate any agreements contingent upon LICAP's receipt of funding from each County; and be it further

RESOLVED, that this resolution shall become effective upon the approval and adoption of a substantially similar resolution or ordinance by Suffolk County; provided, however, that such a resolution or ordinance shall not be construed as "substantially similar" if it affects the powers of Nassau County or its members on the LICAP, including, but not limited to, representation, voting powers or Nassau County's financial contribution to the LICAP; and be it further

RESOLVED, that the LICAP will expire and the terms of its members will terminate on December 28, 2023 unless both counties enact a new resolution/ordinance reauthorizing LICAP and its mission; and be it further

RESOLVED, it is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly is of a class of actions which do not have a significant effect on the environment, and no further review is required.