

HOME RULE MESSAGE REQUESTING NEW YORK LEGISLATURE TO AMEND THE GENERAL MUNICIPAL LAW, THE VEHICLE AND TRAFFIC LAW AND THE CRIMINAL PROCEDURE LAW TO CREATE A TRAFFIC AND PARKING VIOLATIONS AGENCY IN SUFFOLK COUNTY (ASSEMBLY BILL A.9539-C AND SENATE BILL S.5634-E)

WHEREAS, the growing number of traffic and parking infractions in Suffolk County is causing a backlog of such cases in the County's district courts; and

WHEREAS, this strain on the district courts means that many of these traffic and parking summonses go unanswered and unpaid; and

WHEREAS, villages, cities and towns throughout the State are authorized to establish an independent traffic violations bureau to assist in the disposition of infractions related to traffic and parking violations, and a traffic violations agency has been established in Nassau County; and

WHEREAS, establishing a traffic violations agency in Suffolk County will ease the burden on the district courts and speed the disposition of traffic and parking violations; and

WHEREAS, there is legislation pending in the New York State Legislature that would authorize the County of Suffolk to establish, by local law, a Traffic and Parking Violations Agency to assist the district court in the disposition of traffic and parking infractions; now, therefore be it

1st RESOLVED, that this Legislature hereby requests the State of New York to enact Assembly Bill No. A.9539-C and Senate Bill No. S.5634-E for the purpose of establishing a Traffic and Parking Violations Agency in Suffolk County; and be it further

2nd RESOLVED, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor Andrew M. Cuomo; to the Majority Leader of the New York State Senate Dean Skelos; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED:

s:\memres\hr-amended traffic and parking violations agency



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Bill No.: A09539

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A09539 Summary:

BILL NO A09539B

SAME AS Same as S 5634-D

SPONSOR Ramos (MS)

COSPNSR Sweeney, Englebright, Thiele, Weisenberg, Russell, Magee, Millman, Perry, Crespo, Schimel, Lupardo, Maisel, Espinal, Roberts, Bronson, Cusick, Titone, Braunstein

MLTSPNSR Fitzpatrick, Graf, Losquadro, McDonough, Murray, Raia, Tobacco

Amd SS370, 370-a, 371, 374 & 99-1, Gen Muni L; amd Art 44-A Art Head, SS1690 & 225, V & T L; amd S350.20, CP L; amd S99-a, St Fin L

Provides for the establishment of a traffic and parking violations agency in the county of Suffolk and appointment of traffic prosecutors.

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A09539 Actions:

BILL NO A09539B

03/12/2012 referred to local governments

03/26/2012 amend and recommit to local governments

03/26/2012 print number 9539a

04/17/2012 reference changed to transportation

04/19/2012 amend (t) and recommit to transportation

04/19/2012 print number 9539b

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A09539 Votes:

There are no votes for this bill in this legislative session.

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A09539 Memo:

Memo not available

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A09539 Text:

S T A T E O F N E W Y O R K

9539--B

S T A T E O F N E W Y O R K

5634--E

Cal. No. 358

2011-2012 Regular Sessions

I N S E N A T E

June 8, 2011

Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general municipal law, the vehicle and traffic law, the criminal procedure law and the state finance law, in relation to establishing a traffic and parking violations agency in the county of Suffolk

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 370 of the general municipal law is amended by
2 adding a new subdivision 3 to read as follows:
3 3. THERE SHALL BE A DEPARTMENT OF THE SUFFOLK COUNTY GOVERNMENT KNOWN
4 AS THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, WHICH SHALL
5 OPERATE UNDER THE DIRECTION AND CONTROL OF THE COUNTY EXECUTIVE.
6 S 2. Section 370-a of the general municipal law, as added by chapter
7 496 of the laws of 1990, subdivision 1 as amended by chapter 527 of the
8 laws of 2002, is amended to read as follows:
9 S 370-a. Definitions. For the purpose of this article:
10 1. "Traffic and parking violations agency" shall mean a department of
11 the Nassau county government established pursuant to subdivision two of
12 section three hundred seventy of this article OR A DEPARTMENT IN THE
13 SUFFOLK COUNTY GOVERNMENT ESTABLISHED PURSUANT TO SUBDIVISION THREE OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD11932-11-2

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2

1 SUCH SECTION to administer and dispose of traffic and parking infrac-
2 tions.
3 2. "Traffic prosecutor" shall mean an attorney duly admitted to prac-
4 tice law in the state of New York who, having been appointed and either
5 hired or retained pursuant to section three hundred seventy-four of this
6 article, has the responsibility of prosecuting any traffic and parking
7 infractions returnable before the Nassau county district court OR THE

8 SUFFOLK COUNTY DISTRICT COURT pursuant to the jurisdictional limitations
9 of section three hundred seventy-one of this article.

10 S 3. Subdivisions 2, 3 and 4 of section 371 of the general municipal
11 law, subdivision 2 as amended by section 21 of part G of chapter 58 of
12 the laws of 2012, subdivision 3 as amended by chapter 496 of the laws of
13 1990 and subdivision 4 as amended by chapter 465 of the laws of 1998,
14 are amended to read as follows:

15 2. The Nassau county traffic and parking violations agency, as estab-
16 lished, may be authorized to assist the Nassau county district court,
17 AND THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, AS ESTAB-
18 LISHED, MAY BE AUTHORIZED TO ASSIST THE SUFFOLK COUNTY DISTRICT COURT,
19 in the disposition and administration of infractions of traffic and
20 parking laws, ordinances, rules and regulations and the liability of
21 owners for violations of subdivision (d) of section eleven hundred elev-
22 en of the vehicle and traffic law in accordance with section eleven
23 hundred eleven-b of such law, except that such [agency] AGENCIES shall
24 not have jurisdiction over (a) the traffic infraction defined under
25 subdivision one of section eleven hundred ninety-two of the vehicle and
26 traffic law; (b) the traffic infraction defined under subdivision five
27 of section eleven hundred ninety-two of the vehicle and traffic law; (c)
28 the violation defined under paragraph (b) of subdivision four of section
29 fourteen-f of the transportation law and the violation defined under
30 clause (b) of subparagraph (iii) of paragraph c of subdivision two of
31 section one hundred forty of the transportation law; (d) the traffic
32 infraction defined under section three hundred ninety-seven-a of the
33 vehicle and traffic law and the traffic infraction defined under subdi-
34 vision (g) of section eleven hundred eighty of the vehicle and traffic
35 law; (e) any misdemeanor or felony; or (f) any offense that is part of
36 the same criminal transaction, as that term is defined in subdivision
37 two of section 40.10 of the criminal procedure law, as a violation of
38 subdivision one of section eleven hundred ninety-two of the vehicle and
39 traffic law, a violation of subdivision five of section eleven hundred
40 ninety-two of the vehicle and traffic law, a violation of paragraph (b)
41 of subdivision four of section fourteen-f of the transportation law, a
42 violation of clause (b) of subparagraph (iii) of paragraph [d] C of
43 subdivision two of section one hundred forty of the transportation law,
44 a violation of section three hundred ninety-seven-a of the vehicle and
45 traffic law, a violation of subdivision (g) of section eleven hundred
46 eighty of the vehicle and traffic law or any misdemeanor or felony.

47 3. A person charged with an infraction which shall be disposed of by
48 either a traffic violations bureau [or], the Nassau county traffic and
49 parking violations agency, OR THE SUFFOLK COUNTY TRAFFIC AND PARKING
50 VIOLATIONS AGENCY may be permitted to answer, within a specified time,
51 at the traffic violations bureau, [and] in Nassau county at the traffic
52 and parking violations agency AND IN SUFFOLK COUNTY AT THE TRAFFIC AND
53 PARKING VIOLATIONS AGENCY, either in person or by written power of
54 attorney in such form as may be prescribed in the ordinance or local law
55 creating the bureau or agency, by paying a prescribed fine and, in writ-
56 ing, waiving a hearing in court, pleading guilty to the charge or admit-
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1 ting liability as an owner for the violation of subdivision (d) of
2 section eleven hundred eleven of the vehicle and traffic law, as the
3 case may be, and authorizing the person in charge of the bureau or agen-
4 cy to enter such a plea or admission and accept payment of said fine.
5 Acceptance of the prescribed fine and power of attorney by the bureau or
6 agency shall be deemed complete satisfaction for the violation or of the
7 liability, and the violator or owner liable for a violation of subdivi-
8 sion (d) of section eleven hundred eleven of the vehicle and traffic law
9 shall be given a receipt which so states. If a person charged with a

10 traffic violation does not answer as hereinbefore prescribed, within a
 11 designated time, the bureau or agency may cause a complaint to be
 12 entered against him forthwith and a warrant to be issued for his arrest
 13 and appearance before the court, such summons to be predicated upon the
 14 personal service of said summons upon the person charged with the
 15 infraction. Any person who shall have been, within the preceding twelve
 16 months, guilty of a number of parking violations in excess of such maxi-
 17 mum number as may be designated by the court, or of three or more
 18 violations other than parking violations, shall not be permitted to
 19 appear and answer to a subsequent violation at the traffic violations
 20 bureau or agency, but must appear in court at a time specified by the
 21 bureau or agency. Such bureau or agency shall not be authorized to
 22 deprive a person of his right to counsel or to prevent him from exercis-
 23 ing his right to appear in court to answer to, explain, or defend any
 24 charge of a violation of any traffic law, ordinance, rule or regulation.

25 4. Notwithstanding any inconsistent provision of law, fines, penalties
 26 and forfeitures collected by the Nassau county OR SUFFOLK COUNTY traffic
 27 and parking violations agency shall be distributed as provided in
 28 section eighteen hundred three of the vehicle and traffic law. All
 29 fines, penalties and forfeitures for violations adjudicated by the
 30 Nassau county OR SUFFOLK COUNTY traffic and parking violations agency
 31 pursuant to subdivision two of this section, with the exception of park-
 32 ing violations, and except as provided in subdivision three of section
 33 ninety-nine-a of the state finance law, shall be paid by such [agency]
 34 AGENCIES to the state comptroller within the first ten days of the month
 35 following collection. Each such payment shall be accompanied by a true
 36 and complete report in such form and detail as the comptroller shall
 37 prescribe.

38 S 4. Section 374 of the general municipal law, as amended by chapter
 39 527 of the laws of 2002, is amended to read as follows:

40 S 374. Traffic prosecutor selection and oversight. (a) The executive
 41 director of the Nassau county traffic and parking violations agency, AND
 42 THE EXECUTIVE DIRECTOR OF THE SUFFOLK COUNTY TRAFFIC AND PARKING
 43 VIOLATIONS AGENCY, appointed pursuant to subdivision (b) of this
 44 section, shall select and may contract with or hire one or more persons
 45 who are attorneys, duly admitted to the practice of law in New York
 46 state for the prosecution of any traffic and parking infraction, except
 47 those described in paragraphs (a), (b), (c), (d), (e) and (f) of subdi-
 48 vision two of section three hundred seventy-one of this article, to be
 49 heard, tried or otherwise disposed of by the district court of Nassau
 50 county IN THE CASE OF AN ATTORNEY SELECTED BY THE NASSAU COUNTY EXECU-
 51 TIVE DIRECTOR, OR BY THE DISTRICT COURT OF SUFFOLK COUNTY, IN THE CASE
 52 OF AN ATTORNEY SELECTED BY THE SUFFOLK COUNTY EXECUTIVE DIRECTOR. Such
 53 persons shall be known as "traffic prosecutors", as that term is defined
 54 in section three hundred seventy-a of this article. Traffic prosecutors
 55 shall have the same power as a district attorney would otherwise have in
 56 the prosecution of any traffic or parking infraction which may, pursuant
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1 to the jurisdictional provisions of section three hundred seventy-one of
 2 this article, be prosecuted before the district court of Nassau county
 3 OR THE DISTRICT COURT OF SUFFOLK COUNTY, IF THE TRAFFIC VIOLATION
 4 OCCURRED IN SUFFOLK COUNTY. The executive director shall give active
 5 consideration to requiring that such traffic prosecutors serve on a
 6 full-time basis. Traffic prosecutors are prohibited from appearing in
 7 any capacity other than as a traffic prosecutor in any part of the
 8 Nassau county district court OR THE SUFFOLK COUNTY DISTRICT COURT, IF
 9 THE TRAFFIC VIOLATION OCCURRED IN SUFFOLK COUNTY on any matter relating
 10 to traffic or parking violations and are further prohibited from appear-
 11 ing in any capacity other than as a traffic prosecutor in any other

12 court or administrative tribunal on any matter relating to traffic or
13 parking violations.

14 (b) The county executive of the county of Nassau shall appoint a
15 person to serve as the executive director of the Nassau county traffic
16 and parking violations agency subject to the confirmation of the county
17 legislature of the county of Nassau. THE COUNTY EXECUTIVE OF THE COUNTY
18 OF SUFFOLK SHALL APPOINT A PERSON TO SERVE AS THE EXECUTIVE DIRECTOR OF
19 THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY SUBJECT TO THE
20 CONFIRMATION OF THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK. The
21 executive director shall be responsible for the oversight and adminis-
22 tration of the agency. The executive director OF NASSAU COUNTY is
23 prohibited from appearing in any capacity in any part of the Nassau
24 county district court AND THE EXECUTIVE DIRECTOR OF SUFFOLK COUNTY IS
25 PROHIBITED FROM APPEARING IN ANY CAPACITY IN ANY PART OF THE SUFFOLK
26 COUNTY DISTRICT COURT on any matter relating to traffic or parking
27 violations and is further prohibited from appearing in any capacity in
28 any other court or administrative tribunal on any matter relating to
29 traffic or parking violations.

30 (c) It shall be a misdemeanor for the executive director, any traffic
31 prosecutor or any judicial hearing officer assigned to hear traffic or
32 parking violations cases pursuant to section one thousand six hundred
33 ninety of the vehicle and traffic law to establish any quota of traffic
34 violation convictions which must be obtained by any traffic prosecutor
35 or judicial hearing officer. Nothing contained herein shall prohibit the
36 taking of any job action against a traffic prosecutor or judicial hear-
37 ing officer for failure to satisfactorily perform such prosecutor's or
38 officer's job assignment except that the employment productivity of such
39 prosecutor or officer shall not be measured by the attainment or nonat-
40 tainment of any conviction quota. For the purposes of this section a
41 conviction quota shall mean a specific number of convictions which must
42 be obtained within a specific time period.

43 (d) The legislature of the county of Nassau may appropriate those
44 monies which, in the legislature's sole discretion, are necessary for
45 the compensation of those persons selected to serve as executive direc-
46 tor and traffic prosecutors and to cover all other expenses associated
47 with the administration of the Nassau county traffic and parking
48 violations agency.

49 (E) THE LEGISLATURE OF THE COUNTY OF SUFFOLK MAY APPROPRIATE THOSE
50 MONIES WHICH, IN THE LEGISLATURE'S SOLE DISCRETION, ARE NECESSARY FOR
51 THE COMPENSATION OF THOSE PERSONS SELECTED TO SERVE AS EXECUTIVE DIREC-
52 TOR AND TRAFFIC PROSECUTORS AND TO COVER ALL OTHER EXPENSES ASSOCIATED
53 WITH THE ADMINISTRATION OF THE SUFFOLK COUNTY TRAFFIC AND PARKING
54 VIOLATIONS AGENCY.

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1 S 5. The article heading of article 44-A of the vehicle and traffic
2 law, as added by chapter 496 of the laws of 1990, is amended to read as
3 follows:

4 AUTHORITY OF THE NASSAU AND SUFFOLK
5 COUNTY DISTRICT COURT
6 JUDICIAL HEARING [OFFICER] OFFICERS

7 S 6. The section heading, subdivision 1 and subdivision 4 of section
8 1690 of the vehicle and traffic law, the section heading and subdivision
9 4 as added by chapter 496 of the laws of 1990, subdivision 1 as amended
10 by chapter 420 of the laws of 2001, and the opening paragraph of subdi-
11 vision 1 as amended by section 20 of part G of chapter 58 of the laws of
12 2012, are amended to read as follows:

13 Authority of the Nassau county AND SUFFOLK COUNTY district court judi-
14 cial hearing [officer] OFFICERS. 1. Notwithstanding any other provision

15 of law, where the trial of a traffic or parking infraction is authorized
 16 or required to be tried before the Nassau county district court OR
 17 SUFFOLK COUNTY DISTRICT COURT, and such traffic and parking infraction
 18 does not constitute a misdemeanor, felony, violation of subdivision one
 19 of section eleven hundred ninety-two, subdivision five of section eleven
 20 hundred ninety-two, section three hundred ninety-seven-a, or subdivision
 21 (g) of section eleven hundred eighty of this chapter, or a violation of
 22 paragraph (b) of subdivision four of section fourteen-f or clause (b) of
 23 subparagraph (iii) of paragraph c of subdivision two of section one
 24 hundred forty of the transportation law, or any offense that is part of
 25 the same criminal transaction, as that term is defined in subdivision
 26 two of section 40.10 of the criminal procedure law, as such a misdemea-
 27 nor, felony, violation of subdivision one of section eleven hundred
 28 ninety-two, subdivision two of section eleven hundred ninety-two,
 29 section three hundred ninety-seven-a or subdivision (g) of section elev-
 30 en hundred eighty of this chapter, or a violation of paragraph (b) of
 31 subdivision four of section fourteen-f or clause (b) of subparagraph
 32 (iii) of paragraph d of subdivision two of section one hundred forty of
 33 the transportation law, the administrative judge of the county in which
 34 the trial court is located, may assign judicial hearing officers to
 35 conduct such a trial. Such judicial hearing officers shall be village
 36 court justices or retired judges either of which shall have at least two
 37 years of experience conducting trials of traffic and parking violations
 38 cases and shall be admitted to practice law in this state. Where such
 39 assignment is made, the judicial hearing officer shall entertain the
 40 case in the same manner as a court and shall:

- 41 (a) determine all questions of law;
- 42 (b) act as the exclusive trier of all issues of fact;
- 43 (c) render a verdict;
- 44 (d) impose sentence; or
- 45 (e) dispose of the case in any manner provided by law.

46 4. Judicial hearing officers are prohibited from appearing in any
 47 capacity other than as a judicial hearing officer in any part of the
 48 Nassau county OR SUFFOLK COUNTY district court on any matter relating to
 49 traffic or parking violations and are further prohibited from appearing
 50 in any capacity other than as a judicial hearing officer in any other
 51 court or administrative tribunal on any matter relating to traffic or
 52 parking violations.

53 S 7. Subdivision 5 of section 350.20 of the criminal procedure law, as
 54 added by chapter 496 of the laws of 1990, is amended to read as follows:
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1 5. Notwithstanding the provisions of subdivision one of this section,
 2 FOR ALL PROCEEDINGS BEFORE THE DISTRICT COURT OF NASSAU COUNTY the
 3 administrative judge of Nassau county may, AND FOR ALL PROCEEDINGS
 4 BEFORE THE DISTRICT COURT OF SUFFOLK COUNTY, THE ADMINISTRATIVE JUDGE OF
 5 SUFFOLK COUNTY MAY, without the consent of the parties, assign matters
 6 involving traffic and parking infractions except those described in
 7 paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section
 8 three hundred seventy-one of the general municipal law to a judicial
 9 hearing officer [for all proceedings before the district court of Nassau
 10 county] in accordance with the provisions of section sixteen hundred
 11 ninety of the vehicle and traffic law.

12 S 8. Subdivision 1 of section 225 of the vehicle and traffic law, as
 13 amended by chapter 173 of the laws of 1990, is amended to read as
 14 follows:

15 1. Notwithstanding any inconsistent provision of law, all violations
 16 of this chapter or of a law, ordinance, order, rule or regulation relat-
 17 ing to traffic, except parking, standing, stopping or pedestrian
 18 offenses, which occur within a city having a population of two hundred

19 thousand or more in which administrative tribunals have heretofore been
 20 established, [or within that portion of Suffolk county for which a
 21 district court has been established,] and which are classified as traf-
 22 fic infractions, may be heard and determined pursuant to the regulations
 23 of the commissioner as provided in this article. Whenever a crime and a
 24 traffic infraction arise out of the same transaction or occurrence, a
 25 charge alleging both offenses may be made returnable before the court
 26 having jurisdiction over the crime. Nothing herein provided shall be
 27 construed to prevent a court, having jurisdiction over a criminal charge
 28 relating to traffic or a traffic infraction, from lawfully entering a
 29 judgment of conviction, whether or not based on a plea of guilty, for
 30 any offense classified as a traffic infraction.

31 S 9. Subdivision 3 of section 99-a of the state finance law, as
 32 amended by chapter 465 of the laws of 1998, is amended to read as
 33 follows:

34 3. The comptroller is hereby authorized to implement alternative
 35 procedures, including guidelines in conjunction therewith, relating to
 36 the remittance of fines, penalties, forfeitures and other moneys by town
 37 and village justice courts, and by the Nassau [county] AND SUFFOLK COUN-
 38 TIES traffic and parking violations [agency] AGENCIES, to the justice
 39 court fund and for the distribution of such moneys by the justice court
 40 fund. Notwithstanding any law to the contrary, the alternative proce-
 41 dures utilized may include:

42 a. electronic funds transfer;

43 b. remittance of funds by the justice court to the chief fiscal office
 44 of the town or village, or, in the case of the Nassau [county] AND
 45 SUFFOLK COUNTIES traffic and parking violations [agency] AGENCIES, to
 46 the county treasurer, for distribution in accordance with instructions
 47 by the comptroller; and/or

48 c. monthly, rather than quarterly, distribution of funds.

49 The comptroller may require such reporting and record keeping as he or
 50 she deems necessary to ensure the proper distribution of moneys in
 51 accordance with applicable laws. A justice court or the Nassau [county]
 52 AND SUFFOLK COUNTIES traffic and parking violations [bureau] AGENCIES
 53 may utilize these procedures only when permitted by the comptroller, and
 54 such permission, once given, may subsequently be withdrawn by the comp-
 55 troller on due notice.

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1 S 10. Subdivision 2 of section 99-1 of the general municipal law, as
 2 added by chapter 261 of the laws of 1993, is amended to read as follows:

3 2. The [county] COUNTIES of Nassau AND SUFFOLK shall be entitled to
 4 receive the amounts set forth in subdivision one of this section for the
 5 services of [the Nassau] THEIR RESPECTIVE county traffic and parking
 6 violations agency.

7 S 11. Notwithstanding any provision of law to the contrary no non-ju-
 8 dicial employee of the Suffolk county district court shall suffer a
 9 diminution of salary, employment status or rights solely by operation of
 10 this act provided that nothing herein shall limit the legal authority of
 11 the chief administrator of the courts to supervise the administration
 12 and operation of the unified court system.

13 S 12. The administrative judge of Suffolk county shall issue on an
 14 annual basis, beginning eighteen months following the creation of the
 15 Suffolk county traffic and parking violations agency pursuant to Suffolk
 16 county local law, a report detailing the progress, development and oper-
 17 ations of the traffic and parking violations agency. The report shall be
 18 provided to the governor, the temporary president of the senate, the
 19 speaker of the assembly, the Suffolk county executive, the legislature
 20 of the county of Suffolk, the presiding judge of the Suffolk county
 21 district court and the Suffolk county district attorney.

22 S 13. This act shall take effect immediately; provided, however, the
23 amendments to section 370-a, subdivisions 2, 3 and 4 of section 371 and
24 section 374 of the general municipal law, the article heading of article
25 44-A and the section heading and subdivisions 1 and 4 of section 1690 of
26 the vehicle and traffic law and subdivision 5 of section 350.20 of the
27 criminal procedure law, as made by sections two, three, four, five, six
28 and seven of this act, respectively, shall take effect only in the event
29 that the county of Suffolk shall have by local law established a traffic
30 and parking violations agency; provided that the legislature of the
31 county of Suffolk shall notify the legislative bill drafting commission
32 upon the occurrence of the enactment of the legislation provided for in
33 sections two, three, four, five, six and seven of this act in order that
34 the commission may maintain an accurate and timely effective data base
35 of the official text of the laws of the state of New York in furtherance
36 of effectuating the provisions of section 44 of the legislative law and
37 section 70-b of the public officers law; provided, however, that the
38 amendments to section 371 of the general municipal law made by section
39 three of this act shall not affect the expiration of such section and
40 shall be deemed to expire therewith; and provided that the amendments to
41 subdivision 2 of section 99-1 of the general municipal law made by
42 section ten of this act shall take effect on the same date as the rever-
43 sion of subdivision 2 of section 99-1 of the general municipal law as
44 provided in section 6 of chapter 382 of the laws of 2011, as amended.

S T A T E O F N E W Y O R K

9539--C

I N A S S E M B L Y

March 12, 2012

Introduced by M. of A. RAMOS, SWEENEY, ENGLEBRIGHT, THIELE, WEISENBERG, RUSSELL, MAGEE, MILLMAN, PERRY, CRESPO, SCHIMEL, LUPARDO, MAISEL, ESPINAL, ROBERTS, BRONSON, CUSICK, TITONE, BRAUNSTEIN -- Multi-Sponsored by -- M. of A. FITZPATRICK, GRAF, LOSQUADRO, McDONOUGH, MURRAY, RAIA, TOBACCO -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, the vehicle and traffic law, the criminal procedure law and the state finance law, in relation to establishing a traffic and parking violations agency in the county of Suffolk

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 370 of the general municipal law is amended by
2 adding a new subdivision 3 to read as follows:
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4 AS THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, WHICH SHALL
5 OPERATE UNDER THE DIRECTION AND CONTROL OF THE COUNTY EXECUTIVE.
6 S 2. Section 370-a of the general municipal law, as added by chapter
7 496 of the laws of 1990, subdivision 1 as amended by chapter 527 of the
8 laws of 2002, is amended to read as follows:
9 S 370-a. Definitions. For the purpose of this article:
10 1. "Traffic and parking violations agency" shall mean a department of
11 the Nassau county government established pursuant to subdivision two of
12 section three hundred seventy of this article OR A DEPARTMENT IN THE
13 SUFFOLK COUNTY GOVERNMENT ESTABLISHED PURSUANT TO SUBDIVISION THREE OF
14 SUCH SECTION to administer and dispose of traffic and parking infrac-
15 tions.
16 2. "Traffic prosecutor" shall mean an attorney duly admitted to prac-
17 tice law in the state of New York who, having been appointed and either

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD11932-12-2

A. 9539--C

2

- 1 hired or retained pursuant to section three hundred seventy-four of this
2 article, has the responsibility of prosecuting any traffic and parking
3 infractions returnable before the Nassau county district court OR THE
4 SUFFOLK COUNTY DISTRICT COURT pursuant to the jurisdictional limitations
5 of section three hundred seventy-one of this article.
6 S 3. Subdivisions 2, 3 and 4 of section 371 of the general municipal
7 law, subdivision 2 as amended by section 21 of part G of chapter 58 of

8 the laws of 2012, subdivision 3 as amended by chapter 496 of the laws of
 9 1990 and subdivision 4 as amended by chapter 465 of the laws of 1998,
 10 are amended to read as follows:

11 2. The Nassau county traffic and parking violations agency, as estab-
 12 lished, may be authorized to assist the Nassau county district court,
 13 AND THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, AS ESTAB-
 14 LISHED, MAY BE AUTHORIZED TO ASSIST THE SUFFOLK COUNTY DISTRICT COURT,
 15 in the disposition and administration of infractions of traffic and
 16 parking laws, ordinances, rules and regulations and the liability of
 17 owners for violations of subdivision (d) of section eleven hundred elev-
 18 en of the vehicle and traffic law in accordance with section eleven
 19 hundred eleven-b of such law, except that such [agency] AGENCIES shall
 20 not have jurisdiction over (a) the traffic infraction defined under
 21 subdivision one of section eleven hundred ninety-two of the vehicle and
 22 traffic law; (b) the traffic infraction defined under subdivision five
 23 of section eleven hundred ninety-two of the vehicle and traffic law; (c)
 24 the violation defined under paragraph (b) of subdivision four of section
 25 fourteen-f of the transportation law and the violation defined under
 26 clause (b) of subparagraph (iii) of paragraph c of subdivision two of
 27 section one hundred forty of the transportation law; (d) the traffic
 28 infraction defined under section three hundred ninety-seven-a of the
 29 vehicle and traffic law and the traffic infraction defined under subdi-
 30 vision (g) of section eleven hundred eighty of the vehicle and traffic
 31 law; (e) any misdemeanor or felony; or (f) any offense that is part of
 32 the same criminal transaction, as that term is defined in subdivision
 33 two of section 40.10 of the criminal procedure law, as a violation of
 34 subdivision one of section eleven hundred ninety-two of the vehicle and
 35 traffic law, a violation of subdivision five of section eleven hundred
 36 ninety-two of the vehicle and traffic law, a violation of paragraph (b)
 37 of subdivision four of section fourteen-f of the transportation law, a
 38 violation of clause (b) of subparagraph (iii) of paragraph [d] C of
 39 subdivision two of section one hundred forty of the transportation law,
 40 a violation of section three hundred ninety-seven-a of the vehicle and
 41 traffic law, a violation of subdivision (g) of section eleven hundred
 42 eighty of the vehicle and traffic law or any misdemeanor or felony.

43 3. A person charged with an infraction which shall be disposed of by
 44 either a traffic violations bureau [or], the Nassau county traffic and
 45 parking violations agency, OR THE SUFFOLK COUNTY TRAFFIC AND PARKING
 46 VIOLATIONS AGENCY may be permitted to answer, within a specified time,
 47 at the traffic violations bureau, [and] in Nassau county at the traffic
 48 and parking violations agency AND IN SUFFOLK COUNTY AT THE TRAFFIC AND
 49 PARKING VIOLATIONS AGENCY, either in person or by written power of
 50 attorney in such form as may be prescribed in the ordinance or local law
 51 creating the bureau or agency, by paying a prescribed fine and, in writ-
 52 ing, waiving a hearing in court, pleading guilty to the charge or admit-
 53 ting liability as an owner for the violation of subdivision (d) of
 54 section eleven hundred eleven of the vehicle and traffic law, as the
 55 case may be, and authorizing the person in charge of the bureau or agen-
 56 cy to enter such a plea or admission and accept payment of said fine.

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1 Acceptance of the prescribed fine and power of attorney by the bureau or
 2 agency shall be deemed complete satisfaction for the violation or of the
 3 liability, and the violator or owner liable for a violation of subdivi-
 4 sion (d) of section eleven hundred eleven of the vehicle and traffic law
 5 shall be given a receipt which so states. If a person charged with a
 6 traffic violation does not answer as hereinbefore prescribed, within a
 7 designated time, the bureau or agency may cause a complaint to be
 8 entered against him forthwith and a warrant to be issued for his arrest
 9 and appearance before the court, such summons to be predicated upon the

10 personal service of said summons upon the person charged with the
 11 infraction. Any person who shall have been, within the preceding twelve
 12 months, guilty of a number of parking violations in excess of such maxi-
 13 mum number as may be designated by the court, or of three or more
 14 violations other than parking violations, shall not be permitted to
 15 appear and answer to a subsequent violation at the traffic violations
 16 bureau or agency, but must appear in court at a time specified by the
 17 bureau or agency. Such bureau or agency shall not be authorized to
 18 deprive a person of his right to counsel or to prevent him from exercis-
 19 ing his right to appear in court to answer to, explain, or defend any
 20 charge of a violation of any traffic law, ordinance, rule or regulation.

21 4. Notwithstanding any inconsistent provision of law, fines, penalties
 22 and forfeitures collected by the Nassau county OR SUFFOLK COUNTY traffic
 23 and parking violations agency shall be distributed as provided in
 24 section eighteen hundred three of the vehicle and traffic law. All
 25 fines, penalties and forfeitures for violations adjudicated by the
 26 Nassau county OR SUFFOLK COUNTY traffic and parking violations agency
 27 pursuant to subdivision two of this section, with the exception of park-
 28 ing violations, and except as provided in subdivision three of section
 29 ninety-nine-a of the state finance law, shall be paid by such [agency]
 30 AGENCIES to the state comptroller within the first ten days of the month
 31 following collection. Each such payment shall be accompanied by a true
 32 and complete report in such form and detail as the comptroller shall
 33 prescribe.

34 S 4. Section 374 of the general municipal law, as amended by chapter
 35 527 of the laws of 2002, is amended to read as follows:

36 S 374. Traffic prosecutor selection and oversight. (a) The executive
 37 director of the Nassau county traffic and parking violations agency, AND
 38 THE EXECUTIVE DIRECTOR OF THE SUFFOLK COUNTY TRAFFIC AND PARKING
 39 VIOLATIONS AGENCY, appointed pursuant to subdivision (b) of this
 40 section, shall select and may contract with or hire one or more persons
 41 who are attorneys, duly admitted to the practice of law in New York
 42 state for the prosecution of any traffic and parking infraction, except
 43 those described in paragraphs (a), (b), (c), (d), (e) and (f) of subdi-
 44 vision two of section three hundred seventy-one of this article, to be
 45 heard, tried or otherwise disposed of by the district court of Nassau
 46 county IN THE CASE OF AN ATTORNEY SELECTED BY THE NASSAU COUNTY EXECU-
 47 TIVE DIRECTOR, OR BY THE DISTRICT COURT OF SUFFOLK COUNTY, IN THE CASE
 48 OF AN ATTORNEY SELECTED BY THE SUFFOLK COUNTY EXECUTIVE DIRECTOR. Such
 49 persons shall be known as "traffic prosecutors", as that term is defined
 50 in section three hundred seventy-a of this article. Traffic prosecutors
 51 shall have the same power as a district attorney would otherwise have in
 52 the prosecution of any traffic or parking infraction which may, pursuant
 53 to the jurisdictional provisions of section three hundred seventy-one of
 54 this article, be prosecuted before the district court of Nassau county
 55 OR THE DISTRICT COURT OF SUFFOLK COUNTY, IF THE TRAFFIC VIOLATION
 56 OCCURRED IN SUFFOLK COUNTY. The executive director shall give active
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1 consideration to requiring that such traffic prosecutors serve on a
 2 full-time basis. Traffic prosecutors are prohibited from appearing in
 3 any capacity other than as a traffic prosecutor in any part of the
 4 Nassau county district court OR THE SUFFOLK COUNTY DISTRICT COURT, IF
 5 THE TRAFFIC VIOLATION OCCURRED IN SUFFOLK COUNTY on any matter relating
 6 to traffic or parking violations and are further prohibited from appear-
 7 ing in any capacity other than as a traffic prosecutor in any other
 8 court or administrative tribunal on any matter relating to traffic or
 9 parking violations.

10 (b) The county executive of the county of Nassau shall appoint a
 11 person to serve as the executive director of the Nassau county traffic

12 and parking violations agency subject to the confirmation of the county
 13 legislature of the county of Nassau. THE COUNTY EXECUTIVE OF THE COUNTY
 14 OF SUFFOLK SHALL APPOINT A PERSON TO SERVE AS THE EXECUTIVE DIRECTOR OF
 15 THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY SUBJECT TO THE
 16 CONFIRMATION OF THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK. The
 17 executive director shall be responsible for the oversight and adminis-
 18 tration of the agency. The executive director OF NASSAU COUNTY is
 19 prohibited from appearing in any capacity in any part of the Nassau
 20 county district court AND THE EXECUTIVE DIRECTOR OF SUFFOLK COUNTY IS
 21 PROHIBITED FROM APPEARING IN ANY CAPACITY IN ANY PART OF THE SUFFOLK
 22 COUNTY DISTRICT COURT on any matter relating to traffic or parking
 23 violations and is further prohibited from appearing in any capacity in
 24 any other court or administrative tribunal on any matter relating to
 25 traffic or parking violations.

26 (c) It shall be a misdemeanor for the executive director, any traffic
 27 prosecutor or any judicial hearing officer assigned to hear traffic or
 28 parking violations cases pursuant to section one thousand six hundred
 29 ninety of the vehicle and traffic law to establish any quota of traffic
 30 violation convictions which must be obtained by any traffic prosecutor
 31 or judicial hearing officer. Nothing contained herein shall prohibit the
 32 taking of any job action against a traffic prosecutor or judicial hear-
 33 ing officer for failure to satisfactorily perform such prosecutor's or
 34 officer's job assignment except that the employment productivity of such
 35 prosecutor or officer shall not be measured by the attainment or nonat-
 36 tainment of any conviction quota. For the purposes of this section a
 37 conviction quota shall mean a specific number of convictions which must
 38 be obtained within a specific time period.

39 (d) The legislature of the county of Nassau may appropriate those
 40 monies which, in the legislature's sole discretion, are necessary for
 41 the compensation of those persons selected to serve as executive direc-
 42 tor and traffic prosecutors and to cover all other expenses associated
 43 with the administration of the Nassau county traffic and parking
 44 violations agency.

45 (E) THE LEGISLATURE OF THE COUNTY OF SUFFOLK MAY APPROPRIATE THOSE
 46 MONIES WHICH, IN THE LEGISLATURE'S SOLE DISCRETION, ARE NECESSARY FOR
 47 THE COMPENSATION OF THOSE PERSONS SELECTED TO SERVE AS EXECUTIVE DIREC-
 48 TOR AND TRAFFIC PROSECUTORS AND TO COVER ALL OTHER EXPENSES ASSOCIATED
 49 WITH THE ADMINISTRATION OF THE SUFFOLK COUNTY TRAFFIC AND PARKING
 50 VIOLATIONS AGENCY.

51 S 5. The article heading of article 44-A of the vehicle and traffic
 52 law, as added by chapter 496 of the laws of 1990, is amended to read as
 53 follows:

54 AUTHORITY OF THE NASSAU AND SUFFOLK
 55 COUNTY DISTRICT COURT
 56 JUDICIAL HEARING [OFFICER] OFFICERS

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1 S 6. The section heading, subdivision 1 and subdivision 4 of section
 2 1690 of the vehicle and traffic law, the section heading and subdivision
 3 4 as added by chapter 496 of the laws of 1990, subdivision 1 as amended
 4 by chapter 420 of the laws of 2001, and the opening paragraph of subdi-
 5 vision 1 as amended by section 20 of part G of chapter 58 of the laws of
 6 2012, are amended to read as follows:

7 Authority of the Nassau county AND SUFFOLK COUNTY district court judi-
 8 cial hearing [officer] OFFICERS. 1. Notwithstanding any other provision
 9 of law, where the trial of a traffic or parking infraction is authorized
 10 or required to be tried before the Nassau county district court OR
 11 SUFFOLK COUNTY DISTRICT COURT, and such traffic and parking infraction
 12 does not constitute a misdemeanor, felony, violation of subdivision one
 13 of section eleven hundred ninety-two, subdivision five of section eleven

14 hundred ninety-two, section three hundred ninety-seven-a, or subdivision
 15 (g) of section eleven hundred eighty of this chapter, or a violation of
 16 paragraph (b) of subdivision four of section fourteen-f or clause (b) of
 17 subparagraph (iii) of paragraph c of subdivision two of section one
 18 hundred forty of the transportation law, or any offense that is part of
 19 the same criminal transaction, as that term is defined in subdivision
 20 two of section 40.10 of the criminal procedure law, as such a misdemea-
 21 nor, felony, violation of subdivision one of section eleven hundred
 22 ninety-two, subdivision two of section eleven hundred ninety-two,
 23 section three hundred ninety-seven-a or subdivision (g) of section elev-
 24 en hundred eighty of this chapter, or a violation of paragraph (b) of
 25 subdivision four of section fourteen-f or clause (b) of subparagraph
 26 (iii) of paragraph d of subdivision two of section one hundred forty of
 27 the transportation law, the administrative judge of the county in which
 28 the trial court is located, may assign judicial hearing officers to
 29 conduct such a trial. Such judicial hearing officers shall be village
 30 court justices or retired judges either of which shall have at least two
 31 years of experience conducting trials of traffic and parking violations
 32 cases and shall be admitted to practice law in this state. Where such
 33 assignment is made, the judicial hearing officer shall entertain the
 34 case in the same manner as a court and shall:

- 35 (a) determine all questions of law;
- 36 (b) act as the exclusive trier of all issues of fact;
- 37 (c) render a verdict;
- 38 (d) impose sentence; or
- 39 (e) dispose of the case in any manner provided by law.

40 4. Judicial hearing officers are prohibited from appearing in any
 41 capacity other than as a judicial hearing officer in any part of the
 42 Nassau county OR SUFFOLK COUNTY district court on any matter relating to
 43 traffic or parking violations and are further prohibited from appearing
 44 in any capacity other than as a judicial hearing officer in any other
 45 court or administrative tribunal on any matter relating to traffic or
 46 parking violations.

47 S 7. Subdivision 5 of section 350.20 of the criminal procedure law, as
 48 added by chapter 496 of the laws of 1990, is amended to read as follows:

49 5. Notwithstanding the provisions of subdivision one of this section,
 50 FOR ALL PROCEEDINGS BEFORE THE DISTRICT COURT OF NASSAU COUNTY the
 51 administrative judge of Nassau county may, AND FOR ALL PROCEEDINGS
 52 BEFORE THE DISTRICT COURT OF SUFFOLK COUNTY, THE ADMINISTRATIVE JUDGE OF
 53 SUFFOLK COUNTY MAY, without the consent of the parties, assign matters
 54 involving traffic and parking infractions except those described in
 55 paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section
 56 three hundred seventy-one of the general municipal law to a judicial
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1 hearing officer [for all proceedings before the district court of Nassau
 2 county] in accordance with the provisions of section sixteen hundred
 3 ninety of the vehicle and traffic law.

4 S 8. Subdivision 1 of section 225 of the vehicle and traffic law, as
 5 amended by chapter 173 of the laws of 1990, is amended to read as
 6 follows:

7 1. Notwithstanding any inconsistent provision of law, all violations
 8 of this chapter or of a law, ordinance, order, rule or regulation relat-
 9 ing to traffic, except parking, standing, stopping or pedestrian
 10 offenses, which occur within a city having a population of two hundred
 11 thousand or more in which administrative tribunals have heretofore been
 12 established, [or within that portion of Suffolk county for which a
 13 district court has been established,] and which are classified as traf-
 14 fic infractions, may be heard and determined pursuant to the regulations
 15 of the commissioner as provided in this article. Whenever a crime and a

16 traffic infraction arise out of the same transaction or occurrence, a
 17 charge alleging both offenses may be made returnable before the court
 18 having jurisdiction over the crime. Nothing herein provided shall be
 19 construed to prevent a court, having jurisdiction over a criminal charge
 20 relating to traffic or a traffic infraction, from lawfully entering a
 21 judgment of conviction, whether or not based on a plea of guilty, for
 22 any offense classified as a traffic infraction.

23 S 9. Subdivision 3 of section 99-a of the state finance law, as
 24 amended by chapter 465 of the laws of 1998, is amended to read as
 25 follows:

26 3. The comptroller is hereby authorized to implement alternative
 27 procedures, including guidelines in conjunction therewith, relating to
 28 the remittance of fines, penalties, forfeitures and other moneys by town
 29 and village justice courts, and by the Nassau [county] AND SUFFOLK COUN-
 30 TIES traffic and parking violations [agency] AGENCIES, to the justice
 31 court fund and for the distribution of such moneys by the justice court
 32 fund. Notwithstanding any law to the contrary, the alternative proce-
 33 dures utilized may include:

34 a. electronic funds transfer;

35 b. remittance of funds by the justice court to the chief fiscal office
 36 of the town or village, or, in the case of the Nassau [county] AND
 37 SUFFOLK COUNTIES traffic and parking violations [agency] AGENCIES, to
 38 the county treasurer, for distribution in accordance with instructions
 39 by the comptroller; and/or

40 c. monthly, rather than quarterly, distribution of funds.

41 The comptroller may require such reporting and record keeping as he or
 42 she deems necessary to ensure the proper distribution of moneys in
 43 accordance with applicable laws. A justice court or the Nassau [county]
 44 AND SUFFOLK COUNTIES traffic and parking violations [bureau] AGENCIES
 45 may utilize these procedures only when permitted by the comptroller, and
 46 such permission, once given, may subsequently be withdrawn by the comp-
 47 troller on due notice.

48 S 10. Subdivision 2 of section 99-1 of the general municipal law, as
 49 added by chapter 261 of the laws of 1993, is amended to read as follows:

50 2. The [county] COUNTIES of Nassau AND SUFFOLK shall be entitled to
 51 receive the amounts set forth in subdivision one of this section for the
 52 services of [the Nassau] THEIR RESPECTIVE county traffic and parking
 53 violations agency.

54 S 11. Notwithstanding any provision of law to the contrary no non-ju-
 55 dicial employee of the Suffolk county district court shall suffer a
 56 diminution of salary, employment status or rights solely by operation of
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1 this act provided that nothing herein shall limit the legal authority of
 2 the chief administrator of the courts to supervise the administration
 3 and operation of the unified court system.

4 S 12. The administrative judge of Suffolk county shall issue on an
 5 annual basis, beginning eighteen months following the creation of the
 6 Suffolk county traffic and parking violations agency pursuant to Suffolk
 7 county local law, a report detailing the progress, development and oper-
 8 ations of the traffic and parking violations agency. The report shall be
 9 provided to the governor, the temporary president of the senate, the
 10 speaker of the assembly, the Suffolk county executive, the legislature
 11 of the county of Suffolk, the presiding judge of the Suffolk county
 12 district court and the Suffolk county district attorney.

13 S 13. This act shall take effect immediately; provided, however, the
 14 amendments to section 370-a, subdivisions 2, 3 and 4 of section 371 and
 15 section 374 of the general municipal law, the article heading of article
 16 44-A and the section heading and subdivisions 1 and 4 of section 1690 of
 17 the vehicle and traffic law and subdivision 5 of section 350.20 of the

18 criminal procedure law, as made by sections two, three, four, five, six
19 and seven of this act, respectively, shall take effect only in the event
20 that the county of Suffolk shall have by local law established a traffic
21 and parking violations agency; provided that the legislature of the
22 county of Suffolk shall notify the legislative bill drafting commission
23 upon the occurrence of the enactment of the legislation provided for in
24 sections two, three, four, five, six and seven of this act in order that
25 the commission may maintain an accurate and timely effective data base
26 of the official text of the laws of the state of New York in furtherance
27 of effectuating the provisions of section 44 of the legislative law and
28 section 70-b of the public officers law; provided, however, that the
29 amendments to section 371 of the general municipal law made by section
30 three of this act shall not affect the expiration of such section and
31 shall be deemed to expire therewith; and provided that the amendments to
32 subdivision 2 of section 99-1 of the general municipal law made by
33 section ten of this act shall take effect on the same date as the rever-
34 sion of subdivision 2 of section 99-1 of the general municipal law as
35 provided in section 6 of chapter 382 of the laws of 2011, as amended.

**PROCEDURAL RESOLUTION NO. 10-2012, TO SET A
PUBLIC HEARING REGARDING THE AUTHORIZATION OF
THE ALTERATION OF RATES FOR SOUTH FERRY INC.**

WHEREAS, SOUTH FERRY, INC, has applied to the Suffolk County Legislature, by a Petition dated and verified April 17, 2012, pursuant to Article 8 of New York Navigation Law, Section 71 of New York Transportation Corporations Law, Section 131-g of New York Highway Law and Chapter 455 of the Suffolk County Code, for the alteration of rates and a schedule for such service, now, therefore be it

1st RESOLVED, that a public hearing on the Petition of South Ferry, Inc shall be held by the Suffolk County Legislature at the regular meeting of the Legislature on June 5, 2012, at 2:30 p.m. at the Rose Y. Caracappa Auditorium at the William H. Rogers Legislature Building, Veterans Memorial Highway, Hauppauge, New York; and be it further

2nd RESOLVED, that pending the public hearing and report of the Legislative Budget Review Office this Petition is hereby referred to the Public Works and Transportation Committee for its consideration and recommendation to the Suffolk County Legislature.

DATED:

EFFECTIVE IMMEDIATELY PURSUANT TO §2-15(A) OF THE SUFFOLK COUNTY
CHARTER

s:\procedural resolutions\motion-ph-south-ferry-rates

RESOLUTION No. -2012, PERMITTING THE EAST ISLIP FIRE DISTRICT TO PURCHASE FUEL FROM THE COUNTY

WHEREAS, the East Islip Fire District (Fire District) wishes to purchase fuel from the County under the County's Fuel Management/Preventive Maintenance Inventory Control System which was authorized by Resolution 1233-1997; and

WHEREAS, the County agrees to provide the services requested by the Fire District; and

WHEREAS, the Fire District agrees to pay for all costs associated with retrofitting their vehicles to conform to the County's Fuel Management/Preventive Maintenance Inventory Control System; and

WHEREAS, the Fire District will reimburse the County for the cost of fuel used by Fire District vehicles, in addition to a fifteen percent (15%) administrative fee; and

WHEREAS, the County and the Fire District are permitted to enter into joint cooperation Agreements, now therefore be it

1st RESOLVED, that the Fire District at their own expense, will conform with the County's Fuel Management/Preventive Maintenance Inventory Control System and reimburse the County for the cost of fuel used by their vehicles, plus a fifteen percent (15%) administrative fee; and be it further

2nd RESOLVED, that the County Legislature hereby authorizes the County Executive, or his designee, to execute any and all agreements with the Fire District on behalf of the County of Suffolk providing for their participation in the above referenced program, and be it further

3rd RESOLVED, that this Legislature being the lead agency under the State Environmental Quality Review Act (SEQRA), New York Environmental Conservation Law Article 8, hereby finds and determines that this resolution constitutes a Type II action pursuant to Vol. 6 of the New York Code of Rules and Regulations (NYCRR) Section 617.5 (c) (20) (27) in that the resolution concerns purchase or sale of furnishings, equipment and supplies, other than land, radioactive material, pesticides, herbicides or other hazardous materials and adoption of a local legislative decision in connection with the same; as a Type II action, the Legislature has no further responsibility under SEQRA.

DATED:

APPROVED BY:

County Executive of Suffolk

Date of Approval:

Agreement for Purchase of Fuel

This Memorandum of Understanding (“Agreement”) is between the **County of Suffolk (“County”)**, a municipal corporation of the State of New York, acting through its duly constituted **Department of Public Works (“Department”)**, located at 335 Yaphank Avenue, Yaphank, New York 11980; and

East Islip Fire District (“District” and/or “Contractor”), a Fire District in the State of New York, located at 30 East Main Street, East Islip, New York 11730.

The parties hereto desire to enter into this Agreement to enable the Fire District to purchase fuel from the County at no cost to the County, as set forth in Exhibit D. This Agreement is subject to approval of the Suffolk County Legislature and approval of the governing body for the Fire District.

Term of Agreement: June 1, 2012 through May 31, 2022.

Payment Terms: Revenue to the County, as set forth in Exhibit D, attached.

Terms and Conditions: Shall be as set forth in Exhibits A through F, attached hereto and made a part hereof.

In Witness Whereof, the parties hereto have executed this Agreement as of the latest date written below.

East Islip Fire District

County of Suffolk

By: _____
XXXXXX XXXXXXXX
Commissioner
East Islip Fire District
Fed. Tax ID #
Date: _____

By: _____
Date: _____

Approved: Department of Public Works

**Approved as to Legality:
Dennis Cohen, County Attorney**

By: _____
Gilbert Anderson, P.E.
Commissioner

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

Date: _____

Recommended:

By: _____
Laura Conway, CPA
Chief Accountant

Date: _____

List of Exhibits

Exhibit A General Terms and Conditions

1. Responsibilities of the Parties
2. Term and Termination
3. Indemnification
4. Insurance
5. Independent Contractor
6. Severability
7. Merger; No Oral Changes
8. Set-Off Rights
9. Governing Law
10. No Implied Waiver
11. Conflicts of Interest
12. Cooperation on Claims
13. Assignment and Subcontracting
14. No Intended Third Party Beneficiaries
15. Certification as to Relationships
16. Publications and Publicity

Exhibit B Suffolk County Legislative Requirements

1. Contractor's/Vendor's Public Disclosure Statement
2. Living Wage Law
3. Use of County Resources to Interfere with Collective Bargaining Activities
Local Law No. 26-2003
4. Lawful Hiring of Employees Law
5. Gratuities
6. Prohibition Against Contracting with Corporations that Reincorporate Overseas
7. Child Sexual Abuse Reporting Policy
8. Non Responsible Bidder
9. Use of Funds in Prosecution of Civil Actions Prohibited
10. Suffolk County Local Laws Website Address

Exhibit C Notices and Contact Persons

Exhibit D Program and Payment Terms

1. Program
2. General Payment Terms and Conditions
3. Agreement Subject to Appropriation of Funds
4. Specific Payment Terms and Conditions

Exhibit E Suffolk County Legislative Resolution

Exhibit F Fire District Resolution

Exhibit A
General Terms and Conditions

Whereas, the Fire District wishes to purchase fuel (gas and diesel) under the County's Fuel Management/Preventive Maintenance Inventory Control System; and

Whereas, the Department is willing to provide the services requested by the Fire District; and

Whereas, the Fire District will be responsible to pay for all costs associated with retrofitting their vehicles to conform to the County's Fuel Management/Preventive Maintenance Inventory Control System; and

Whereas, the Fire District will also be responsible for reimbursing the County for the cost of fuel used by their vehicles, in addition to a fifteen percent (15%) administrative fee; and

Whereas, this Agreement for the purchase of fuel from the County by the Fire District at no cost to the County is subject to approval of the Suffolk County Legislature and approval of the governing body for the Fire District;

Now Therefore, in consideration of the mutual provisions and covenants hereafter set forth, the parties hereto agree as follows:

1. Responsibilities of the Parties

The responsibilities of the parties and associated payment terms are set forth in Exhibit D, entitled "Program and Payment Terms."

2. 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, pursuant to the following paragraphs, the Contractor shall promptly discontinue all services affected, unless otherwise directed by the Termination Notice.

b. Termination for Cause

This Agreement may be terminated in whole or in part in writing by the County in the event of failure by the Fire District to fulfill any of the terms and conditions under this Agreement; provided that no such termination shall be effective unless the Fire District is given five (5) calendar days' written notice of intent to terminate ("Notice of Intent to Terminate"), delivered in accordance with the Exhibit in this Agreement entitled "Notices and Contact Persons." During such five (5) day period, the Fire District will be given an opportunity for consultation with the County and an opportunity to cure all failures of its obligations prior to termination. Prior to issuance of a written termination notice ("Termination Notice") by the County, the Fire District shall be given an additional five (5) days to cure all failures to fulfill its obligations under this Agreement. In the event that the Fire District has not cured all its failures to fulfill its obligations to the satisfaction of the County by the end of the combined ten (10) day period, the County may issue a Termination Notice, effective immediately.

c. Termination for Convenience

- i. The County shall have the right to terminate this Agreement at any time and for any reason deemed to be in its best interest, provided that no such termination shall be effective unless the Fire District is given thirty (30) calendar days' written notice of termination.
- ii. Upon giving of a notice pursuant to the foregoing sub-paragraph, the Fire District shall promptly discontinue all services affected unless otherwise directed by the notice of termination.
- iii. In such event of termination, the Fire District shall pay the County outstanding fees including fuel and administrative fees for fuel purchased through the date of termination.

3. Indemnification

a. General

The Fire District 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 attorneys' fees, arising out of the acts or omissions or the negligence of the Fire District in connection with the services described or referred to in this Agreement. The Fire District 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 Fire District, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.

b. Federal Copyright Act

The Fire District hereby represents and warrants the Fire District, will not infringe upon any copyrighted work or material in accordance with the Federal Copyright Act during the performance of this Contract. Furthermore, the Fire District 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 Fire District in connection with the services described or referred to in this Agreement. The Fire District 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 Fire District, its officers, officials, employees, subcontractors, lessees, licensees, invitees or agents, if any, in connection with the services described or referred to in this Agreement.

4. Insurance

- a. The Fire District agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by the County and as may be

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East Islip Fire District

mandated and increased from time to time. The Fire District agrees to require that all of its subcontractors, in connection with work performed for the Fire District related to this Agreement, 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 Fire District. Unless otherwise specified by the County and agreed to by the Fire District, in writing, such insurance shall be as follows:

- i. Commercial General Liability** insurance, including contractual liability 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.
 - ii. Automobile Liability** insurance (if any vehicles are used by the Fire District in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence.
 - iii. Workers' 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 Fire District 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 Agreement shall be void and of no effect unless the Fire District shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- b.** All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A- or better.
 - c.** The Fire District shall furnish to the County Declaration Pages for each such policy of insurance and upon request, 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 County of Suffolk shall be named as an additional insured and the Fire District shall furnish a Declaration Page and endorsement page evidencing the County's status as an additional insured on said policy.
 - d.** All such Declaration Pages, certificates and other evidence of insurance shall provide for the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal or material change in said policies. Such Declaration Pages, certificates, policies and other evidence of insurance and notices shall be mailed to the Department at its address as set forth in this Agreement in the paragraph entitled "Notices and Contact Persons" or at such other address of which the County shall have given the Fire District notice in writing.
 - e.** In the event the Fire District shall fail to provide the Declaration Pages or certificates of insurance or to maintain any insurance required by this Agreement, the County may, but shall not be required to, obtain such policies and deduct the cost thereof from payments due the Fire District under this Agreement or any other agreement between the County and the Fire District.

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East Islip Fire District**

- f. If the Fire District is a town or other municipal corporation and has a self-insurance program under which it acts as a self-insurer for any of such required coverage, it may provide self-funded coverage and certificates or other evidence of such self-insurance in lieu of insurance issued by insurance companies.

5. Independent Contractor

It is expressly agreed that the Fire District status hereunder is that of an independent contractor. Neither the Fire District, nor any person hired by the Fire District shall be considered employees of the County for any purpose.

6. 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.

7. 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.

8. Set-Off Rights

The County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold, for the purposes of set-off, any moneys due to the Fire District under this contract up to any amounts due and owing to the County with regard to this contract and/or any other contract with any County department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County 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 the County Attorney.

9. 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.

10. No Implied Waiver

No waiver shall be inferred from any failure or forbearance of the County 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.

11. Conflicts of Interest

- a. The Fire District agrees that it will not during the term of this Agreement engage in any activity that is contrary to and/or in conflict with the goals and purposes of the County.
- b. The Fire District is charged with the duty to disclose to the County the existence of any such adverse interests, whether existing or potential. This duty shall continue so long as the Fire District is retained on behalf of the County. The determination as to whether or when a conflict exists or may potentially exist shall ultimately be made by the County Attorney after full disclosure is obtained.

12. 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 Agreement.

13. Assignment and Subcontracting

- a. The Fire District shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute the Agreement, or assign all or any portion of the monies that may be due or become due hereunder, to any other person or corporation, without the prior consent in writing of the County, and any attempt to do any of the foregoing without such consent shall be of no effect.
- b. The Fire District shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the County. Such subcontracts shall be subject to all of the provisions of this Agreement and to such other conditions and provisions as the County may deem necessary, provided, however, that notwithstanding the foregoing, unless otherwise provided in this Agreement, such prior written approval shall not be required for the purchase of articles, supplies, equipment and services which are incidental to, but necessary for, the performance of the work required under this Agreement. No approval by the County of any subcontract shall provide for the incurrence of any obligation by the County in addition to the total agreed upon price. The Fire District shall be responsible for the performance of any subcontractor for the delivery of service.

14. No Intended Third Party Beneficiaries

This Agreement is entered into solely for the benefit of the County and the Fire District. 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.

15. 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, 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.

16. Publications and Publicity

- a. The Fire District shall not issue or publish any book, article, report or other publication related to the program provided pursuant to this Agreement without first obtaining written prior approval from the County. Any such printed matter or other publication shall contain the following statement in clear and legible print:

“This program is fully or partially funded by the Suffolk County Executive’s Office.”

- b. The Department shall have the right of prior approval of press releases and any other information provided to the media, in any form, concerning the program provided pursuant to this Agreement.

End of Text for Exhibit A

Exhibit B
Suffolk County Legislative Requirements

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

The Contractor represents and warrants that it has filed with the Comptroller of Suffolk County 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 said Comptroller on or before the 31st day of January in each year of this Agreement'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 this Agreement, 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 Agreement.

Required Form: Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

2. Living Wage Law

This Agreement 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 this Agreement and to seek other remedies as set forth therein, for violations of this Law.

The Contractor represents and warrants that it has read and shall comply with the requirements of Suffolk County Code Chapter 347, Suffolk County Local Law No. 12-2001, the Living Wage 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
Local Law No. 26-2003

The Contractor represents and warrants that it has read and is familiar with the requirements of Chapter 466, Article 1 of the Suffolk County Local Laws, "Use of County Resources to Interfere with Collective Bargaining Activities". County Contractors (as defined) shall comply with all requirements of Local Law No. 26-2003 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.

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East Islip Fire District**

- c. The County of Suffolk shall not use County funds to assist, promote, or deter union organizing.
- d. 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 Contractor services are performed on County property the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, nonintimidation agreement and a majority authorization card agreement.

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

Under the provisions of Local Law No. 26-2003, the County shall have the authority, under appropriate circumstances, to terminate this Agreement 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

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk (Local Law 52-2006). 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.

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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 this agreement.

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

The Contractor represents and warrants that it has read, is in compliance with, and shall comply with the requirements of Suffolk County Code Chapter 234, Suffolk County Local Law No. 52-2006, the Lawful Hiring of Employees Law.

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"

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

5. Gratuities

The Contractor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York 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, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

6. Prohibition Against Contracting with Corporations that Reincorporate Overseas

The Contractor represents that it is in compliance with Suffolk County Administrative Code Article IV, §§A4-13 and A4-14, found in Suffolk County Local Law No. 20-2004, entitled "A Local Law To Amend Local Law No. 5-1993, To Prohibit The County of Suffolk From Contracting With Corporations That Reincorporate Overseas." 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

The Contractor agrees to comply with Chapter 577, Article IV, 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 this Agreement with regard to child sexual abuse reporting policy.

8. Non Responsible Bidder

The Contractor represents and warrants that it has read and is familiar with the provisions of Suffolk County Code Chapter 143, Article II, §§143-5 through 143-9. Upon signing this Agreement the Contractor certifies that he, she, it, or they have 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 the provision of Section 143-5 of the Suffolk County Code under "Nonresponsible Bidder."

9. Use of Funds in Prosecution of Civil Actions Prohibited

Pursuant to the Suffolk County Code Section §590-3, the Contractor represents that it shall not use any of the moneys received under this Agreement, either directly or indirectly, in connection with the prosecution of any civil action against the County of Suffolk or any of its programs, funded by the County, in part or in whole, in any jurisdiction or any judicial or administrative forum.

10. Suffolk County Local Laws

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County web site at [www.co.suffolk](http://www.co.suffolk.ny.us)<<http://www.co.suffolk.ny.us>>. Click on "Laws of Suffolk County" under "Suffolk County Links."

End of Text for Exhibit B

Exhibit C
Notices and Contact Persons

1. Operational Notices

Any communication, notice, claim for payment, reports, insurance, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the County or the Fire District or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the Department:
By First Class or Certified Mail in Postpaid Envelope or by
Courier Service or by Fax or by Email

Suffolk County Department of Public Works
335 Yaphank Avenue
Yaphank, New York 11980
Att. Revenue Unit

For the Fire District:
By First Class or Certified Mail in Postpaid Envelope or by
Courier Service or by Fax or by Email

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

2. Notices Relating to Termination and/or Litigation

In the event the Fire District receives a notice or claim or becomes a party (plaintiff, petitioner, defendant, respondent, third party complainant, third party defendant) to a lawsuit or any legal proceeding related to this Agreement, the Fire District shall immediately deliver to the County Attorney, at the address set forth below, copies of all papers filed by or against the Fire District.

Any communication or notice regarding termination shall be in writing and shall be given to the County or the Fire District or their designated representative at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows:

For the County:
By First Class and Certified Mail in Postpaid Envelope or by
Nationally Recognized Courier Service or Personally and by First Class Mail

Gilbert Anderson, P.E., Commissioner
Suffolk County Department of Public Works
335 Yaphank Avenue
Yaphank, New York 11980

and

**Rev. 11/20/07; Law No.
Purchase of Fuel
East Islip Fire District**

Dennis Cohen, County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
William Floyd, New York 11788

**For Fire District:
By First Class and Certified Mail in Postpaid Envelope or by
Nationally Recognized Courier Service or Personally and by First Class Mail**

At the address set forth on page one of this Agreement, attention to the person who executed this Agreement or such other designee as the parties may agree in writing.

3. Notices shall be deemed to have been duly delivered (i) if mailed by registered or certified mail, upon the seventh business day after the mailing thereof; or (ii) if by nationally recognized overnight courier service, upon the first business day subsequent to the transmittal thereof; or (iii) if personally, pursuant to New York Civil Practice Law and Rules Section 311; or (iv) if by fax or email, upon the transmittal thereof. "Business Day" shall be defined as any day except a Saturday, a Sunday, or any day in which commercial banks are required or authorized to close in Suffolk County, New York.
4. Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s).

End of Text for Exhibit C

**Exhibit D
Description of Program and Payment Terms**

1. Program

The Fire District shall purchase fuel (gas and diesel) from the County at Department of Public Work's maintenance facility at the Timber Point Country Club or Timber Point Marina under the County's Fuel Management/Preventive Maintenance Inventory Control System.

The Fire District will be responsible to pay for all costs associated with retrofitting their vehicles to conform to the County's Fuel Management/Preventive Maintenance Inventory Control System.

2. Payment Terms

The Fire District shall assume and be responsible to pay for all fuel usage as reported by the Department's Fleet Services Unit.

A bill will be generated 15 days after the end of the month for the total amount of fuel consumed by the Fire District during the month.

A report will accompany the bill detailing the amount billed. The report will contain vehicle IDs, transaction dates, the number of gallons consumed per transaction, the cost of each transaction, the total cost per vehicle and the total amount billed for the month, including a fifteen percent (15%) administrative fee.

Payment is due in full 45 days after the end of the month in which the expense was incurred. Balances left unpaid after the due date will be assessed a late fee.

3. Agreement Subject to Appropriation of Funds

This Agreement is subject to the amount of funds appropriated and any subsequent modifications thereof by the Suffolk County Legislature, and no liability shall be incurred by the County under this Agreement beyond the amount of funds appropriated by the Legislature for the Services covered by this Agreement.

End of Text for Exhibit D

**Rev. 11/20/07; Law No.
Purchase of Fuel
East Islip Fire District**

**Exhibit E
Suffolk County Legislative Resolution**

**Rev. 11/20/07; Law No.
Purchase of Fuel
East Islip Fire District**

**Exhibit F
Fire District Resolution**

STATEMENT OF FINANCIAL IMPACT
OF PROPOSED SUFFOLK COUNTY LEGISLATION

1. Type of Legislation		
Resolution <u> X </u> Local Law <u> </u> Charter Law <u> </u>		
2. Title of Proposed Legislation		
RESOLUTION NO. 2012 -PERMITTING THE EAST ISLIP FIRE DISTRICT TO PURCHASE FUEL FROM THE COUNTY		
3. Purpose of Proposed Legislation		
Authorizes the East Islip Fire District to purchase fuel from the County under the County's Fuel Management/Preventive Maintenance Inventory Control System which was authorized under Resolution 1233-1997.		
4. Will the Proposed Legislation Have a Fiscal Impact? Yes <u> X </u> No <u> </u>		
5. If the answer to item 4 is "yes", on what will it impact? (circle appropriate category)		
<u>County</u>	Town	Economic Impact
Village	School District	Other (Specify):
Library District	Fire District	
6. If the answer to item 5 is "yes", Provide Detailed Explanation of Impact		
The East Islip Fire District will pay for the fuel used by their vehicles and pay a 15% administrative fee to the County. Minimal Impact.		
7. Total Financial Cost of Funding over 5 Years on Each Affected Political or Other Subdivision.		
N/A		
8. Proposed Source of Funding		
N/A		
9. Timing of Impact		
N/A		
10. Typed Name & Title of Preparer	11. Signature of Preparer	12. Date
Neil Toomb Intergovernmental Relations Coordinator	<i>Neil Toomb.</i>	May 4, 2012

SCIN FORM 175b (10/95)

**FINANCIAL IMPACT
2012 PROPERTY TAX LEVY
COST TO THE AVERAGE TAXPAYER**

GENERAL FUND

	2012 PROPERTY TAX LEVY	2012 COST TO AVG TAXPAYER	2012 AV TAX RATE PER \$100	2012 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

POLICE DISTRICT AND DISTRICT COURT

	2012 PROPERTY TAX LEVY	2012 COST TO AVG TAXPAYER	2012 AV TAX RATE PER \$100	2012 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

COMBINED

	2012 PROPERTY TAX LEVY	2012 COST TO AVG TAXPAYER	2012 AV TAX RATE PER \$100	2012 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

NOTES:

- 1) SOURCE FOR NUMBER OF FAMILY PARCELS AND CORRESPONDING ASSESSED VALUATION: SUFFOLK COUNTY REAL PROPERTY TAX SERVICE, SEPTEMBER 2010.
- 2) SOURCE FOR TOTAL TAXABLE ASSESSED VALUATION FOR COUNTY PURPOSES: SCHEDULE A, REPORT OF ASSESSED VALUATION FOR 2010-2011.
- 3) SOURCE FOR EQUALIZATION RATES: TENTATIVE 2010 COUNTY EQUALIZATION RATES ESTABLISHED BY THE NEW YORK STATE BOARD OF EQUALIZATION AND ASSESSMENTS.

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS

GILBERT ANDERSON, P.E.
COMMISSIONER

PHILIP A. BERDOLT
DEPUTY COMMISSIONER

MEMORANDUM

TO: Jon Schneider, Deputy County Executive

FROM: Gilbert Anderson, P.E., Commissioner 

SUBJECT: A Draft Resolution Permitting the East Islip Fire District to Purchase Fuel from the County

DATE: April 13, 2012

Attached is a draft resolution (filed as Reso-DPW-East Islip FD–Fuel Purchase) and the appropriate forms (filed as Backup-DPW- East Islip FD Fuel Purchase-SCIN 175 A&B), which will enable the East Islip Fire District to purchase fuel from the County.

This will be done at no cost to the County. The East Islip Fire District shall assume and be responsible to pay all fuel usage, as reported by the Department's Fleet Services Unit, in addition to a fifteen percent (15%) administrative fee.

The East Islip Fire District will also be responsible for making their own arrangements with the County designated fuel dispensing vendor and pay all costs to retrofit their vehicles to conform to the County's Fuel Management/Preventative Maintenance Inventory Control System. They will also be responsible to pay for any future costs associated with maintaining and/or upgrading the system.

GA:LC
Encl.

cc: Regina M. Calcaterra, Chief Deputy County Executive
Ben Zwirn, Director of Intergovernmental Relations
Tom Vaughn, County Executive Assistant
Jim Burt, Assistant Budget Director
Laura Conway, CPA, Chief Accountant
Mike James, Assistant Fleet Manager
CE RESO REVIEW

SUFFOLK COUNTY IS AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

1525
Intro. Res. No. - 2012
Introduced by the Presiding Officer on request of the County Executive

Laid on the Table 5/8/12

RESOLUTION NO. - 2012, APPROPRIATING FUNDS IN CONNECTION WITH THE REHABILITATION OF PARKING LOTS, SIDEWALKS, DRIVES AND CURBS AT VARIOUS COUNTY FACILITIES (CP 1678)

WHEREAS, the Commissioner of Public Works has requested funds for construction in connection with rehabilitation of Parking lots, drives and curbs at County facilities; and

WHEREAS, there are sufficient funds within the 2012 Capital Budget and Program to cover the cost of said request; and

WHEREAS, the professional engineering services associated with the planning, design and construction of this project have been and will be performed by the staff of the Department of Public Works,

WHEREAS, Resolution No. 471-1994 as revised by Resolution No. 461-2006, implemented in the Adopted 2012 Capital Budget, as the basis for funding Capital Projects such as this project; and

WHEREAS, the County Legislature, by resolution of even date herewith, has authorized the issuance of \$1,750,000 in Suffolk County Serial Bonds; now, therefore, be it

1st RESOLVED, that this Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), Environmental Conservation Law Article 8, hereby finds and determines that this law constitutes a Type II action, pursuant to Section 617.5 (C) (1), (2), (4), (20) and (27) of Title 6 of New York Code of Rules and Regulations ("NYCRR"), and the Legislature has no further responsibilities under SEQRA; and be it further

2nd RESOLVED, that it is hereby determined that this project, with a priority ranking of (48) forty-eight is eligible for approval in accordance with the provisions of Resolution No. 471-1994 as revised by Resolution No. 461-2006; and be it further

3rd RESOLVED, that the County Department of Public Works is hereby authorized, empowered and directed to take such action as may be necessary, pursuant to Section C8-2 (X) of the Suffolk County Charter; and be it further

4rd RESOLVED, that the proceeds of \$1,750,000.00 in Suffolk County Serial Bonds be and they are hereby appropriated as follows:

<u>Project No.</u>	<u>J.C.</u>	<u>Project Title</u>	<u>Amount</u>
525-CAP-1678.322 (Fund 001-Debt Service)	50	Rehabilitation of Parking Lots, Sidewalks, Drives and Curbs at County Facilities	\$1,750,000

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

STATEMENT OF FINANCIAL IMPACT
OF PROPOSED SUFFOLK COUNTY LEGISLATION

1. Type of Legislation		
Resolution <u> X </u> Local Law <u> </u> Charter Law <u> </u>		
2. Title of Proposed Legislation		
RESOLUTION NO. - 2012, APPROPRIATING FUNDS IN CONNECTION WITH THE REHABILITATION OF PARKING LOTS, SIDEWALKS, DRIVES AND CURBS AT VARIOUS COUNTY FACILITIES (CP 1678)		
3. Purpose of Proposed Legislation		
SEE NO. 2 ABOVE		
4. Will the Proposed Legislation Have a Fiscal Impact? Yes <u> X </u> No <u> </u>		
5. If the answer to item 4 is "yes", on what will it impact? (circle appropriate category)		
<u>County</u>	Town	Economic Impact
Village	School District	Other (Specify):
Library District	Fire District	
6. If the answer to item 5 is "yes", Provide Detailed Explanation of Impact		
SERIAL BONDS WILL BE ISSUED TO FINANCE THIS PROJECT. PRINCIPAL AND INTEREST COSTS WILL BE INCURRED OVER THE LIFE OF THE BONDS.		
7. Total Financial Cost of Funding over 5 Years on Each Affected Political or Other Subdivision.		
SEE ATTACHED DEBT SERVICE SCHEDULE		
8. Proposed Source of Funding		
SERIAL BONDS		
9. Timing of Impact		
2013		
10. Typed Name & Title of Preparer	11. Signature of Preparer	12. Date
Nicholas Paglia Assistant Executive Analyst		May 7th, 2012

SCIN FORM 175b (10/95)

**FINANCIAL IMPACT
2013 PROPERTY TAX LEVY
COST TO THE AVERAGE TAXPAYER**

GENERAL FUND

	2013 PROPERTY TAX LEVY	2013 COST TO AVG TAXPAYER	2013 AV TAX RATE PER \$100	2013 FEV TAX RATE PER \$1000
TOTAL	\$205,153	\$0.39		\$0.001

POLICE DISTRICT AND DISTRICT COURT

	2013 PROPERTY TAX LEVY	2013 COST TO AVG TAXPAYER	2013 AV TAX RATE PER \$100	2013 FEV TAX RATE PER \$1000
TOTAL	\$0	\$0.00		\$0.000

COMBINED

	2013 PROPERTY TAX LEVY	2013 COST TO AVG TAXPAYER	2013 AV TAX RATE PER \$100	2013 FEV TAX RATE PER \$1000
TOTAL	\$205,153	\$0.39		\$0.001

NOTES:

- 1) SOURCE FOR NUMBER OF FAMILY PARCELS AND CORRESPONDING ASSESSED VALUATION: SUFFOLK COUNTY REAL PROPERTY, SEPTEMBER 2011.
- 2) SOURCE FOR TOTAL TAXABLE ASSESSED VALUATION FOR COUNTY PURPOSES: SCHEDULE A, REPORT OF ASSESSED VALUATION FOR 2011-2012.
- 3) SOURCE FOR EQUALIZATION RATES: TENTATIVE 2011 COUNTY EQUALIZATION RATES ESTABLISHED BY THE NEW YORK STATE BOARD OF EQUALIZATION AND ASSESSMENTS.

Suffolk County
General Obligation Serial Bonds
Level Debt

Term of Bonds: 10
Amount to Bond: \$1,750,000

Date	Coupon	Principal	Interest	Total Debt Service	Fiscal Debt Service
11/1/2012					
11/1/2013	2.000%	\$152,653.39	\$52,500.00	\$205,153.39	\$205,153.39
			\$23,960.20	\$23,960.20	
11/1/2014	3.000%	\$157,232.99	\$23,960.20	\$181,193.19	\$205,153.39
			\$21,601.70	\$21,601.70	
11/1/2015	3.000%	\$161,949.98	\$21,601.70	\$183,551.68	\$205,153.39
			\$19,172.45	\$19,172.45	
11/1/2016	3.000%	\$166,808.48	\$19,172.45	\$185,980.93	\$205,153.39
			\$16,670.33	\$16,670.33	
11/1/2017	3.000%	\$171,812.73	\$16,670.33	\$188,483.06	\$205,153.39
			\$14,093.14	\$14,093.14	
11/1/2018	3.000%	\$176,967.11	\$14,093.14	\$191,060.25	\$205,153.39
			\$11,438.63	\$11,438.63	
11/1/2019	3.000%	\$182,276.13	\$11,438.63	\$193,714.76	\$205,153.39
			\$8,704.49	\$8,704.49	
11/1/2020	3.000%	\$187,744.41	\$8,704.49	\$196,448.90	\$205,153.39
			\$5,888.32	\$5,888.32	
11/1/2021	3.000%	\$193,376.74	\$5,888.32	\$199,265.06	\$205,153.39
			\$2,987.67	\$2,987.67	
11/1/2022	3.000%	\$199,178.05	\$2,987.67	\$202,165.72	\$205,153.39
11/1/2023		\$1,750,000.00	\$301,533.87	\$2,051,533.87	\$2,051,533.87
11/1/2024					
11/1/2025					
11/1/2026					
11/1/2027					
11/1/2028					
11/1/2029					
11/1/2030					

RESOLUTION SUBMITTAL SHEET

Capital Project 1678 Legis. Districts Various
Operating Fund _____ Federal Aid % _____
Other _____ State Aid % _____

Purpose (give a complete description of why we are asking for reso; if aided, state status of aid)

Planned projects Deer Park Train Station, Ronkonkoma Train Station, Yaphank
Public Works Complex, North County Complex, 3rd Precinct, Cornell Cooperative
Riverhead, 7th Precinct and Shirley Health Center.

Previous resolution (list previous reso for the same work)

1179-2011

Amounts being requested

Planning _____
Site _____
Construction \$1,750,000
Land _____
F&E _____

Current Funding

Planning _____
Site _____
Construction \$303,608.07
Land _____
F&E _____

Project Status

Est. planning completion _____ Design consultant _____
Est. construction start _____ Contractor _____
Est. construction completion 12/12

Offsets (state required offsets, their legis. districts, and a detailed explanation of why we do not need the funds; state if we believe the legislator from the offset district will have a major issue)

<u>Offset</u>	<u>Legis. District</u>	<u>Comments</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

<u>Offset</u>	<u>Legis. District</u>	<u>Comments</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

RECEIVED

FEB 28 2012

OFFICE OF THE
SUFFOLK COUNTY EXECUTIVE
HAUPPAUGE

DEPARTMENT OF PUBLIC WORKS

GILBERT ANDERSON, P.E.
COMMISSIONER

MEMORANDUM

TO: Jon Schneider, Deputy County Executive

FROM: Gilbert Anderson, P.E., Commissioner 

DATE: February 8, 2012

RE: C.P. 1678 – Rehabilitation of Parking Lots, Sidewalks, Drives and Curbs at Various County Facilities

We are forwarding herewith a draft resolution appropriating the sum of \$1,750,000.00 for construction in connection with the above referenced project. There are presently funds included in the 2012 Capital Budget and Program for this project.

Attached are locations tentatively scheduled for rehabilitation in 2012 for the above-referenced project. This project provides for resurfacing, repairing and/or rehabilitating drives, parking fields, curbs and sidewalks at various County office facilities. This work reduces further deterioration, which then requires costly reconstruction. Also, elimination of hazardous conditions reduces the County's liability claims.

An e-mail version was sent to CE RESO REVEIW saved under the title "RESO-REQUEST CP1678 – Rehabilitation of Parking Lots, Drives and Curbs at County Facilities."

GA:CM:mm
attach.

cc: Regina Calceterra, Chief Deputy County Executive
Ben Zwirn, Intergovernmental Relations
Tom Vaughn, County Executive Assistant III
Debra A. Kolyer, Principal Financial Analyst
Kathy LaGuardia, Acting Director of DPW Administrative Services

SUFFOLK COUNTY IS AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

PROJECT 1678

**REHABILITATION OF PARKING LOTS, SIDEWALKS DRIVES AND CURBS AT
VARIOUS COUNTY FACILITIES**

2012 TENTATIVE SCHEDULE OF PROJECTS

DEER PARK TRAIN STATION

RONKONKOMA TRAIN STATION

YAPHANK PUBLIC WORKS COMPLEX

NORTH COUNTY COMPLEX

3RD PRECINCT

CORNELL COOPERATIVE RIVERHEAD

7TH PRECINCT

SHIRLEY HEALTH CENTER

Site locations maybe added/changed based on engineering evaluation and cost.

1526

Intro. Res. No. -2012
Introduced by Legislator Kennedy

Laid on Table 5/8/12

**RESOLUTION NO. -2012, DIRECTING THE DIVISION OF
REAL PROPERTY ACQUISITION AND MANAGEMENT TO
SUBDIVIDE AND OFFER FOR SALE A CERTAIN PARCEL OF
LAND**

WHEREAS, the County of Suffolk owns a small parcel of land in Nesconset which was originally used as a right-of-way for access to the Armory, which is no longer in existence; and

WHEREAS, the area surrounding this parcel has been developed and is now a residential neighborhood; and

WHEREAS, the parcel of land serves no County purpose and is surplus to the County's needs; and

WHEREAS, surrounding landowners have expressed an interest in purchasing portions of the parcel that are adjacent to their current holdings; and

WHEREAS, the County should subdivide this parcel and offer it for sale to adjacent owners to return it to the tax rolls and ensure its proper maintenance; now, therefore be it

1st RESOLVED, that the Real Property Tax Service Agency is hereby authorized, empowered and directed to take all reasonable steps that are necessary and proper to subdivide the County-owned parcel, Tax Map No. 08.00-164.00-02.00-046.000, consistent with the property lines of the adjacent landowners; and be it further

2nd RESOLVED, that the Division of Real Property Acquisition and Management is hereby authorized, empowered and directed to offer the subdivided lots for sale to adjacent landowners pursuant to Local Law No. 13-1976; 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 resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) 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, and 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 resolution.

DATED:

APPROVED BY:

County Executive of Suffolk County

1527

Intro. Res. No. - 2012
Introduced by Presiding Officer Lindsay

Laid on Table 5/8/12

**RESOLUTION NO. -2012, ADOPTING LOCAL LAW
NO. -2012, A CHARTER LAW TO REAPPORTION
SUFFOLK COUNTY LEGISLATIVE DISTRICTS**

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on ,2012, a proposed local law entitled, "**A CHARTER LAW TO REAPPORTION SUFFOLK COUNTY LEGISLATIVE DISTRICTS**" and said local law in final form is the same as when presented and introduced; now, therefore, be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 2012, SUFFOLK COUNTY, NEW YORK

**A CHARTER LAW TO REAPPORTION SUFFOLK COUNTY
LEGISLATIVE DISTRICTS**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature finds that population changes demonstrated by the 2010 official federal census make it necessary to reapportion County legislative districts.

This Legislature further finds that the County Legislature is empowered by the Suffolk County Charter to adopt a reapportionment plan.

This Legislature further finds that the reapportionment plan set forth herein conforms with all constitutional and statutory requirements in that it provides substantially equal representation for the voters of Suffolk County; provides substantially fair and effective representation for the people as organized in political parties; and creates districts that are of convenient and contiguous territory in as compact a form as is practicable.

Therefore, the purpose of this law is to adopt a reapportionment plan, as authorized by the Suffolk County Charter, for the County's legislative districts that ensures fair and equitable representation for all the people, constituencies and communities of Suffolk County.

Section 2. Amendments.

Section C21-4 of the SUFFOLK COUNTY CHARTER is hereby amended to read as follows and Paragraph (B) of Section C21-4 is hereby repealed in its entirety and replaced with the following new Section C21-4(B) of the SUFFOLK COUNTY CHARTER:

Section C21-4. Legislative Districts.

A.) Intent.

- (1) It is intended that the county legislative districts herein provided shall result in a County Legislature which shall conform to the judicial and constitutional standards of equality of representation.
- (2) It is further intended that the legislative districts herein described completely encompass all of the geographical area of Suffolk County, that they contain the total permanent population of Suffolk County as determined by the 2010 official decennial census and that no legislative districts described herein shall include any geographical area of Suffolk County which is included within the description of any other district.

B.) The County legislative districts shall be constituted as follows:

- 1.) District No. 1 shall consist of the following United States Census Geographic Identifier File Numbers: 36103163, 36103184, 36103185, 36103193, 36103194, 36103267, 36103295, 36103308, 36103357, 36103381, 36103305, 36103418, 36103419, 36103444, 36103869, 36103870, 36103871, 36103872, 36103873, 36103874, 36103875, 36103876, 36103877, 36103878, 36103879, 36103880, 36103881, 36103883, 36103884, 36103885, 36103886, 36103887, 36103888, 36103889, 36103890, 361031029, 361031030, 361031031, 361031032, 361031033, 361031034, 361031035, 361031036, 361031037, 361031038, 361031039, 361031040, 361031041, 361031042, 361031043, 361031044, 361031045, 361031047, 361039995, 361039998.
- 2.) District No. 2 shall consist of the following United States Census Geographic Identifier File Numbers: 36103186, 36103426, 36103433, 36103449, 36103450, 36103451, 36103452, 36103453, 36103454, 36103455, 36103456, 36103457, 36103458, 36103459, 36103460, 36103461, 36103462, 36103463, 36103464, 36103466, 36103467, 36103891, 36103892, 36103893, 36103894, 36103987, 36103988, 36103989, 36103990, 36103991, 36103992, 36103993, 36103994, 36103995, 36103996, 36103997, 36103998, 36103999, 361031000, 361031001, 361031003, 361031004, 361031005, 361031006, 361031007, 361031008, 361031009, 361031010, 361031011, 361031012, 361031013, 361031014, 361031015, 361031017, 361031018, 361031019, 361031020, 361031021, 361031022, 361031023, 361031024, 361031025, 361031026, 361031028, 361038889, 361039997.
- 3.) District No. 3 shall consist of the following United States Geographic Identifier File Numbers: 36103164, 36103180, 36103181, 36103182, 36103183, 36103192, 36103196, 36103200, 36103207, 36103221, 36103226, 36103227, 36103233, 36103234, 36103238, 36103277, 36103293, 36103304, 36103310, 36103338, 36103358, 36103361, 36103362, 36103367, 36103382, 36103383, 36103388, 36103403, 36103420, 36103422, 36103423, 36103427, 36103428, 36103431, 36103432, 36103437, 36103439, 36103441, 36103443, 36103445, 361038888.
- 4.) District No. 4 shall consist of the following United States Census Geographic Identifier File Numbers: 36103167, 36103190, 36103197, 36103204, 36103208, 36103209, 36103212, 36103213, 36103225, 36103229,

36103230, 36103231, 36103232, 36103237, 36103239, 36103248,
36103253, 36103254, 36103260, 36103263, 36103274, 36103278,
36103279, 36103281, 36103284, 36103286, 36103287, 36103299,
36103300, 36103306, 36103311, 36103316, 36103328, 36103329,
36103330, 36103334, 36103337, 36103340, 36103360, 36103384,
36103386, 36103389, 36103391, 36103392, 36103396, 36103398,
36103404, 36103415, 36103416, 36103430, 36103434, 36103435,
36103448.

5.) District No. 5 shall consist of the following United States Census Geographic Identifier File Numbers: 36103155, 36103156, 36103157, 36103158, 36103159, 36103160, 36103161, 36103214, 36103215, 36103216, 36103240, 36103241, 36103242, 36103243, 36103244, 36103245, 36103249, 36103255, 36103256, 36103262, 36103264, 36103265, 36103266, 36103270, 36103271, 36103272, 36103275, 36103283, 36103288, 36103297, 36103301, 36103302, 36103315, 36103317, 36103320, 36103324, 36103331, 36103332, 36103336, 36103345, 36103359, 36103363, 36103366, 36103377, 36103378, 36103379, 36103380, 36103387, 36103393, 36103405, 36103417, 36103442, 36103446, 361039993.

6.) District No. 6 shall consist of the following United States Census Geographic Identifier File Numbers: 36103162, 36103187, 36103189, 36103191, 36103217, 36103219, 36103220, 36103222, 36103247, 36103252, 36103276, 36103289, 36103290, 36103294, 36103307, 36103313, 36103321, 36103322, 36103323, 36103335, 36103339, 36103341, 36103343, 36103344, 36103347, 36103352, 36103353, 36103355, 36103370, 36103374, 36103390, 36103397, 36103399, 36103402, 36103410, 36103414, 36103421, 36103424, 36103438, 36103447.

7.) District No. 7 shall consist of the following United States Census Geographic Identifier File Numbers: 36103165, 36103168, 36103169, 36103170, 36103171, 36103172, 36103173, 36103174, 36103175, 36103176, 36103177, 36103178, 36103179, 36103195, 36103199, 36103203, 36103205, 36103206, 36103218, 36103223, 36103228, 36103236, 36103250, 36103251, 36103257, 36103269, 36103273, 36103282, 36103285, 36103291, 36103298, 36103303, 36103309, 36103325, 36103348, 36103350, 36103354, 36103364, 36103365, 36103371, 36103372, 36103394, 36103407, 36103413.

8.) District No. 8 shall consist of the following United States Census Geographic Identifier File Numbers: 36103188, 36103202, 36103211, 36103261, 36103268, 36103292, 36103318, 36103425, 36103663, 36103664, 36103665, 36103666, 36103668, 36103669, 36103682, 36103683, 36103684, 36103690, 36103697, 36103698, 36103706, 36103721, 36103723, 36103724, 36103726, 36103744, 36103746, 36103751, 36103761, 36103767, 36103771, 36103775, 36103776, 36103777, 36103782, 36103784, 36103785, 36103789, 36103790, 36103800, 36103804, 36103806, 36103807, 36103811, 36103817, 36103818, 36103824, 36103825, 36103846, 36103854, 36103861, 36103868.

- 9.) District No. 9 shall consist of the following United States Census Geographic Identifier File Numbers: 36103654, 36103661, 36103662, 36103674, 36103678, 36103681, 36103700, 36103704, 36103705, 36103708, 36103720, 36103722, 36103728, 36103730, 36103731, 36103741, 36103749, 36103758, 36103760, 36103762, 36103764, 36103769, 36103770, 36103795, 36103805, 36103813, 36103819, 36103820, 36103821, 36103826, 36103839, 36103844, 36103845, 36103851, 36103852.
- 10.) District No. 10 shall consist of the following United States Census Geographic Identifier File Numbers: 36103198, 36103235, 36103385, 36103655, 36103656, 36103658, 36103659, 36103667, 36103670, 36103675, 36103680, 36103685, 36103691, 36103694, 36103696, 36103699, 36103715, 36103716, 36103719, 36103732, 36103733, 36103736, 36103743, 36103745, 36103750, 36103753, 36103755, 36103757, 36103759, 36103763, 36103765, 36103773, 36103779, 36103780, 36103783, 36103787, 36103788, 36103794, 36103796, 36103797, 36103798, 36103802, 36103803, 36103809, 36103822, 36103823, 36103827, 36103830, 36103832, 36103834, 36103837, 36103842, 36103843, 36103847, 36103848, 36103858, 36103859, 36103860, 36103862, 36103864, 36103866, 36103867.
- 11.) District No. 11 shall consist of the following United States Census Geographic Identifier File Numbers: 3610384, 3610399, 36103125, 36103148, 36103149, 36103646, 36103647, 36103648, 36103649, 36103650, 36103651, 36103652, 36103653, 36103657, 36103660, 36103671, 36103673, 36103676, 36103677, 36103679, 36103686, 36103687, 36103688, 36103692, 36103693, 36103695, 36103701, 36103702, 36103703, 36103709, 36103710, 36103711, 36103712, 36103714, 36103725, 36103734, 36103735, 36103742, 36103747, 36103752, 36103754, 36103766, 36103768, 36103772, 36103774, 36103778, 36103781, 36103791, 36103792, 36103793, 36103808, 36103812, 36103815, 36103816, 36103828, 36103829, 36103831, 36103840, 36103841, 36103853, 36103855, 36103856, 36103865.
- 12.) District No. 12 shall consist of the following United States Census Geographic Identifier File Numbers: 36103166, 36103210, 36103224, 36103246, 36103259, 36103280, 36103296, 36103312, 36103326, 36103333, 36103373, 36103375, 36103376, 36103899, 36103900, 36103904, 36103905, 36103907, 36103908, 36103910, 36103911, 36103913, 36103915, 36103916, 36103919, 36103922, 36103924, 36103928, 36103930, 36103931, 36103933, 36103935, 36103936, 36103939, 36103940, 36103942, 36103943, 36103945, 36103946, 36103947, 36103949, 36103953, 36103956, 36103959, 36103960, 36103961, 36103963, 36103967, 36103969, 36103970, 36103971, 36103972, 36103975, 36103980, 36103981, 36103983, 36103984, 36103985, 36103986.
- 13.) District No. 13 shall consist of the following United States Census Geographic Identifier File Numbers: 36103484, 36103485, 36103486, 36103502, 36103506, 36103517, 36103524, 36103533, 36103535, 36103541, 36103542, 36103553, 36103564, 36103570, 36103573, 36103582,

36103589, 36103594, 36103597, 36103609, 36103628, 36103636,
36103895, 36103896, 36103897, 36103898, 36103901, 36103902,
36103903, 36103906, 36103909, 36103912, 36103914, 36103917,
36103918, 36103920, 36103921, 36103923, 36103925, 36103926,
36103927, 36103929, 36103932, 36103934, 36103937, 36103938,
36103941, 36103944, 36103948, 36103950, 36103951, 36103954,
36103955, 36103958, 36103964, 36103965, 36103966, 36103973,
36103977, 36103978, 36103979, 36103982, 36103996.

- 14.) District No. 14 shall consist of the following United States Census Geographic Identifier File Numbers: 361031, 361032, 361033, 361035, 361036, 3610311, 3610313, 3610315, 3610316, 3610319, 3610320, 3610321, 3610322, 3610323, 3610324, 3610327, 3610332, 3610333, 3610341, 3610343, 3610349, 3610350, 3610351, 3610352, 3610354, 3610359, 3610361, 3610362, 3610364, 3610371, 3610375, 3610376, 3610377, 3610378, 3610383, 3610387, 3610388, 3610389, 3610391, 3610393, 3610394, 3610396, 36103101, 36103102, 36103104, 36103105, 36103107, 36103110, 36103111, 36103119, 36103121, 36103127, 36103128, 36103130, 36103131, 36103133, 36103142, 36103143.
- 15.) District No. 15 shall consist of the following United States Census Geographic Identifier File Numbers: 361037, 361038, 361039, 3610310, 3610312, 3610314, 3610317, 3610318, 3610325, 3610326, 3610328, 3610330, 3610331, 3610334, 3610335, 3610337, 3610339, 3610340, 3610342, 3610344, 3610348, 3610353, 3610356, 3610358, 3610365, 3610366, 3610369, 3610370, 3610372, 3610374, 3610382, 3610392, 36103113, 36103114, 36103115, 36103117, 36103122, 36103124, 36103129, 36103134, 36103135, 36103140, 36103141, 36103144, 36103145, 36103146, 36103147, 36103150, 36103152, 36103153, 36103154.
- 16.) District No. 16 shall consist of the following United States Census Geographic Identifier File Numbers: 361034, 3610368, 3610397, 36103100, 36103118, 36103136, 36103487, 36103488, 36103503, 36103508, 36103518, 36103519, 36103536, 36103543, 36103544, 36103545, 36103554, 36103558, 36103562, 36103565, 36103566, 36103567, 36103569, 36103572, 36103575, 36103579, 36103584, 36103585, 36103587, 36103592, 36103598, 36103601, 36103602, 36103603, 36103604, 36103606, 36103611, 36103613, 36103614, 36103615, 36103624, 36103626, 36103634, 36103637, 36103639, 36103672, 36103689, 36103713, 36103717, 36103718, 36103729, 36103737, 36103738, 36103739, 36103740, 36103801, 36103814, 36103833, 36103835, 36103836, 36103838, 36103849, 36103850.
- 17.) District No. 17 shall consist of the following United States Census Geographic Identifier File Numbers: 3610329, 3610336, 3610338, 3610345, 3610346, 3610347, 3610355, 3610357, 3610360, 3610367, 3610373, 3610379, 3610380, 3610381, 3610386, 3610390, 3610395, 3610398, 36103103, 36103106, 36103108, 36103112, 36103116, 36103120, 36103123, 36103126, 36103132, 36103137, 36103138, 36103151, 36103478, 36103479, 36103489, 36103490, 36103494, 36103500, 36103501, 36103509, 36103515, 36103523, 36103525, 36103526, 36103528,

36103529, 36103537, 36103538, 36103539, 36103546, 36103549,
36103550, 36103555, 36103563, 36103568, 36103576, 36103600,
36103605, 36103610, 36103612, 36103618, 36103622, 36103629,
36103633, 36103638, 36103643, 36103644, 36103645.

- 18.) District No. 18 shall consist of the following United States Census Geographic Identifier File Numbers: 36103468, 36103469, 36103470, 36103471, 36103472, 36103473, 36103474, 36103475, 36103476, 36103477, 36103480, 36103481, 36103482, 36103483, 36103491, 36103492, 36103493, 36103495, 36103496, 36103497, 36103498, 36103499, 36103504, 36103505, 36103507, 36103510, 36103511, 36103512, 36103513, 36103514, 36103516, 36103520, 36103521, 36103522, 36103531, 36103532, 36103534, 36103540, 36103547, 36103548, 36103551, 36103552, 36103556, 36103557, 36103560, 36103561, 36103571, 36103574, 36103577, 36103578, 36103580, 36103581, 36103583, 36103588, 36103590, 36103591, 36103593, 36103595, 36103596, 36103599, 36103607, 36103608, 36103616, 36103617, 36103619, 36103620, 36103621, 36103623, 36103625, 36103627, 36103630, 36103631, 36103635, 36103640, 36103641, 361039994.

Section 3. Errors and Omissions.

If the districts described herein do not carry out the purposes thereof because of unintentional omissions, duplications, overlapping areas, erroneous nomenclature, lack of adequate maps or descriptions of political subdivisions, or other divisions thereof, or of their boundary lines, street closings, changes in names of streets, or other changes of public places, alteration of the boundary or courses of water or waterways, filling in of lands under water, accretion or other changes in shorelines, or alteration of courses, rights of way, or lines of public utilities or other conditions, the County Clerk shall, at the request of any person or candidate aggrieved thereby, by order, correct such omissions, overlaps, erroneous nomenclature, or other defects in the description of districts so as to accomplish the purposes and objectives of this Charter law.

Section 4. Applicability.

The County Legislative Districts created by this law shall be filled at the general election to be held in the first odd numbered year subsequent to the effective date of this law.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. SEQRA Determination.

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 617.13(d)(21) of the NEW YORK CODE OF RULES AND REGULATIONS (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.

Section 7. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

s:\laws\cl-reapportionment population changes

OFFICE OF THE COUNTY LEGISLATURE

COUNTY OF SUFFOLK

GEORGE NOLAN
COUNSEL TO THE LEGISLATURE
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(631) 853-4415 (FAX)

DATE: MAY 8, 2012

TO: CLERK OF THE COUNTY LEGISLATURE

RE: MEMORANDUM OF COUNSEL TO THE LEGISLATURE PURSUANT TO RULE 28

PROPOSED LOCAL LAW YEAR 2012

TITLE: I.R. NO. -2012; A CHARTER LAW TO REAPPORTION SUFFOLK COUNTY
LEGISLATIVE DISTRICTS

SPONSOR: PRESIDING OFFICER

DATE OF RECEIPT BY COUNSEL: 5/7/12 PUBLIC HEARING: 6/5/12

DATE ADOPTED/NOT ADOPTED: _____ CERTIFIED COPY RECEIVED: _____

This proposed charter law would reapportion the County's 18 legislative districts in accordance with the results of the 2010 federal census.

The new legislative district boundaries will be in effect for the 2013 elections of the County Legislature.

A handwritten signature in black ink, appearing to read "George Nolan", is written over the printed name and title.

GEORGE NOLAN
Counsel to the Legislature

GN:tm

s:\rule28\28-reapportion legislative districts