

## RESOLUTION NO. 233

### **TITLE: RESOLUTION FOR THE EXECUTION OF THE SIDE AGREEMENT AND THE SETTLEMENT OF THE WATER SUPPLY PERMIT PROCEEDING DEPARTMENT OF WATERSHED AFFAIRS**

**WHEREAS**, in July, 2007, the United States Environmental Protection Agency (“EPA”) issued a filtration avoidance determination (“2007 FAD”) which required New York City Department of Environmental Protection (“DEP”) to invest \$240 million of additional funds to acquire land within the New York City Watershed ( the “Phase II Land Acquisition Program”); and

**WHEREAS**, the Coalition of Watershed Towns (“CWT”) together with the Towns of Hamden and Roxbury commenced an Article 78 proceeding in the Supreme Court of Delaware County against New York City DEP to annul a Negative Declaration under the New York State Environmental Quality Review Act (“SEQRA”) that was issued by DEP for the Land Acquisition Program Phase II; and

**WHEREAS**, the 2007 FAD required DEP to submit a completed updated new Land Acquisition Program Plan by September 2009 and an updated permit application for a new Water Supply Permit by January 2010. The 2007 FAD also indicated that the new Water Supply Permit would be subject to the State Environmental Quality Review Act; and

**WHEREAS**, in lieu of litigation, the parties to the litigation (including Delaware County) entered into negotiations with NYCDEP, Riverkeeper, Open Space Institute, Catskill Center, NRDC, DEC, EPA and DOH to negotiate the terms and conditions of the Phase II Land Acquisition Program; and

**WHEREAS**, these parties (including NYCDEP) agreed to work in good faith to reach a compromise on the terms and conditions of the Phase II Land Acquisition Program. In order to ensure a resolution acceptable to all parties, all other stakeholders were invited to participate in the discussions; and

**WHEREAS**, after approximately three years of discussions, the parties have now reached agreement on the terms and conditions of a Water Supply Permit and a Side Agreement; and

**WHEREAS**, with the direction of the Board of Supervisors to continue negotiating, the staff of the Delaware County Department of Watershed Affairs, the staff of the Delaware County Planning Department and the Special Delaware County Watershed Counsel have participated and have been very active in the negotiations; and

**WHEREAS**, the Board has been provided detailed summaries of the terms and conditions of settlement, copies of the settlement documents and has had an opportunity to discuss it with the staff of the Delaware County Department of Watershed Affairs, the staff of the Delaware County Planning Department and Special Delaware County Watershed Counsel, and

**WHEREAS**, the Side Agreement and the draft Water Supply Permit contain the conditions requested by the Coalition of Watershed Towns, Delaware County and CWC.

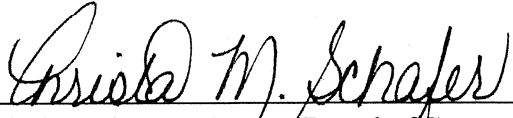
**NOW, THEREFORE BE IT RESOLVED** that the Delaware County Board of Supervisors supports the settlement, and

**BE IT FURTHER RESOLVED**, that the Delaware County Board of Supervisors, by this resolution, authorizes the Chairman of the Board of Supervisors to execute the Side Agreement conditioned on the Water Supply Permit being issued by DEC consistent with the Side Agreement and the draft Water Supply Permit attached thereto and upon notification from the Special Delaware County Watershed Attorney that the Side Agreement is in final acceptable form for execution.

State of New York  
County of Delaware

I, Christa M. Schafer, Clerk of the Board of Supervisors of Delaware County, do hereby certify that the above is a true and correct copy of a resolution adopted by said Board on the 8<sup>th</sup> day of December 2010 and the whole thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Board at Delhi, New York, this 8<sup>th</sup> day of December 2010.

  
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Clerk, Delaware County Board of Supervisors