

Local Law K of 2023 SEQRA Review



Albany Common Council
24 Eagle Street
Albany, NY 12207

Council Member Hoey, Anane, Balarin, Clarke, Farrell, Frederick, Flynn, Keegan, Love, Romero, and Zamer, with the support of Council President Ellis introduced the following:

LOCAL LAW K OF 2023

A LOCAL LAW AMENDING CHAPTER 371 (WATER AND WATERWAYS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ADDING FLUORIDE COMPOUNDS TO THE WATER SUPPLY

Be it enacted by the Common Council of the City of Albany as follows:

Section 1. Chapter 371 (Water and Waterways) of Part II (General Legislation) of the Code of the City of Albany are amended by adding a new Article IX (Fluoridation) to read as follows:

§ 371-92 Purpose and Findings

Pursuant to § 1100-A of the Public Health Law, municipalities which own both their public water system and the water supply for such system may by local law provide whether a fluoride compound shall be added to such public water supply. According to the U.S. Centers for Disease Control, fluoride is very effective in preventing cavities when present in drinking water at an optimal level of 0.7 mg/L. This reduces dental complications later in life, as well as medical expenses, and protects the health of the residents of the City of Albany.

§ 371-93 Fluoridation of Municipal Water Supply.

The Commissioner of the Albany Water Department shall establish rules and regulations necessary to determine the optimal concentration of Fluoride in the water supply in accordance with guidelines from the U.S. Centers for Disease Control, as well as to monitor and maintain that level of Fluoride concentration within the water supply. The Albany Water Department shall then fluoridate the water pursuant to those rules and regulations.

§ 371-94 Approval of Changes to Fluoride Compounds

Any additional changes to the target fluoride concentration within the water supply shall be approved by resolution of the Common Council.

Section 2. This Local Law shall take effect upon final passage, public hearing, and filing with the Secretary of State

**APPROVED AS TO FORM THIS
6TH DAY OF OCTOBER, 2023**

Corporation Counsel

To: **Shaniqua Jackson, Acting City Clerk**
From: **Jake Eisland, Research Counsel**
Re: **Common Council Legislation**
Supporting Memorandum
Date: **October 6, 2023**
Sponsor: **Council Member Hoey**

LOCAL LAW K OF 2023

TITLE

A LOCAL LAW AMENDING CHAPTER 371 (WATER AND WATERWAYS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ADDING FLUORIDE COMPOUNDS TO THE WATER SUPPLY

GENERAL PURPOSE OF LEGISLATION

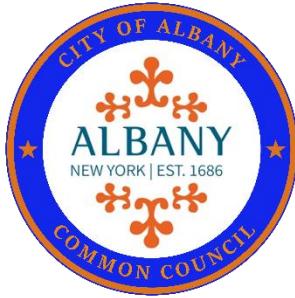
This legislation will direct the Albany Water Department to Fluoridate the Water supply, improving dental health within the city of Albany and reducing healthcare disparities.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

Fluoridation of water supplies is a crucial public health intervention aimed at reducing dental caries (tooth decay) in communities. By introducing controlled amounts of fluoride into the public water supply, the enamel of teeth is strengthened, making them more resistant to decay-causing acids produced by bacteria in the mouth. This not only benefits children, whose developing teeth are especially susceptible to cavities, but also adults, enhancing oral health throughout a person's life. Additionally, widespread fluoridation serves as an egalitarian approach, ensuring that individuals across various socioeconomic backgrounds receive its protective benefits. Over time, the cumulative benefits of water fluoridation can lead to significant reductions in dental treatment costs and improved overall public dental health.

FISCAL IMPACT

TBD.



ALBANY COMMON COUNCIL GENERAL SERVICES, HEALTH AND ENVIRONMENT COMMITTEE MINUTES

Jack Flynn, Chair

Meeting Called By: **Jack Flynn, Chair** Date: **11/16/2023** Time: **5:31PM**

Committee Members:	Flynn, Chair <input checked="" type="checkbox"/> Anane <input checked="" type="checkbox"/> Clarke <input checked="" type="checkbox"/> Love <input type="checkbox"/> Zamer <input checked="" type="checkbox"/> (Checked to signify present)
Council Member(s) Present:	Hoey, Keegan, Robinson
City Personnel Present:	Joe Coffey, David Galin, Shaniqua Jackson, Brett Williams, Jake Eisland, Bryan Jimenez, and Juliette Geraghty

Minutes

Agenda Item:

- **RESOLUTION 92.91.23R**
A RESOLUTION OF THE COMMON COUNCIL ENCOURAGING THE RELEASE OF ENVIRONMENTAL BOND ACT FUNDING FOR PROJECTS SIMILAR TO THE PATROON CREEK GREENWAY
- **LOCAL LAW K OF 2023**
A LOCAL LAW AMENDING CHAPTER 371 (WATER AND WATERWAYS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ADDING FLUORIDE COMPOUNDS TO THE WATER SUPPLY

Speakers/Public Commenters:

- Edward Brennan, 389 McCormack Road, Albany, NY 12208 – Resolution 92.91.23R (Patroon Creek Greenway funding)
- Joe Coffey, Water Department Commissioner – Local Law K of 2023 (Community Water Fluoridation)
- David Galin, Mayor's Chief of Staff – Local Law K of 2023 (Community Water Fluoridation)
- Maxwell Ferris, 175 Green St., Albany, NY 12202 – Local Law K of 2023 (Community Water Fluoridation)
- Dr. Melinda Clark, 11 Candlewood Lane, Delmar, NY 12054 – Local Law K of 2023 (Community Water Fluoridation)
- Tom Ellis, 43 North Pine Ave., Albany, NY 12203 – Local Law K of 2023 (Community Water Fluoridation)
- Dr. Elizabeth Whalen, 15 Manning Blvd., Albany, NY 12203 – Local Law K of 2023 (Community Water Fluoridation)
- Michael Waxman, 18 Stonehenge Drive, Albany, NY 12203 – Local Law K of 2023 (Community Water Fluoridation)
- Bill Gettman, 60 Academy Rd., Albany, NY 12208 – Local Law K of 2023 (Community Water Fluoridation)
- Rebecca Klimek, 175 Central Ave., Albany, NY 12206 – Local Law K of 2023 (Community Water Fluoridation)
- Dr. Katie Rothas, 900 Lark Drive, Albany, NY 12207 – Local Law K of 2023 (Community Water Fluoridation)
- Anita Thayer, 122 Tallmadge Place, Albany, NY 12208 – Local Law K of 2023 (Community Water Fluoridation)

Questions and Discussion:

Resolution 92.91.23R:

- Council Member Flynn, chair of the committee, called the meeting to order and asked Council Member Robinson to speak on Resolution 92.91.23R.
- Council Member Robinson spoke on the Patroon Creek Greenway and the purpose of Resolution 92.91.23R.
- Council Member Anane spoke on his support for the resolution and thanked the sponsors for introducing it.
- Council Member Flynn invited Edward Brennan up to comment on Resolution 92.91.23R.
 - Edward Brennan spoke in support of the resolution.
- Council Member Keegan spoke on amendments to the resolution to reflect that New York State has not yet released the Environmental Bond Act Funding and that the Council encourages the State to do so.
- Council Member Flynn made a motion to pass Resolution 92.91.23R out of committee with a favorable recommendation, pending amendment, seconded by Council Member Zamer, and passed by voice vote.

Local Law K of 2023:

- Council Member Flynn asked Council Member Hoey to speak on Local Law K of 2023.
- Council Member Hoey spoke on water fluoridation and the purpose of the Local Law.
- Council Member Flynn invited Water Commissioner Joe Coffey up to speak on the Local Law.
 - Commissioner Joe Coffey spoke on American Water Works Association's position on community water fluoridation.
 - Commissioner Joe Coffey further spoke on what the implementation, cost, and timeframe for water fluoridation would look like.
 - Council Member Zamer confirmed that this legislation would not necessitate extra personnel or a significant increase to cost, to which Commissioner Coffey responded affirmatively.
 - Council Member Anane asked about the impact of water fluoridation on the city's children and marginalized communities, to which Commissioner Coffey responded, speaking on his experiences and support for the recommendations of the medical and dental professionals.
 - Council Member Keegan spoke on the research available on water fluoridation.
 - Council Member Zamer spoke on the experts in attendance that will discuss the research and misconceptions.
 - Commissioner Joe Coffey gave statistics regarding the percentage of Americans and New Yorkers drinking fluoridated water.
 - Council Member Robinson asked if Commissioner Coffey anticipates a public outreach campaign before water fluoridation is rolled out, to which Commissioner Coffey responded affirmatively.
 - Council Member Hoey asked if communities fluoridate the water they purchase from Albany, to which Commissioner Coffey responded that Bethlehem does not, while Guilderland does.
 - Council Member Flynn asked about naturally occurring levels of fluoride in Albany's water supply, to which Commissioner Coffey responded there is a non-detectable level of fluoride.
- Council Member Flynn invited David Galin, Chief of Staff to Mayor Sheehan, to speak on the Local Law.
 - David Galin spoke on Mayor Sheehan's support for community water fluoridation.
- Council Member Flynn invited Maxwell Ferris, Director for Environmental Health Services for the Albany County Health Department, up to speak on the Local Law.
 - Maxwell Ferris spoke in support for community water fluoridation and on the process of implementing fluoridation.
 - Council Member Flynn asked Maxwell Ferris if he is in agreement with Commissioner Coffey about the minimal cost of fluoridation, to which Maxwell Ferris responded affirmatively.
- Council Member Flynn invited Dr. Melinda Clark, Professor of Pediatrics at Albany Medical Center, up to speak on the Local Law.
 - Dr. Melinda Clark spoke on the need for and efficacy of water fluoridation.
 - Council Member Zamer asked what the basis is for the concern surrounding neurotoxicity, to which Dr. Clark responded and spoke of research that studied the effects of over fluoridation. Dr. Clark further spoke on issues with the methodology of this research that makes the study unreliable.
 - Council Member Zamer asked about the safety of fluoride for newborns drinking formula, to which Dr. Clark responded that it is safe as long as the amount of fluoride in the water is regulated.

- Council Member Zamer asked if Dr. Clark could speak to the concern that many European countries do not fluoridate their water, to which Dr. Clark responded and spoke on how the countries that do not fluoridate their water have national public health systems.
 - Council Member Robinson asked about the effects of using both fluoride products, such as toothpastes and mouthwashes, and ingesting fluoridated water, to which Dr. Clark responded that since they are all given in a safe dosage, there would be no negative impacts.
- Council Member Flynn invited Tom Ellis up to comment on the Local Law.
 - Tom Ellis spoke on his concerns with community water fluoridation.
- Council Member Flynn invited Dr. Elizabeth Whalen, former Albany County Health Department Commissioner, up to speak on the Local Law.
 - Dr. Whalen spoke on the efficacy of water fluoridation and its impact on reducing health disparities.
 - Council Member Flynn asked about the recommended level of fluoride to add to the water, to which Dr. Whalen responded.
 - Council Member Anane thanked Dr. Whalen for her service to the County and asked about the adverse impacts of the lack of fluoride, particularly to children in marginalized communities, to which Dr. Whalen responded and spoke on children missing classes and having to undergo severe dental procedures.
 - Council Member Robinson asked about concerns of the ethical issues of medicating the water, to which Dr. Whalen responded, speaking on how fluoride is a mineral, not a drug, which has significant health benefits.
- Council Member Flynn invited Michael Waxman, Associate Professor of Emergency Medicine at Albany Medical College, up to speak on the Local Law.
 - Michael Waxman spoke on the scientific evidence in support of water fluoridation.
 - Council Member Zamer asked about debunked studies that show the negative impacts of fluoridation, to which Michael Waxman responded.
 - Council Member Zamer asked Michael Waxman what he attributes the opposition of fluoride to, to which he responded.
- Council Member Flynn invited Bill Gettman, CEO of Northern Rivers Family of Services, up to speak on the Local Law.
 - Bill Gettman spoke on health disparities and further spoke in support of water fluoridation.
- Council Member Flynn invited Rebecca Klimek, Clinical Director of the Seal a Smile program, up to speak on the Local Law.
 - Rebecca Klimek spoke on tooth decay in children and support for water fluoridation.
- Council Member Flynn invited Dr. Katie Rothas, Dental Director at Whitney Young Health, up to speak on the Local Law.
 - Dr. Rothas spoke on the need for and effectiveness of water fluoridation.
- Council Member Flynn invited Anita Thayer up to comment on the Local Law, who spoke in support of the legislation.
- Council Member Flynn spoke on the support he has received for the legislation.
- Council Member Zamer thanked Council Member Hoey for bringing it forward and thanked the experts for attending.
- Council Member Zamer made a motion to pass Local Law K of 2023 out of committee with a favorable recommendation, seconded by Council Member Anane, and passed by voice vote
- Council Member Flynn informed attendees that there will be a Mayoral public hearing before the law goes into effect.

Adjourn:

The Chairperson asked for a motion to adjourn at 6:50 PM, Council Member Zamer moved to adjourn, seconded by Council Member Anane, and the motion passed by voice vote.

Respectfully Submitted by:
 Juliette Geraghty
 Junior Legislative Aide

Council Member Hoey introduced the following:

RESOLUTION 121.122.23R

A RESOLUTION OF THE COMMON COUNCIL DECLARING ITS INTENT TO ACT AS LEAD AGENCY FOR THE STATE ENVIRONMENTAL QUALITY REVIEW OF THE FLUORIDATION OF THE CITY'S WATER SUPPLY

WHEREAS, on October 16, 2023, Council Member Hoey introduced Local Law K of 2023, which would require the addition of fluoride to the City of Albany's water supply; and

WHEREAS, the Common Council has reviewed the State Environmental Quality Review Act ("SEQRA") Short Environmental Assessment Form ("SEAF"), Part I, prepared by the Office of the Corporation Counsel, examining the potential environmental impacts of fluoridation of the City's water supply (the "Action"); and

WHEREAS, the Common Council has determined that the said Action is subject to review by and approval from other involved agencies under SEQRA and has identified the City of Albany Water Board and New York State Department of Health; and

WHEREAS, the Common Council has determined that it is the agency that is principally responsible for undertaking, funding, or approving this Action and will provide written notifications to all involved agencies pursuant to 6 NYCRR 617.6; and

WHEREAS, the Common Council has been informed and is aware of caselaw that appears to hold that the addition of fluoride to the water supply is an action under SEQRA, but it qualifies as a Type II action, and

WHEREAS, nevertheless, the Common Council has determined that the Action is an unlisted action under SEQRA and desires to conduct a coordinated review.

NOW, THEREFORE, BE IT RESOLVED, that, having reviewed the above-referenced SEAF, the Common Council determines that the Action is an unlisted action under SEQRA; and

BE IT FURTHER RESOLVED, that the Common Council of the City of Albany does hereby declare its intent to act as lead agency for this Action and will conduct a coordinated SEQRA review; and

BE IT FURTHER RESOLVED, that the Office of the Corporation Counsel is hereby directed to provide notice hereof to all involved and interested agencies, pursuant to 6 NYCRR 617.6, in writing as soon as practicable.

To: **Shaniqua Jackson, Acting City Clerk**

From: **Brett Williams, Senior Assistant Corporation Counsel**

Re: **Common Council Legislation
Supporting Memorandum**

Date: **December 7, 2023**

Sponsor: **Council Member Hoey**

RESOLUTION 121.122.23R

TITLE

**A RESOLUTION OF THE COMMON COUNCIL DECLARING ITS INTENTION TO
DECLARE ITSELF LEAD AGENCY FOR THE STATE ENVIRONMENTAL QUALITY
REVIEW OF THE FLUORIDATION OF THE CITY'S WATER SUPPLY**

GENERAL PURPOSE OF LEGISLATION

As part of the consideration of whether to fluoridate the City's water supply, the potential environmental impacts of fluoridation must be considered in the context of the State Environmental Quality Review Act ("SEQRA").

The first step in this process is to determine whether the contemplated Action is a type I, type II, or unlisted action under SEQRA. If an action meets any of the criteria listed in the regulations for action types I and II, it is one of those types of actions. If it meets none of the criteria, it is an unlisted action. Here, the action does not meet any of the type I criteria. There is caselaw suggesting that the action may be considered as type II, however out of an abundance of caution, this action should be treated as unlisted.

The next step in an unlisted action is to complete Part I of an environmental assessment form (the short version of which – the "SEAF" – may be used for unlisted actions. A copy of the SEAF in this matter is included herewith.

Once the SEAF is completed, one of the entities involved in the Action may declare itself "lead agency," with which designation it may coordinate the SEQRA review of the Action with all other entities that are involved and interested in the Action. If an entity means to declare itself lead agency, it must first make its intent to do so clear to the other involved and interested agencies by informing them in writing of its intent, and providing an opportunity to object. Involved agencies have 30 days from receipt of notice of intent to either accept or object to lead agency status; if an involved agency takes no action within 30 days, they are deemed to accept.

This resolution accomplishes these initial steps in the SEQRA process.

Assuming the Council receives no objection to its intent to declare itself lead agency, it will then undertake a coordinated review, together with involved and interested agencies, of the potential

environmental impacts of fluoridation and make a declaration, by later resolution, as to whether or not there will be a significant environmental impact.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

This resolution formally expresses the Council's determinations that 1) the Action is unlisted, 2) the Council intends to act as lead agency for the SEQRA review of this action, and 3) that the Office of the Corporation Counsel should expeditiously provide notice, in accordance with the dictates of SEQRA, to involved and interested agencies that the Council intends to act as lead agency.

FISCAL IMPACT

The Council expressing its intent to serve as lead agency for the fluoridation of the City's water has no fiscal impact.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Anane, Balarin, Clarke, Farrell, Frederick, Hoey, Johnson, Keegan, Kimbrough, Robinson, Romero, and Zamer

Negative – Adams

Affirmative: 12 Negative: 1 Abstain: 0

Clerk of the Common Council

President of the Common Council

Mayor

Date

I, Shaniqua Jackson, Acting City Clerk and Acting Clerk of the Common Council, do hereby certify that Resolution 121.122.23R was passed at a meeting of the Albany Common Council on December 18, 2023.

In affirmation thereof, I hereto set my hand and affix The Seal of the City of Albany this 19th day of December, 2023.

Shaniqua Jackson, Acting Clerk of the Common Council

617.20
Appendix B
Short Environmental Assessment Form

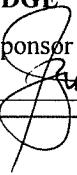
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information		
<p>Name of Action or Project: Fluoridation of City of Albany Water</p>		
<p>Project Location (describe, and attach a location map): Throughout the City of Albany</p>		
<p>Brief Description of Proposed Action: The Action involves the proposed adoption of a local law that will require the Albany Water Board, with the cooperation of the City of Albany's Department of Water and Water Supply, to add fluoride to the City's public water supply in accordance with guidelines promulgated by the U.S. Centers for Disease Control. Once the authorizing legislation is passed, the City's Department of Water and Water Supply, with the cooperation of the Albany Water Board, will perform the necessary engineering report and apply to the NYS Health Department for permitting and approval of the fluoridation system design and installation and monitoring system. Once permits and approval are obtained, the Water Department will add bulk chemical storage tanks and chemical metering equipment to its existing facilities, and ultimately add fluoride to the City's water supply in accordance with CDC guidelines.</p>		
<p>Name of Applicant or Sponsor: The Common Council of the City of Albany</p>		<p>Telephone: (518) 434-5087</p>
		<p>E-Mail: commoncouncil@albanyny.gov</p>
<p>Address: City Hall, 24 Eagle Street</p>		
<p>City/PO: Albany</p>		<p>State: NY</p>
<p>Zip Code: 12207</p>		
<p>1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.</p>		<input checked="" type="checkbox"/> <input type="checkbox"/>
<p>2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Approval must be granted by the New York State Commissioner of Health, per 10 NYCRR § 5-1.24</p>		<input type="checkbox"/> <input checked="" type="checkbox"/>
<p>3.a. Total acreage of the site of the proposed action? _____ 0 acres b. Total acreage to be physically disturbed? _____ 0 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 0 acres</p>		
<p>4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input checked="" type="checkbox"/> Parkland</p>		

5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ The proposed action would not physically alter, or even physically encroach into any wetlands, but some fluoridated water could run off from outdoor uses of fluoridated tap water and, conceivably, end up in the few small wetlands located within the City of Albany.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input checked="" type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: Brett T. Williams, Esq., Sr. Asst. Corporation Counsel	Date: 12/8/2023	
Signature: 		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: <ul style="list-style-type: none"> a. public / private water supplies? b. public / private wastewater treatment utilities? 	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____ Name of Lead Agency	
_____ Date	
_____ Print or Type Name of Responsible Officer in Lead Agency	
_____ Title of Responsible Officer	
_____ Signature of Responsible Officer in Lead Agency	
_____ Signature of Preparer (if different from Responsible Officer)	

CITY OF ALBANY, NEW YORK

NOTICE OF INTENT TO ACT AS SEQRA LEAD AGENCY

Proposed Fluoridation of the City of Albany's Water Supply

TO ALL INVOLVED AND INTERESTED AGENCIES:

The Common Council of the City of Albany has introduced legislation, Local Law K of 2023, which, if enacted, will require the fluoridation of the City's water supply (the "Action").

The Common Council has preliminarily determined that this proposed Action is subject to SEQRA and constitutes an unlisted action under the New York State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law; and its regulations 6 NYCRR 617, et seq.) (collectively, "SEQRA").

In accordance with SEQRA, on December 18, 2023, the Common Council of the City of Albany declared its intent to act as SEQRA lead agency for the coordinated environmental review of the proposed Action, and hereby provides notice of its intent to so act, which will include consideration of the environmental impacts associated with the proposed Action, including but not limited to: 1) the legislative act requiring fluoridation; 2) any infrastructure changes or improvements required at Albany Water Board facilities in order to effectuate the legislation; and 3) the addition of fluoride to the City's water.

Enclosed with this notice are our copies of 1) the completed Part 1 of the Short Environmental Assessment Form prepared for this action; 2) Common Council Resolution 121.122.23R, through which the Council declared its intent to act as lead agency; 3) Local Law K of 2023; and 4) a SEQRA Lead Agency Consent Form.

Your agency has been identified as an involved or interested agency. If you consent to the Common Council acting as lead agency, please complete the enclosed form and return it to the address listed. Pursuant to SEQRA, unless you submit a written objection within thirty (30) calendar days from the mailing of this notification, the Common Council will automatically assume the role of Lead Agency after 30 calendar days.

To: Albany County Health Department
175 Green Street
Albany, New York 12202

Albany Water Board
c/o Albany Water Department
10 North Enterprise Drive
Albany, New York 12204

Albany Municipal Water Finance Authority
c/o Albany Water Department
10 North Enterprise Drive
Albany, New York 12204

New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233

New York State Department of Health
Corning Tower
Albany, New York 12237

SEQRA LEAD AGENCY CONSENT FORM

Proposed Fluoridation of the City of Albany's Water Supply

Pursuant to the regulations promulgated under the New York State Environmental Quality Review Act, the undersigned agency hereby

CONSENTS

DOES NOT CONSENT

to the Common Council of the City of Albany acting as SEQRA lead agency for the coordinated environmental review of the City's proposal to fluoridate its water supply as described more fully in the enclosed Part 1 of the SEQRA Short Environmental Assessment Form

Date: _____, 202____

Agency: _____

By: _____
Name (Printed) _____ Title _____

Signature

Please return this form within thirty (30) days of mailing to:

City of Albany Common Council
City Hall, Room
24 Eagle St.
Albany, NY 12207

617.20
Appendix B
Short Environmental Assessment Form

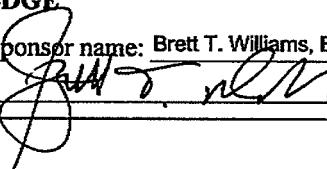
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information																		
<p>Name of Action or Project: Fluoridation of City of Albany Water</p>																		
<p>Project Location (describe, and attach a location map): Throughout the City of Albany</p>																		
<p>Brief Description of Proposed Action: The Action involves the proposed adoption of a local law that will require the Albany Water Board, with the cooperation of the City of Albany's Department of Water and Water Supply, to add fluoride to the City's public water supply in accordance with guidelines promulgated by the U.S. Centers for Disease Control. Once the authorizing legislation is passed, the City's Department of Water and Water Supply, with the cooperation of the Albany Water Board, will perform the necessary engineering report and apply to the NYS Health Department for permitting and approval of the fluoridation system design and installation and monitoring system. Once permits and approval are obtained, the Water Department will add bulk chemical storage tanks and chemical metering equipment to its existing facilities, and ultimately add fluoride to the City's water supply in accordance with CDC guidelines.</p>																		
<p>Name of Applicant or Sponsor: The Common Council of the City of Albany</p>		<p>Telephone: (518) 434-5087 E-Mail: commoncouncil@albanyny.gov</p>																
<p>Address: City Hall, 24 Eagle Street</p>																		
<p>City/PO: Albany</p>		<p>State: NY</p>	<p>Zip Code: 12207</p>															
<p>1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.</p>																		
<p>2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Approval must be granted by the New York State Commissioner of Health, per 10 NYCRR § 5-1.24</p>																		
<p>3.a. Total acreage of the site of the proposed action? <u>0</u> acres b. Total acreage to be physically disturbed? <u>0</u> acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <u>0</u> acres</p>																		
<p>4. Check all land uses that occur on, adjoining and near the proposed action.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;"><input checked="" type="checkbox"/> Urban</td> <td style="width: 25%;"><input type="checkbox"/> Rural (non-agriculture)</td> <td style="width: 25%;"><input type="checkbox"/> Industrial</td> <td style="width: 25%;"><input checked="" type="checkbox"/> Commercial</td> <td style="width: 25%;"><input type="checkbox"/> Residential (suburban)</td> </tr> <tr> <td><input type="checkbox"/> Forest</td> <td><input type="checkbox"/> Agriculture</td> <td><input type="checkbox"/> Aquatic</td> <td colspan="2"><input type="checkbox"/> Other (specify): _____</td> </tr> <tr> <td colspan="5"><input checked="" type="checkbox"/> Parkland</td> </tr> </table>				<input checked="" type="checkbox"/> Urban	<input type="checkbox"/> Rural (non-agriculture)	<input type="checkbox"/> Industrial	<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Residential (suburban)	<input type="checkbox"/> Forest	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Aquatic	<input type="checkbox"/> Other (specify): _____		<input checked="" type="checkbox"/> Parkland				
<input checked="" type="checkbox"/> Urban	<input type="checkbox"/> Rural (non-agriculture)	<input type="checkbox"/> Industrial	<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Residential (suburban)														
<input type="checkbox"/> Forest	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Aquatic	<input type="checkbox"/> Other (specify): _____															
<input checked="" type="checkbox"/> Parkland																		

5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ The proposed action would not physically alter, or even physically encroach into any wetlands, but some fluoridated water could run off from outdoor uses of fluoridated tap water and, conceivably, end up in the few small wetlands located within the City of Albany.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input checked="" type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: Brett T. Williams, Esq., Sr. Asst. Corporation Counsel	Date: 12/8/2023	
Signature: 		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Name of Lead Agency		Date
Print or Type Name of Responsible Officer in Lead Agency		Title of Responsible Officer
Signature of Responsible Officer in Lead Agency		Signature of Preparer (if different from Responsible Officer)

Council Member Hoey, Anane, Balarin, Clarke, Farrell, Frederick, Flynn, Keegan, Love, Romero, and Zamer, with the support of Council President Ellis introduced the following:

LOCAL LAW K OF 2023

A LOCAL LAW AMENDING CHAPTER 371 (WATER AND WATERWAYS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ADDING FLUORIDE COMPOUNDS TO THE WATER SUPPLY

Be it enacted by the Common Council of the City of Albany as follows:

Section 1. Chapter 371 (Water and Waterways) of Part II (General Legislation) of the Code of the City of Albany are amended by adding a new Article IX (Fluoridation) to read as follows:

§ 371-92 Purpose and Findings

Pursuant to § 1100-A of the Public Health Law, municipalities which own both their public water system and the water supply for such system may by local law provide whether a fluoride compound shall be added to such public water supply. According to the U.S. Centers for Disease Control, fluoride is very effective in preventing cavities when present in drinking water at an optimal level of 0.7 mg/L. This reduces dental complications later in life, as well as medical expenses, and protects the health of the residents of the City of Albany.

§ 371-93 Fluoridation of Municipal Water Supply.

The Commissioner of the Albany Water Department shall establish rules and regulations necessary to determine the optimal concentration of Fluoride in the water supply in accordance with guidelines from the U.S. Centers for Disease Control, as well as to monitor and maintain that level of Fluoride concentration within the water supply. The Albany Water Department shall then fluoridate the water pursuant to those rules and regulations.

§ 371-94 Approval of Changes to Fluoride Compounds

Any additional changes to the target fluoride concentration within the water supply shall be approved by resolution of the Common Council.

Section 2. This Local Law shall take effect upon final passage, public hearing, and filing with the Secretary of State

**APPROVED AS TO FORM THIS
6TH DAY OF OCTOBER, 2023**

Corporation Counsel

To: **Shaniqua Jackson, Acting City Clerk**
From: **Jake Eisland, Research Counsel**
Re: **Common Council Legislation**
Supporting Memorandum
Date: **October 6, 2023**
Sponsor: **Council Member Hoey**

LOCAL LAW K OF 2023

TITLE

A LOCAL LAW AMENDING CHAPTER 371 (WATER AND WATERWAYS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ADDING FLUORIDE COMPOUNDS TO THE WATER SUPPLY

GENERAL PURPOSE OF LEGISLATION

This legislation will direct the Albany Water Department to Fluoridate the Water supply, improving dental health within the city of Albany and reducing healthcare disparities.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

Fluoridation of water supplies is a crucial public health intervention aimed at reducing dental caries (tooth decay) in communities. By introducing controlled amounts of fluoride into the public water supply, the enamel of teeth is strengthened, making them more resistant to decay-causing acids produced by bacteria in the mouth. This not only benefits children, whose developing teeth are especially susceptible to cavities, but also adults, enhancing oral health throughout a person's life. Additionally, widespread fluoridation serves as an egalitarian approach, ensuring that individuals across various socioeconomic backgrounds receive its protective benefits. Over time, the cumulative benefits of water fluoridation can lead to significant reductions in dental treatment costs and improved overall public dental health.

FISCAL IMPACT

TBD.

Council Member Hoey introduced the following, which was approved:

RESOLUTION 121.122.23R

A RESOLUTION OF THE COMMON COUNCIL DECLARING ITS INTENT TO ACT AS LEAD AGENCY FOR THE STATE ENVIRONMENTAL QUALITY REVIEW OF THE FLUORIDATION OF THE CITY'S WATER SUPPLY

WHEREAS, on October 16, 2023, Council Member Hoey introduced Local Law K of 2023, which would require the addition of fluoride to the City of Albany's water supply; and

WHEREAS, the Common Council has reviewed the State Environmental Quality Review Act ("SEQRA") Short Environmental Assessment Form ("SEAF"), Part I, prepared by the Office of the Corporation Counsel, examining the potential environmental impacts of fluoridation of the City's water supply (the "Action"); and

WHEREAS, the Common Council has determined that the said Action is subject to review by and approval from other involved agencies under SEQRA and has identified the City of Albany Water Board and New York State Department of Health; and

WHEREAS, the Common Council has determined that it is the agency that is principally responsible for undertaking, funding, or approving this Action and will provide written notifications to all involved agencies pursuant to 6 NYCRR 617.6; and

WHEREAS, the Common Council has been informed and is aware of caselaw that appears to hold that the addition of fluoride to the water supply is an action under SEQRA, but it qualifies as a Type II action, and

WHEREAS, nevertheless, the Common Council has determined that the Action is an unlisted action under SEQRA and desires to conduct a coordinated review.

NOW, THEREFORE, BE IT RESOLVED, that, having reviewed the above-referenced SEAF, the Common Council determines that the Action is an unlisted action under SEQRA; and

BE IT FURTHER RESOLVED, that the Common Council of the City of Albany does hereby declare its intent to act as lead agency for this Action and will conduct a coordinated SEQRA review; and

BE IT FURTHER RESOLVED, that the Office of the Corporation Counsel is hereby directed to provide notice hereof to all involved and interested agencies, pursuant to 6 NYCRR 617.6, in writing as soon as practicable.

To: **Shaniqua Jackson, Acting City Clerk**

From: **Brett Williams, Senior Assistant Corporation Counsel**

Re: **Common Council Legislation**
Supporting Memorandum

Date: **December 7, 2023**

Sponsor: **Council Member Hoey**

RESOLUTION 121.122.23R

TITLE

**A RESOLUTION OF THE COMMON COUNCIL DECLARING ITS INTENTION TO
DECLARE ITSELF LEAD AGENCY FOR THE STATE ENVIRONMENTAL QUALITY
REVIEW OF THE FLUORIDATION OF THE CITY'S WATER SUPPLY**

GENERAL PURPOSE OF LEGISLATION

As part of the consideration of whether to fluoridate the City's water supply, the potential environmental impacts of fluoridation must be considered in the context of the State Environmental Quality Review Act ("SEQRA").

The first step in this process is to determine whether the contemplated Action is a type I, type II, or unlisted action under SEQRA. If an action meets any of the criteria listed in the regulations for action types I and II, it is one of those types of actions. If it meets none of the criteria, it is an unlisted action. Here, the action does not meet any of the type I criteria. There is caselaw suggesting that the action may be considered as type II, however out of an abundance of caution, this action should be treated as unlisted.

The next step in an unlisted action is to complete Part I of an environmental assessment form (the short version of which – the "SEAF" – may be used for unlisted actions. A copy of the SEAF in this matter is included herewith.

Once the SEAF is completed, one of the entities involved in the Action may declare itself "lead agency," with which designation it may coordinate the SEQRA review of the Action with all other entities that are involved and interested in the Action. If an entity means to declare itself lead agency, it must first make its intent to do so clear to the other involved and interested agencies by informing them in writing of its intent, and providing an opportunity to object. Involved agencies have 30 days from receipt of notice of intent to either accept or object to lead agency status; if an involved agency takes no action within 30 days, they are deemed to accept.

This resolution accomplishes these initial steps in the SEQRA process.

Assuming the Council receives no objection to its intent to declare itself lead agency, it will then undertake a coordinated review, together with involved and interested agencies, of the potential

environmental impacts of fluoridation and make a declaration, by later resolution, as to whether or not there will be a significant environmental impact.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

This resolution formally expresses the Council's determinations that 1) the Action is unlisted, 2) the Council intends to act as lead agency for the SEQRA review of this action, and 3) that the Office of the Corporation Counsel should expeditiously provide notice, in accordance with the dictates of SEQRA, to involved and interested agencies that the Council intends to act as lead agency.

FISCAL IMPACT

The Council expressing its intent to serve as lead agency for the fluoridation of the City's water has no fiscal impact.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Anane, Balarin, Clarke, Farrell, Frederick, Hoey, Johnson, Keegan, Kimbrough, Robinson, Romero, and Zamer
Negative – Adams

Affirmative: 12 Negative: 1 Abstain: 0

Clerk of the Common Council

President of the Common Council

Mayor

Date

I, Shaniqua Jackson, Acting City Clerk and Acting Clerk of the Common Council, do hereby certify that Resolution 121.122.23R was passed at a meeting of the Albany Common Council on December 18, 2023.

In affirmation thereof, I hereto set my hand and affix The Seal of the City of Albany this 19th day of December, 2023.

Shaniqua Jackson, Acting Clerk of the Common Council

Project: _____

Date: _____

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Please see attached document.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Albany Common Council Kelly Kimbrough	Name of Lead Agency President Pro Tempore
Print or Type Name of Responsible Officer in Lead Agency Signature of Responsible Officer in Lead Agency	February 6, 2024 Date Title of Responsible Officer Signature of Preparer (if different from Responsible Officer)

After public feedback, as well as discussions with state and local agencies, the Common Council of Albany, New York has determined that the action shall not have a significant impact on the environment. In its review, the Council identified four main environmental concerns. However, through discussions with subject matter experts, publicly recorded in committee meetings and through public comment, the Common Council has determined that those concerns will not negatively impact the environment.

The first environmental concern that the Common Council considered was whether fluoride, when added to the City's water supply, could have a negative impact on the health of Albany residents. Some residents expressed concern about potential health impacts of higher fluoride levels in the water supply, raising concerns over potential health impacts – particularly effects on mental development and stained teeth. Our research has determined that, similar to overexposure to many chemicals, excessive concentrations of Fluoride can be detrimental. However, the concentration at which fluoride would be added to the City of Albany's water will be at levels regulated and monitored by public health agencies. Albany does not have natural fluoride levels in our reservoir high enough to result in such complications.

Through extensive research, consultations with health experts, and consideration, the Common Council has determined that adding fluoride to the City of Albany's water supply at the concentration proposed would not have a negative impact on the health of Albany's residents. On the contrary, adding fluoride to the water supply will improve dental health outcomes among residents, reducing cavities and the complications that come with them. The Federal Centers for Disease Control and Prevention (CDC) has offered multiple meta-studies, parsing community water fluoridation data and describing the benefits to water fluoridation. The conclusions of these studies are consistent. “. . . Fluoride prevents caries among adults of all ages.” (Griffin SO, Regnier E, Griffin PM, Huntley V. Effectiveness of fluoride in preventing caries in adults. *J Dent Res.* 2007 May;86(5):410-5. doi: 10.1177/154405910708600504. PMID: 17452559). “Water fluoridation was associated with an increased proportion of children without caries and a reduction in the number of teeth affected by caries.” (McDonagh MS, Whiting PF, Wilson PM, Sutton AJ, Chestnutt I, Cooper J, Misso K, Bradley M, Treasure E, Kleijnen J. Systematic review of water fluoridation. *BMJ.* 2000 Oct 7;321(7265):855-9. doi: 10.1136/bmj.321.7265.855. PMID: 11021861; PMCID: PMC27492). Furthermore, when students have dental issues, the pain can disrupt their education. While wealthier children can overcome this, often with expensive dental treatments, poorer students are often left to suffer, impacting their schoolwork and making it harder for them to succeed when compared to their peers. The statistics show that “. . . water fluoridation attenuates income□related inequalities in dental caries.” (Sanders AE, Grider WB, Maas WR, Curiel JA, Slade GD. Association Between Water Fluoridation and Income-Related Dental Caries of US Children and Adolescents. *JAMA Pediatr.* 2019 Mar 1;173(3):288-290. doi: 10.1001/jamapediatrics.2018.5086. PMID: 30688985; PMCID: PMC6439886).

The complexities around scientific studies often result in data points that are taken out of context. A good way to ensure that an analysis focuses on fluoride is to compare two similar groups, with fluoridation being the only difference between the samples. While it is impossible

to truly eliminate any possible externality, the most informative studies are those comparing similarly situated municipalities. One good example is a case study between the comparable cities of Calgary and Edmonton in Alberta, Canada. These two cities are very similar; they are in the same Canadian province and have a population differential of less than 100,000, both today and in 2009. That was the year when one of those cities, Calgary, stopped fluoridating their water. The rate of dental decay rose dramatically, with its rate soon eclipsing that of Edmonton. (McLaren, Lindsay, et al. "Fluoridation cessation and children's dental caries: a 7-Year follow-up evaluation of Grade 2 schoolchildren in Calgary and Edmonton, Canada." *Community Dentistry and Oral Epidemiology* (2021)).

The second environmental concern considered is the effect that the addition of fluoride could have on the broader environment. The City of Albany has two large reservoirs located outside City limits, within Albany County – the Alcove in the Towns of Coeymans and Westerlo, and the Basic Creek in Westerlo – as well as the finished water storage at the Loudonville Reservoir, which straddles the border between the City and the Town of Colonie. Fluoride will not be added to the City's water supply until after the water has been taken from the Alcove reservoir. There is no direct connection between Basic Creek and the water treatment facility either; water from basic creek only flows into the Alcove reservoir when needed to maintain the water supply. Thus, fluoridation will not affect either the Alcove or Basic Creek Reservoirs and the environments around them.

Nevertheless, through the many uses to which residents, visitors, and businesses in Albany put the water supply, some measure of fluoridated water will inevitably end up in the broader local environment. Numerous studies, including research collated by Dr. Howard Pollick of the University of Southern Florida School of Dentistry and published by the CDC, have demonstrated that fluoride, in the concentrations typically added to drinking water supplies, is not harmful to the environment. (Water Fluoridation and the Environment: Current Perspective in the United States HOWARD F. POLLICK, BDS, MPH, INT J OCCUP ENVIRON HEALTH 2004;10:343–350). As Dr. Pollick wrote, water fluoridation is only "the controlled adjustment of fluoridation concentrations of community water systems to optimal levels... Since the chemicals used for water fluoridation are co-products of the manufacture of phosphate fertilizers, and the raw material used is a natural resource (rocks excavated for their mineral content), water fluoridation could accurately be described as environmentally friendly, as it maximizes the use made of these natural resources, and reduces waste." Studies have shown that runoff of fluoridated water theoretically could raise the concentration of fluoride in rivers by 0.001-0.002 mg/L, "a value not measureable by current analytic techniques," even using industry standard instruments, and "well below" the levels "recommended for environmental safety." Similarly, "the concentration of fluoride in ... treated water did not reach levels that could harm any plant or animal species," and "there is no evidence that fluoridated water has any effect on gardens, lawns, or plants;" indeed, at least one study found that there was no appreciable effect on food grown with fluoridated water and then consumed by humans. The EPA and National Association of Corrosion Engineers have also determined that "corrosion is not related to fluoride."

The final environmental concern is whether any of the repairs or renovations required at City facilities to effectuate the fluoridation of the water supply will have any environmental impact. No significant impacts have been identified. The existing water treatment plant, where fluoride would be added, has space available for the chemical storage tanks and chemical feed equipment which will be required to fluoridate the water supply. Any necessary construction will take place only within the existing property footprint. The Water Department's eventual design plan for the required renovations will also be submitted to the New York State Health Department's Bureau of Public Water Supply for approval.

Ultimately, the Common Council agrees with Dr. Pollick: "Scientific evidence supports the fluoridation of public water supplies as safe for the environment and beneficial to people. There appears to be enough concern about the environmental aspects of water fluoridation among those who have investigated the matter." Thus, the Common Council of the City of Albany has determined that fluoridation of the City's water supply will have no negative impacts on the environment.