

24311

DATE January 17, 2012

TO: Board of Acquisition and Contract

FROM: Edward Buroughs
Commissioner of Planning

SUBJECT: Resolution authorizing the County of Westchester to enter into an Intermunicipal Agreement (“IMA”) with the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Village of Mount Kisco in order to distribute funds from East of Hudson Water Quality Investment Program Funds (EOH WQIP) to partially finance the costs of implementation of the regional stormwater retrofit plan

The attached resolution authorizes the County of Westchester (the “County”) to enter into an Intermunicipal Agreement (“IMA”) with the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Village of Mount Kisco, also known as the Croton watershed municipalities of the Croton Kensico Watershed Intermunicipal Coalition (“CKWIC Municipalities”), in order to distribute funds from East of Hudson Water Quality Investment Program Funds (“EOH WQIP”) to partially finance the costs of implementation of the CKWIC regional stormwater retrofit plan. The not-to-exceed amount of the agreement is Ten Million (\$10,000,000.00) Dollars (the “EOH Funds”) and the term of the agreement will commence upon the signing of the IMA and terminate five (5) years thereafter.

The CKWIC Municipalities intend to cooperate on achieving their shared goal of meeting the requirements of the New York State Department of Environmental Conservation (“NYS DEC”) State Pollutant Discharge Elimination System (“SPDES”) permit for stormwater discharges. The CKWIC Municipalities, all having land area within the Croton watershed, propose to implement certain stormwater retrofit projects as set forth in Schedule “A” of the proposed IMA. Pursuant to the IMA, the County will enter into Project Sub-Agreement(s) with municipalities undertaking retrofit projects for distribution of the EOH Funds on a project by project basis. Any Project to be funded, including any amendment to increase the cost or scope of such Project, must have the unanimous approval of the CKWIC Municipalities.

On December 5, 2011, the County Board of Legislators (the "Board") pursuant to Act No.186-2011 authorized the County to transfer the EOH Funds, for which the County is custodian under the 1997 Watershed Memorandum of Agreement (the "MOA"), into a County Trust Account in order to fund a portion of the eligible costs associated with approved stormwater retrofit projects.

On December 5, 2011, the Board pursuant to Act No. 187-2011, authorized the County to enter into the IMA with the CKWIC Municipalities in order to distribute the EOH Funds in order to fund a portion of the Municipalities' eligible costs associated with approved stormwater retrofit projects. The Board approval recognized that the Municipalities were in the process of forming a not-for-profit corporation or some comparable legal entity (the "Corporation") to perform the Municipalities' responsibilities with respect to the projects. Pursuant to the proposed IMA, following due formation of the Corporation and receipt of an executed acknowledgement from NYC Department of Environmental Protection, the County will enter into an agreement (the "Assignment Agreement") with the Corporation whereby any remaining EOH funds would be disbursed to the Corporation and the Corporation would assume all of the County's and the Municipalities' rights and responsibilities under the IMA, noting that the Municipalities' obligation to defend and indemnify the County will continue.

The CKWIC Municipalities have subsequently informed the County that the Corporation has been formed, known as the East of Hudson Watershed Corporation. Accordingly, it is contemplated that the Assignment Agreement will be executed immediately following signing of the IMA.

The agreements will serve the public purpose of protecting the environment by improving water quality within the Croton Watershed of the New York City water supply system. The goal and objective is to meet the requirements of the United States Environmental Protection Agency Phase II Federal Stormwater Regulations which require regulated small municipal separate storm sewer systems ("MS4s") to obtain a NYS DEC SPDES permit for stormwater discharges. The project may initially be monitored by the Department of Planning staff, however, following execution of the Assignment Agreement, the projects will be monitored solely by the Corporation.

I recommend approval of the agreements.

EB/cp/kar
Attachment

RESOLUTION

UPON A COMMUNICATION FROM THE COMMISSIONER OF PLANNING, BE IT HEREBY

RESOLVED: that the County of Westchester is hereby authorized to enter into an Intermunicipal Agreement (“IMA”) with the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Village of Mount Kisco (the “CKWIC Municipalities”); and be it further

RESOLVED: that the IMA, in the not to exceed amount of \$10,000,000.00 to be transferred from the East of Hudson Water Quality Investment Program Funds (the “EOH Funds”), will commence upon execution and terminate five (5) years thereafter, unless terminated sooner pursuant to its terms, noting that the County may enter into Project Sub-Agreements with municipalities undertaking retrofit projects for distribution of the Fund on a project by project basis; and be it further

RESOLVED: that pursuant to the terms of the IMA, the County is authorized to enter into an agreement with the East of Hudson Watershed Corporation (the “Corporation”) (the “Assignment Agreement”) whereby any remaining EOH funds would be disbursed to the Corporation and the Corporation would assume all of the County’s and the Municipalities’ rights and responsibilities under the IMA, noting that the Municipalities’ obligation to defend and indemnify the County will continue; and be it further

RESOLVED: that the County Executive or his duly authorized designee is authorized to execute any documents and take any actions necessary to effectuate purposes hereof.

Recommended for Approval.

Account to be Charged/Credited

		Major Program, Program & Phase	Object/	Trust	
Fund	Dept	Or Unit	Sub Object	Account	Dollars
263	19W	112M	4380	T112	\$10,000,000.00

Budget Funding Year(s) FY 2012 Start Date: Upon Signing IMA End Date: Five (5) Years After Signing IMA
(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$10,000,000.00
(must match resolution)

Federal Aid _____

Other \$10,000,000.00

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APPROVED BOARD OF ACQUISITION & CONTRACT - 01/26/2012 - JOMARY VIEIRA, SECRETARY