

44274

Date: January 16, 2015

To: Honorable Members of the Board of Acquisition and Contract

From: Thomas J. Lauro, Commissioner
Department of Environmental Facilities

RE: Authority to enter into a license agreement with Kimball Brooklands Corporation (“Brooklands”) for a period of twenty (20) years commencing upon execution, pursuant to which the County will give Brooklands a license to construct an earthen berm on its property in connection with a flood control project (the “Project”) for an annual license fee of \$780.00.

Authority is requested for the County of Westchester (the “County”), acting by and through County Water District No. 1 (the “District”), to enter into a license agreement (the “License”) with Kimball Brooklands Corporation (“Brooklands”) for a period of twenty (20) years commencing upon execution, pursuant to which the County will give Brooklands a license to construct an earthen berm on its property in connection with a flood control project (the “Project”) for an annual license fee of \$780.00.

Under the proposed License terms the County will grant Brooklands non-exclusive permission to enter upon, use and occupy a portion of the County’s land for the purposes of constructing and thereafter maintaining and/or repairing an earthen berm. Brooklands will maintain for itself and cause its independent contractors and subcontractors to keep in force and effect insurance as required by the County. In addition, Brooklands will defend and indemnify the County for claims arising out of this agreement. Either party shall have the right to terminate the agreement on ninety (90) days prior written notice to the other.

The goal and objective of the proposed License agreement is to prevent flooding of the Kimball Brooklands Apartment Complex. The public purpose is to protect the health and welfare of the residents of the County. The goals and objectives of the proposed license agreement will be tracked and monitored by the Department.

Accordingly, I most respectfully recommend approval of the attached Resolution.

TJL/EOS

RESOLUTION

Upon a communication from the Commissioner of Environmental Facilities, be it hereby:

RESOLVED, that the County of Westchester (the "County"), acting by and through County Water District No. 1, is hereby authorized to enter into a license agreement, for a period of twenty (20) years commencing upon execution, with Kimball Brooklands Corporation ("Brooklands"), pursuant to which the County will grant a license to Brooklands to use its property for the purposes of constructing and thereafter maintaining and/or repairing an earthen berm in connection with a flood control project for an annual license fee of \$780.00 to be paid to the County; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

Account to be
Charged/Credited

	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
Annual	241	60	5110	9670		\$780

Budget Funding Year(s) 2015 – 2034 Start Date upon execution End Date 20 years after execution.
(must match resolution)

Funding Source

Tax Dollar _____

State Aid _____

\$ \$780 per year
(must match resolution)

Federal Aid _____

Other \$780 per year

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/05/2015 - JOMARY VIEIRA, SECRETARY