

**58315**

DATE: August 2, 2017

TO: Board of Acquisition and Contract

FROM: Eileen Mildenberger  
Acting Commissioner of Planning

SUBJECT: Resolution authorizing a second amendment to an Intermunicipal Agreement between the County of Westchester and the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Town/Village of Mount Kisco, known as the Croton Kensico Watershed Intermunicipal Coalition and a second amendment to a corporation agreement with the East of Hudson Watershed Corporation in order to use any and all remaining funds from an approved disbursement from the East of Hudson Water Quality Investment Program Fund for approved projects for the first five years of a regional stormwater retrofit plan, for approved projects for the second five years of the regional stormwater retrofit plan

Authority is requested from your Honorable Board for the County to enter into a second amendment to an intermunicipal agreement (the "IMA") between the County of Westchester (the "County") and the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Town/Village of Mount Kisco (the "CKWIC Municipalities") and a second amendment to a corporation agreement ("Corporation Agreement") between the County and the East of Hudson Watershed Corporation (the "Corporation") for the purpose of authorizing the use of "any and all remaining funds" from a prior authorization for the use of funds from the East of Hudson Water Quality Investment Program Fund ("EOH WQIP Fund") for approved projects from the first five years of a regional stormwater retrofit plan for approved projects for the second five years of a regional stormwater retrofit plan.

On July 28, 2016, your Honorable Board authorized, *inter alia*, a first amendment to the IMA and a first amendment to the Corporation Agreement in order for the parties to change the termination date from December 31, 2016 to December 31, 2021 and to change the scope of services to include any and all approved regional stormwater retrofit projects for the second five years of the regional stormwater retrofit plan. At that time, the Corporation had advised the

Department of Planning that up to \$3,000,000 was remaining from the projects for the first five years. Subsequently, the Corporation advised the Department of Planning that the funds remaining from the first five years was in excess of \$3,000,000. Therefore, authority is being requested herein that “any and all remaining funds” be authorized for the projects associated with the second five years of the regional stormwater retrofit plan.

For background, on January 26, 2012, your Honorable Board authorized the County to enter into the IMA with the CKWIC Municipalities in order to distribute funds from the EOH WQIP Fund to partially finance the costs in connection with the implementation of approved projects for the first five years of the regional stormwater retrofit plan. Further, on January 26, 2012, your Honorable Board authorized the execution of an agreement between the County and the Corporation”) which was formed by the CKWIC Municipalities for the purpose of assigning all of the rights and responsibilities under the IMA to the Corporation. The not-to-exceed amount of the IMA and the subsequent agreement was \$10,000,000.00 (“EOH WQIP Funds”) and the term of the agreement commenced as of January 1, 2012 with a termination date of December 31, 2016. Further, in or about April 2012, the County entered into a letter agreement with NYC DEP which letter agreement memorialized that the EOH WQIP Funds would be used for only projects authorized for the first five years of the stormwater retrofit plan.

On the 5<sup>th</sup> day of June, 2017, by Act No. 104-2017, the County Board of Legislators approved the Second Amendment to the IMA for the use of “any and all remaining” funds from the prior authorization for the approved projects for the first five years of the regional stormwater retrofit plan for approved projects for the second five years of the regional stormwater retrofit plan.

The attached resolution authorizes the County to enter into a second amendment to the IMA for the use of “any and all remaining funds” from an approved disbursement from the EOH WQIP Fund for approved projects for the first five years of the regional stormwater retrofit plan for approved projects for the second five years of the regional stormwater retrofit plan.

The original agreements, first amendments and second amendments will serve the public purpose of protecting the environment by improving water quality within the New York City public drinking water Watershed. The goal and objective is to meet the requirements of the United States Environmental Protection Agency Phase II Federal Stormwater Regulations which requires regulated small municipal storm sewer systems (MS4s) to obtain a NYS DEC State Pollutant Discharge Elimination System permit for stormwater discharges. The amended agreements will be monitored by the Department of Planning staff during their monthly meeting with the Northern Westchester Watershed Committee where the CKWIC Municipalities will be reporting on the progress of the projects.

I recommend approval of the attached resolution.

EM/lac/nvv/cp/tc  
Attachment

**RESOLUTION**

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

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to enter into a second amendment to the Intermunicipal Agreement ("IMA") between the County and the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Town/Village of Mount Kisco, and a second amendment to the Corporation Agreement between the County and the East of Hudson Watershed Corporation, to authorize the use of "any and all remaining funds" from an original approved disbursement of up to \$10,000,000 from the East of Hudson Water Quality Investment Program Fund for approved projects for the first five years of a regional stormwater retrofit plan for approved projects for the second five years of the regional stormwater retrofit plan; and be it further

**RESOLVED**, that all the other terms and conditions of the aforesaid IMA and Corporation Agreement and the First Amendments to the IMA and the Corporation Agreement will remain the same; and it is further

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

Original Agreement \$10,000,000.00  
 Amendment \$ 0.00  
 TOTAL \$10,000,000.00

AGREEMENT NUMBER C-PL-12-363

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
263	19W	112M	4380	T112	\$0.00

Budget Funding Year(s) FY 2012 Start Date: January 1, 2012 End Date: December 31, 2021  
 (must match resolution)

Funding Source Tax Dollars \_\_\_\_\_  
 State Aid \_\_\_\_\_  
\$0.00 Federal Aid \_\_\_\_\_  
 (must match resolution) Other \$0.00 \_\_\_\_\_