

Date: January 25, 2010

To: The Honorable Board of Acquisition and Contract

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

Re: **Authority to enter into a License Agreement with the New York City Water Board granting the County of Westchester, on behalf of Water Districts No. 1 and No. 3, the right to access the Catskill/Delaware Ultraviolet Disinfection Facility to obtain a supply of Treated Water, commencing upon execution in an amount not-to-exceed \$5,064,000.00, plus interest.**

Attached for your consideration is a Resolution which, if approved, will authorize the County of Westchester, on behalf of Water Districts No. 1 and No. 3 (the "County"), to enter into a license agreement (the "License") with the New York City Water Board ("Water Board"), a public benefit corporation, granting the County the right to access the Catskill/Delaware Ultraviolet Disinfection Facility via two 48" diameter water pipes (the "Connection Work") to be located on New York City (the "City") Department of Environmental Protection's ("DEP") Eastview site adjacent to the Grasslands Reservation in order to obtain a supply of Treated Water (defined below). It should be noted that the City is the owner in fee of the New York City Water and Sewer System (the "Systems"). The Systems have been leased by the Water Board pursuant to an Agreement of Lease, dated as of July 1, 1985, as amended, between the City and the Water Board (the "Lease"). DEP operates and maintains the Systems. Pursuant to the Lease, the Water Board is authorized to establish and collect fees, rates, rents and other service charges for the use of, or for services furnished, rendered or made available by, the Systems and pursuant to Section 1045-g (7) of the Public Authorities Law of the State of New York. As such, the Water Board is empowered to authorize and execute the License.

The License shall commence upon execution and will continue until full maturity of the issuance of New York City Municipal Water Finance Authority bonds ("Water Authority Bond Issuance") financing construction by DEP of the Connection Work, anticipated to be approximately thirty (30) years. The County shall pay the Water Board a license fee an amount not-to-exceed Five Million Sixty Four Thousand Dollars (\$5,064,000.00), plus interest, in semi-

annual installments for a period of thirty (30) years. The interest rate will be calculated based on the rate for the Water Authority Bond Issuance at the time of the first dispersal of funds for the Connection Work. The Water Board has estimated that the rate will be in the range of 4.7% and will notify the County in writing of said interest rate when determined.

By way of background it should be noted that the County has been advised by the United States Environmental Protection Agency's ("EPA") that UV treated drinking water will be required to be provided to residents of Westchester County commencing in 2013. Pursuant to the EPA's 2002 Filtration Avoidance Determination ("2002 FAD"), which governs New York City watershed waters, the DEP is constructing the UV Facility. The Connection Work will allow the County to connect to the UV Facility in order to access a supply of water subjected to UV disinfection ("Treated Water") which will ensure compliance with federal and state drinking water standards and significantly enhance the water supply.

The County operates Water Districts No. 1 and No. 3 (together the "Water Districts") that are currently connected to the Catskill Aqueduct. As the County and its Water Districts will be required to comply with federal and state drinking water standards, the County requested a connection to the UV Facility in order to supply Treated Water to the County and its Water Districts. As a result, DEP has agreed to construct, for the County's benefit, the Connection Work, which consists of two 48-inch diameter water lines that will run from the UV Facility to the proximity of DEP's boundary line at the Eastview site and end in blind flanges, allowing the County to make a connection to receive Treated Water. Simply, the Connection Work is being constructed by DEP and financed by the Water Board for the benefit of the County and its Water Districts, as it will allow the County the most efficient and expedient access to a supply of Treated Water and allow the County to also comply with federal and state drinking water standards in a timely manner.

The County expects to obtain a prorated share of the license fees from other authorized municipalities and/or water districts that are entitled to access the Connection Work to receive a supply of Treated Water, including without limitation the Villages of Tarrytown, Briarcliff and Sleepy Hollow (together the "Villages") and the Town and Village of Mamaroneck, the Town/Village of Harrison and Westchester Joint Water Works, including its customers, including without limitation, United Water Westchester ("WJWW" and together with the Town and Village of Mamaroneck and Harrison, the "Municipalities"). It should be noted that legislation was submitted to the Board of Legislators on December 14, 2009 requesting approval of an intermunicipal agreement (the "IMA") by and among the County and the Municipalities, pursuant to which the Municipalities would agree to pay their pro rata share of the Connection Work (should it be approved). The Department anticipates seeking approval for an IMA with the Villages in the near future. Based upon DEP approved estimated maximum flow requests, the Department anticipates that that cost of Connection Work will be allocated as follows:

CONNECTION WORK -

WJWW and its member Municipalities – 13%	\$658,320
United Water Westchester – 14%	\$708,960
Subtotal - WJWW Maximum Capacity – 27%	1,367,280
Villages – 16%	\$810,240
County Water District No. 1 – 53%	\$2,683,920
County Water District No. 3 – 4%	\$202,560
Estimated Total*	\$5,064,000*

* Plus interest at such rate as may be charged to the County

The objective of this license agreement is to maintain compliance with the federal and state drinking water standards to supply water subjected to UV disinfection. Not entering into this contract would jeopardize compliance with the applicable standards. The public purpose is to protect the health of the residents of the County. The project shall be tracked and monitored by the Department of Environmental Facility's on-going oversight of the work being performed. Pursuant to Section 3(b) of the Westchester County Procurement Policy, this License Agreement is exempt.

Based on the benefit to the County, I recommend approval of this Resolution.

TJL/KAR/dmf
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 2/4/2015 - DOMINIC VIEIRA, SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester, on behalf of Water Districts No. 1 and No. 3 is authorized to enter into a license agreement with the New York Water Board (the "Water Board") granting the County the right to access the Catskill/Delaware Ultraviolet ("UV") Disinfection Facility via two 48" diameter water pipes (the "Connection Work") located on New York City (the "City") Department of Environmental Protection's ("DEP") Eastview site adjacent to the Grasslands Reservation to obtain a supply of UV treated water; and be it further

RESOLVED, that the license shall commence upon execution and will continue until full maturity of the issuance of New York City Municipal Water Finance Authority bonds ("Water Authority Bond Issuance") financing construction by DEP of the Connection Work, and be it further

RESOLVED, that the County shall pay the Water Board a license fee in an amount not-to-exceed Five Million Sixty Four Thousand Dollars (\$5,064,000.00), plus interest in semi-annual installments for a period of thirty (30) years, noting that the interest rate will be calculated based on the rate of the Water Authority Bond Issuance at the time of the first dispersal of funds for the Connection Work. It is estimated that the rate will be in the range of 4.7% and the Water Board will cause the County to be notified in writing of said interest rate when determined.

RESOLVED, that the County anticipates seeking all necessary approvals for agreements to obtain a prorated share of the license fee from other authorized municipal entities and/or water districts that desire use of the Connection Work; and be it further

RESOLVED, that that the County Executive or his duly authorized designee is authorized to execute all documents necessary and appropriate to carry out the purpose of this Resolution.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
Annual payments	241	60	5110	4380		Annual DS expense as calculated on above listed amounts
Annual payments	243	60	5310	4380		Annual DS expense as calculated on above listed amounts

Budget Funding Year(s) Start Date: Upon Execution End Date: 30 years after execution
 (must match resolution)

Funding Source: Tax Dollars 100% _____ Contractor Federal I.D. No./
 State Aid _____ Social Security No.: _____
\$5,064,000 plus interest as calculated Federal Aid _____ Vendor No.: _____
 (must match resolution) Other _____ Encumbrance No.: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 2-4-2010 JOMARY VIEIRA SECRETARY