

78242

**TO:** Board of Acquisition and Contract

**FROM:** Hugh J. Greechan, Jr., P.E.  
Commissioner of Public Works and Transportation

**DATE:** July 28, 2020

**SUBJECT:** Request authority for the County of Westchester to amend a Resolution approved on May 7, 2020, authorizing the County of Westchester to enter into a grant agreement with the New York State Environmental Facilities Corporation to accept a grant in the amount of \$30,000.00 from the New York State Emerging Contaminants Project Planning Grant Program, to pay for an engineering report in connection with the New King Street Waterline Extension project at the Westchester County Airport, in order to (i) reflect the correct term of the grant agreement and (ii) indemnify the New York State Environmental Facilities Corporation.

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By resolution approved on May 7, 2020 (“May Resolution”), your Honorable Board authorized the County of Westchester (“County”), acting by and through its Department of Public Works and Transportation (“Department”), to enter into a grant agreement (“Grant Agreement”) with the New York State Environmental Facilities Corporation (“NYSEFC”), to accept a grant in the amount of \$30,000.00 (“Grant”) from the New York State Emerging Contaminants Project Planning Grant Program (“ECPPG Program”) in connection with a certain drinking water infrastructure project entitled “New King Street Waterline Extension” (“Project”) at the Westchester County Airport (“Airport”), for a term commencing on July 8, 2019 and terminating on July 7, 2020.

The Department has recently learned that the term of the Grant Agreement commences on August 4, 2020 and terminates on August 3, 2021. Authority is now being requested from your Honorable Board to amend the May Resolution in order to correct the term of the Grant Agreement from “commencing on July 8, 2019 and terminating on July 7, 2020” to “commencing on August 4, 2020 and terminating on August 3, 2021.”

Authority is also being requested from your Honorable Board to authorize the County to indemnify NYSEFC as follows:

“To the fullest extent permitted by law, the [County] shall indemnify and defend the [NYSEFC], its directors, employees, and agents against, and hold harmless from, any and all losses, claims, damages, liabilities and costs of any nature arising out of the execution or delivery of this Grant Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the [NYSEFC], the administration and enforcement of this Grant Agreement and any agreement or instrument contemplated hereby (including all such costs and expenses incurred in connection with any proceeding under the United States Bankruptcy Code involving [County] as a debtor thereunder, provided that such indemnity shall not be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of the [NYSEFC], its directors, employees, or agents.”

Except as specifically amended hereby, all other terms and conditions set forth in the May Resolution and the Grant Agreement shall remain unchanged and in full force and effect.

Accordingly, approval of the attached resolution is respectfully requested.

HJG/JA/CMC

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/06/2020 - LISA MRIJAJ, SECRETARY

# RESOLUTION

Upon communication from the Commissioner of Public Works and Transportation, be it:

**RESOLVED**, that the resolution approved on May 7, 2020 (“May Resolution”), authorizing the County of Westchester (“County”), acting by and through its Department of Public Works & Transportation (“Department”), to enter into a grant agreement (“Grant Agreement”) with the New York State Environmental Facilities Corporation (“NYSEFC”) to accept a grant in the amount of \$30,000.00 from the New York State Emerging Contaminants Project Planning Grant Program (“ECPPG Program”) to fund the preparation of a certain New York State Drinking Water State Revolving Fund (DWSRF) engineering report in connection with the “New King Street Waterline Extension” drinking water infrastructure project (“Project”) at the Westchester County Airport (“Airport”), for a term commencing on July 8, 2019 and terminating on July 7, 2020, is hereby amended in order to correct the term of the Grant Agreement from “commencing on July 8, 2019 and terminating on July 7, 2020” to “commencing on August 4, 2020 and terminating on August 3, 2021;” and be it further

**RESOLVED**, that the County is authorized to defend and indemnify NYSEFC according to the following indemnification language contained in the Grant Agreement, as follows:

“To the fullest extent permitted by law, the [County] shall indemnify and defend the [NYSEFC], its directors, employees, and agents against, and hold harmless from, any and all losses, claims, damages, liabilities and costs of any nature arising out of the execution or delivery of this Grant Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the [NYSEFC], the administration and enforcement of this Grant Agreement and any agreement or instrument contemplated hereby (including all such costs and expenses incurred in connection with any proceeding under the United States Bankruptcy Code involving [County] as a debtor thereunder, provided that such indemnity shall not be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of the [NYSEFC], its directors, employees, or agents.”

**RESOLVED**, that except as specifically amend herein, all other terms and conditions of the May Resolution and the Grant Agreement shall remain the same; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purpose hereof.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
	361	44	A009701E	9634	N/A	N/A

**Budget Funding Year(s):** 2020-2021      **Start Date:** 08/04/2020      **End Date:** 08/03/2021

(must match resolution)

**Funding Source:**      **Tax Dollars** \_\_\_\_\_

**State Aid** \_\_\_\_\_ N/A \_\_\_\_\_

\$N/A      **Federal Aid** \_\_\_\_\_

(must match resolution)

**Other** \_\_\_\_\_