



Robert P. Astorino
County Executive

Public Utility Service Agency

Vincent C. Vesce, Chair

Timothy S. Carey, Executive Director

26347

Date: April 17, 2012

To: Honorable Members of the Board of Acquisition and Contract

From: Timothy S. Carey, Executive Director
County of Westchester Public Utility Service Agency

Re: Amending a resolution authorizing the County of Westchester, acting by and through the County of Westchester Public Utility Service Agency, to enter into three (3) agreements with BASF Corporation for the sale of lower cost Municipal Distribution Agency power, in order to eliminate authorization for one (1) agreement, change the power allocation specified in the authorization for one (1) agreement, and change the termination date for each agreement to June 30, 2012.

By Resolution approved on November 12, 2010 (the "November 12th Resolution"), your Honorable Board authorized the County of Westchester (the "County"), acting by and through the County of Westchester Public Utility Service Agency ("COWPUSA"), to enter into each of the following agreements:

- 1.) An agreement for the sale of up to 3200 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 540 White Plains Road, Tarrytown, New York 10591, for a term July 1, 2010 through June 30, 2015 (the "First Agreement");
- 2.) An agreement for the sale of up to 1015 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 1057 Lower South Street, Peekskill, New York 10566, for a term June 1, 2008 through May 31, 2013 (the "Second Agreement"); and
- 3.) An agreement for the sale of up to 1000 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service

Agency to BASF Corporation, 1050 Lower South Street, Peekskill, New York 10566, for a term June 1, 2008 through May 31, 2013 (the "Third Agreement").

(collectively, the "Contract Authorizations"). The First Agreement was subsequently executed.

COWPUSA was recently informed that the power allocations specified in the November 12th Resolution for the Second Agreement and the Third Agreement were incorrect. COWPUSA was informed that there should have been no allocation to BASF Corporation for 1050 Lower South Street, as a different COWPUSA customer now occupies that location and has a separate agreement with COWPUSA to receive Municipal Distribution Agency economic development power. Instead, the allocation of up to 1000 kW for BASF Corporation for 1050 Lower South Street should have been added to the allocation of up to 1015 kW for BASF Corporation for 1057 Lower South Street, for a total allocation of up to 2015 kW for BASF Corporation for 1057 Lower South Street.

In addition, after your Honorable Board approved the November 12th Resolution, COWPUSA was informed that the Municipal Distribution Agency program will end on June 30, 2012. Therefore, the termination date for each agreement should be changed to June 30, 2012.

Accordingly, the County respectfully requests that your Honorable Board amend the November 12th Resolution to replace the Contract Authorizations with authorization for the County, acting by and through COWPUSA, to enter into each of the following agreements:

- 1.) An agreement for the sale of up to 3200 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 540 White Plains Road, Tarrytown, New York 10591, for a term July 1, 2010 through June 30, 2012; and
- 2.) An agreement for the sale of up to 2015 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 1057 Lower South Street, Peekskill, New York 10566, for a term June 1, 2008 through June 30, 2012.

The proposed agreements will serve a public purpose as they will foster employment and economic growth in Westchester. The high cost of electricity in the Con Edison service territory is a concern to businesses and factors into their decision to remain in or relocate to Westchester County.

The goals and objectives of the proposed agreements are in the best interests of the County as the provision of Municipal Distribution Agency power will provide lower cost electricity thereby encouraging these businesses to remain in Westchester and continue to provide employment opportunities, thereby contributing to the economic health of the County.

The goals and objectives of the proposed agreements are in the best interests of the County in terms of fiscal responsibility as the Department of Finance, on behalf of COWPUSA,

will timely bill this customer and monitor its payments to make sure that they are received in a timely manner.

The goals and objectives of the proposed agreements will be tracked and monitored by COWPUSA.

COWPUSA's Commissioners, at a duly constituted meeting, voted to revise the authorizations for the aforementioned agreements in the manner described above, subject to the approval of your Honorable Board.

Accordingly, your favorable action on the annexed Resolution is most respectfully urged and recommended.

TSC/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/24/2012 - JOMAR VIEIRA SECRETARY

RESOLUTION

Upon a communication from the Executive Director of the County of Westchester Public Utility Service Agency, be it hereby

RESOLVED, that the resolution approved on November 12, 2010 (the November 12th Resolution”), which authorized the County of Westchester (the “County”), acting by and through the County of Westchester Public Utility Service Agency (“COWPUSA”), to enter into each of the following agreements:

- 1.) An agreement for the sale of up to 3200 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 540 White Plains Road, Tarrytown, New York 10591, for a term July 1, 2010 through June 30, 2015;
- 2.) An agreement for the sale of up to 1015 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 1057 Lower South Street, Peekskill, New York 10566, for a term June 1, 2008 through May 31, 2013; and
- 3.) An agreement for the sale of up to 1000 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 1050 Lower South Street, Peekskill, New York 10566, for a term June 1, 2008 through May 31, 2013,

(the “Contract Authorizations”) is hereby amended by replacing the Contract Authorizations with authorization for the County, acting by and through COWPUSA, to enter into each of the following agreements:

- 1.) An agreement for the sale of up to 3200 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 540 White Plains Road, Tarrytown, New York 10591, for a term July 1, 2010 through June 30, 2012; and
- 2.) An agreement for the sale of up to 2015 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to BASF Corporation, 1057 Lower South Street, Peekskill, New York 10566, for a term June 1, 2008 through June 30, 2012

; and be it further

RESOLVED, that except as specifically amended hereby, all terms and conditions of the November 12th Resolution shall remain in full force and effect.

Account to be
Charged/Credited

| | | Major Program, Program & Phase | Object/ Sub Object | Trust Account | |
|------|------|-----------------------------------|-----------------------|------------------|---------|
| Fund | Dept | Or Unit | | | Dollars |
| | | | | | |

Budget Funding Year(s) _____
(must match resolution)

Start Date 7/01/10
Start Date 6/01/08

End Date 6/30/12
End Date 6/30/12

Funding Source

Tax Dollars _____

State Aid _____

Federal Aid _____

_____ (must match resolution)

Other Revenue _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/24/2012 - JOHNNY VIENNA, SECRETARY