

**47670**

DATE: July 13, 2015

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, M.D.  
Commissioner of Health

RE: Authorization to enter into an Amendment to an Agreement with the New York State Department of Environmental Conservation ("NYSDEC") whereby Westchester County, acting by and through its Department of Health, would conduct private well water testing at specified sites in the Town of Bedford, for a term retroactive to 3/01/2002 and continuing through 10/31/2012, in the amount not-to-exceed \$255,000, to be reimbursed by the NYSDEC at mutually agreed upon unit costs, in order to extend the term through December 31, 2016 at their request for the same not-to-exceed amount.

On August 6, 2009, your Honorable Board approved a Resolution which authorized the County of Westchester, acting by and through its Department of Health (the "WCDH"), to enter into an agreement with the New York State Department of Environmental Conservation ("NYSDEC") whereby the WCDH would conduct private well water testing at specified sites in the Town of Bedford ("Work"), for a term retroactive to 3/01/2002 and continuing through 10/31/2012, in the amount not-to-exceed \$255,000, to be reimbursed by the NYSDEC at mutually agreed upon unit costs (the "Agreement"). This Agreement has been executed.

Since the contract not-to-exceed amount had not been fully expended, the NYSDEC had advised the WCDH that it would seek authorization to extend the term of the Agreement.

At the request of and to the satisfaction of the NYSDEC, the WCDH submitted all documentation and a Final Close-out Report in June 2013 in order to claim the remainder of the not-to-exceed amount of \$22,750. However, the NYSDEC has acknowledged significant delays in sending a contract amendment, and final payment cannot be made to WCDH without an executed amendment.

It should be noted that the Work has served the interests of the NYSDEC, the County and the residents of the area affected by the previous documented contamination to their local well water supply.

Therefore, the WCDH seeks authorization to enter into an amendment with the NYSDEC in order to extend the term through December 31, 2016 at their request for the same not-to-exceed amount.

By way of background, it should be noted that pursuant to the NYSDEC's Amended Record of Decision ("ROD") enacted in March 2002, the WCDH would conduct testing of private well water at specified sites in the Town of Bedford known to have been contaminated by hazardous chemical waste. Back in 2009 the NYSDEC had informed the WCDH that funds had become available to reimburse the WCDH for the costs of sampling and testing of these sites, and would be payable through a State Assistance Contract. (the Agreement)

The public purpose has been to promote the health of County residents by addressing the current and/or potential threat to private well water due to the presence of hazardous chemical waste at specified sites in the Town of Bedford.

The goals and objectives of the program were to test specific private well water sites for the presence and migration of hazardous chemical waste to prevent the ingestion of contaminated water, which has been in the best interests of the County as it protects the public health and the environment. This has been accomplished by continued periodic testing of specified private well water sites by WCDH staff. Sampling sites were subject to change based on test results and plume migration patterns.

These goals and objectives have been tracked and monitored through the use of a log detailing sites tested, WCDH staff time, and lab test costs which have been submitted quarterly to NYSDEC for reimbursement. WCDH and NYSDEC staff have reviewed all test results to evaluate appropriateness of sampling sites and test frequency.

The requirements of the Westchester County Procurement Policy were followed. The procurement is exempt under Section 3 (a) iii of the procurement policy, which provides for the exception, "transactions or contracts with the United States of America, any State Agency...". This agreement is a transaction/contract with the NYSDEC.

All other terms and conditions of the original Agreement shall remain unchanged.

Your approval of the attached resolution is respectfully requested.

SA/dc  
Attachment

**RESOLUTION**

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

**RESOLVED,** that the County of Westchester, acting by and through its Department of Health (“WCDH”), is authorized to enter into an Amendment to an Agreement with the New York State Department of Environmental Conservation (“NYSDEC”) whereby the WCDH would conduct private well water testing in the Town of Bedford, for a term retroactive to 3/01/2002 and continuing through 10/31/2012, in the amount not-to-exceed \$255,000, to be reimbursed by the NYSDEC at mutually agreed upon unit costs, in order to extend the Agreement from October 31, 2012 through December 31, 2016 at their request for the same not-to-exceed amount; and be it further

**RESOLVED,** that all other terms and conditions of the original Agreement shall remain unchanged; and, be it further

**RESOLVED,** that the County Executive or his duly authorized designee be and hereby is authorized and empowered to execute all appropriate contracts of documents necessary to effectuate the purposes of this resolution in the manner prescribed by law.

Department of Health  
 County of Westchester  
 10 County Center Road, 2<sup>nd</sup> Floor  
 White Plains, New York 10607  
 July 13, 2015

Original Agreement	\$255,000
First Amendment	\$0
This Amendment	\$ _____
<b>TOTAL</b>	<b>\$ _____</b>

Agreement #

Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase or Unit	Object/ Sub-Object	Trust Account	Dollars
		101	27	8680	9149	

  

Budget Funding Year(s) (must match resolution)	<u>2012-2016</u>	Start Date	<u>11/01/2012</u>	End Date	<u>12/31/2016</u>
Funding Source	Tax Dollars	_____			
	State Aid	_____			
<b>\$22,750</b>	Federal Aid	_____			
(must match resolution)	Other	<u>Revenue from NYSDEC</u>			