

48195

TO: Board of Acquisition and Contract

FROM: Thomas J. Lauro, P.E.
Commissioner of Environmental Facilities

Jay T. Pisco, P.E.
Commissioner of Public Works &
Transportation

DATE: August 25, 2015

SUBJECT: Resolution authorizing the County of Westchester to enter into a non-disclosure agreement with the City of New York, acting by and through the New York City Department of Environmental Protection regarding confidential and proprietary information that may need to be shared in connection with the purpose of complying with the Long Term 2 Enhanced Surface Water Treatment Rule and an evaluation utilizing Shaft 3 of New York City Tunnel No. 2 as an alternate back-up water supply for the southern section of the Westchester County Water District No. 1 48-inch diameter Kensico-Bronx pipeline, and any and all subsequent actions in connection therewith, commencing upon the effective date of the agreement for a five (5) year term at no cost; and to amend an agreement dated March 5, 2015 between the County and GHD Consulting Services Inc. in the amount of \$45,800, to include the terms of the non-disclosure agreement

Transmitted herewith is a resolution requesting authority for the County of Westchester (the "County") or ("Party"), acting by and through its Department of Environmental Facilities (the "Department") to enter into a non-disclosure agreement with the City of New York (the "City"), acting by and through the New York City Department of Environmental Protection ("DEP") or ("Party") regarding confidential and proprietary information that may be required to be shared in connection with the purpose of complying with the Long Term 2 Enhanced Surface Water Treatment Rule ("LT2 Rule") and to study a possible connection from Tunnel 2, Shaft 3B in the Bronx to the Kensico-Bronx pipeline in the southern portion of the County to improve water supply and reliability to the County and implementing improvements at Shaft 3B to provide the connection, and any and all subsequent actions in connection therewith, commencing upon the effective date of the agreement for a five (5) year term at no cost to either Party (the Non-Disclosure Agreement"); and further requesting authority to amend an agreement dated March 5, 2015 between the County and GHD Consulting Services Inc. (the "Contractor") in the amount of \$45,800 for the provision of an evaluation of connecting Shaft 3B of New York City Tunnel No. 2 to the Kensico-Bronx pipeline so that the Contractor and sub-Contractors, ARCADIS, LynStaar and KJM, and any and all third parties under the control of the Contractor shall be required to comply with all applicable terms of the non-disclosure agreement between the County and DEP.

On January 6, 2006, the United States Environmental Protection Agency promulgated the LT2ESWTR, 40 C.F.R. Part 141, Subpart W, which supplements existing microbial treatment and requires all systems avoiding filtration to install treatment to inactivate *Cryptosporidium*. In order to meet its requirements under the LT2 Rule, DEP has constructed the Catskill/Delaware Ultraviolet Disinfection Facility at the Eastview site in the Towns of Mount Pleasant and Greenburgh to provide ultraviolet light disinfection treatment to water from the City's Catskill/Delaware watersheds.

In order to meet its obligations under the LT2 Rule, the County intends to connect to the Catskill/Delaware Ultraviolet Disinfection Facility and supply customers of County Water District No. 1, County Water District No. 3, the Villages of Briarcliff Manor, Tarrytown and Sleepy Hollow and the member municipalities served by Westchester Joint Water Works with a treated potable water supply from this connection. Further, DEP and the County are interested in studying a connection from Tunnel 2, Shaft 3B in the Bronx to the Kensico-Bronx pipeline in the southern portion of the County to improve water supply and reliability to the County and implementing improvements at Shaft 3B to provide the connection.

In connection with the above purposes, the County and DEP may be required to disclose information to each other that may be confidential and proprietary. In order to protect such information, a non-disclosure agreement between the County and DEP is necessary. Further, DEP will not share this necessary information with the County without the execution of the Non-Disclosure Agreement.

Further, in accordance with the Non-Disclosure Agreement, all contractors, consultants and all other third parties who have entered or will enter into agreements with the County for the aforesaid purposes must be bound by the terms of the Non-Disclosure Agreement. The County entered into an agreement with the Contractor in connection with the purposes described herein dated March 5, 2015 in the amount of \$45,800 for the provision of an evaluation of connecting Shaft 3B of New York City Tunnel No. 2 to the Kensico-Bronx pipeline (the "Agreement"). Therefore, this Agreement must be amended to require the Contractor to be bound by the terms of the Non-Disclosure Agreement.

Execution of the Non-Disclosure Agreement as well as the amended Agreement with the Contractor (the "Agreements") is not procurement and therefore the Westchester County Procurement Policy does not apply.

The Agreements are in the public's best interest in that they will enable the County to protect its confidential and proprietary information and for the County to obtain necessary information from the DEP in the course of its compliance with the LT2 Rule and to improve water supply and reliability to the County.

Therefore, authority is respectfully requested from your Honorable Board for the County to enter into the non-disclosure agreement with DEP and to amend the agreement with the Contractor. Attached for your consideration is a proposed Resolution.

TJL/lac

RESOLUTION

Upon a communication from the Commissioner of the Department of Environmental Facilities and the Commissioner of Public Works & Transportation, be it

RESOLVED, that County of Westchester (the "County"), acting by and through the Department of Environmental Facilities is hereby authorized to enter into a non-disclosure agreement with the City of New York, acting by and through the New York City Department of Environmental Protection to protect confidential and proprietary information commencing upon the effective date of the non-disclosure agreement for a five (5) year term at no cost (the "Non-Disclosure Agreement"); and be it further

RESOLVED, that County is authorized to amend the agreement dated March 5, 2015 between the County and GHD Consulting Services Inc. in the amount of \$45,800 for the provision of an evaluation of connecting Shaft 3B of New York City Tunnel No. 2 to the Kensico-Bronx pipeline so as to include the terms of the Non-Disclosure Agreement and be it further

RESOLVED, that these actions are not procurements and therefore the Westchester County Procurement Policy does not apply; and be it further

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

Account to be Charged/Credited

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Bond Act No.	Dollars
N/A						

Budget Funding Year(s) N/A Start Date upon effective date of agreement End Date 5 years after start date
 (must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
 Federal Aid _____
 (must match resolution) Other _____