

65196

DATE September 26, 2018

TO: Board of Acquisition and Contract

FROM: Norma V. Drummond
Commissioner of Planning

SUBJECT: Resolution authorizing the County of Westchester (the “County”) to enter into an agreement with the East of Hudson Watershed Corporation for the distribution of earnings on the funds from the East of Hudson Water Quality Investment Program Fund, in an amount not-to-exceed \$750,000 for the operation and maintenance costs of stormwater retrofit projects that have been approved, installed and paid for with East of Hudson Water Quality Investment Program funds for the period January 1, 2016 through December 31, 2022, with the term of the agreement commencing upon execution through December 31, 2022

The attached resolution authorizes the County of Westchester (“County”), by and through its Department of Planning (the “Department”), to enter into an agreement with the East of Hudson Watershed Corporation (“EOHWC”) for the distribution of earnings on the funds from the East of Hudson Water Quality Investment Program Fund (“EOH WQIP Fund”), of which the County serves as custodian under the 1997 New York City Watershed Memorandum of Agreement and the East of Hudson Water Quality Investment Program Contract, in an amount not-to-exceed Seven Hundred Fifty Thousand (\$750,000) Dollars (the “EOH Fund Earnings”) to be paid on an annual reimbursement basis, upon approval by the County (the “Agreement”). The proposed use of the EOH Fund Earnings is for reimbursement to the EOHWC for the operation and maintenance costs of stormwater retrofit projects that have been approved, installed, and paid for with EOH WQIP Funds for the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Village of Mount Kisco (the “Municipalities”) for the period January 1, 2016 through December 31, 2022. The term of the Agreement will commence upon execution and continue through December 31, 2022.

By way of background, the twelve (12) Westchester municipalities with land area in the New York City Watershed jointly entered into an Intermunicipal Agreement, dated May 27, 2008 to create the Croton/Kensico Watershed Intermunicipal Coalition (“CKWIC”) with the intent to cooperate in achieving their shared goal of meeting the requirements of USEPA Phase II Federal

Stormwater Regulations which require regulated small municipal separate storm sewer systems (“MS4s”) to obtain a New York State Department of Environmental Conservation (“NYS DEC”) State Pollutant Discharge Elimination System (“SPDES”) permit for stormwater discharges. The Municipalities previously defined herein (ten of the twelve CKWIC municipalities in the Croton Watershed) proposed a regional stormwater retrofit plan (the “Plan”) to meet certain MS4 permit requirements and NYS DEC approved the Plan on June 23, 2010. The Municipalities requested the use of up to Ten Million (\$10,000,000) Dollars in EOH WQIP Funds to assist in the implementation of the first five years of the Plan to achieve compliance with the retrofit requirements of NYS DEC’s MS4 SPDES General Permit No. GP-0-10-002 (the “MS4 Permit”).

On December 5, 2011, by Act No. 186-2011, the County Board of Legislators (“Board of Legislators”) authorized the transfer of up to Ten Million (\$10,000,000) Dollars from the EOH WQIP Fund into a County Trust Account in order to fund the eligible costs associated with the first five years of the Plan. Further, on December 5, 2011, by Act No. 187-2011, the Board of Legislators authorized the County to enter into a five year Intermunicipal Agreement (“IMA”) with the Municipalities for the purpose of disbursing the funds to partially finance the projects. At that time, the Board of Legislators was advised that the Municipalities were in the process of forming a New York State not-for-profit corporation known as the EOHWC for the purpose of implementing the projects. The Board of Legislators at that time was further advised that after the creation of the EOHWC, the County and the EOHWC would enter into an agreement pursuant to which the County would transfer the EOH Funds to the EOHWC to facilitate the projects. Subsequently, the IMA between the County and the Municipalities was executed on June 7, 2012. The EOHWC was formed and the agreement between the County and the EOHWC was executed on June 7, 2012 transferring all of the rights and responsibilities of the Municipalities contained in the IMA to the EOHWC and authorizing the transfer of the EOH Funds to the EOHWC. It is important to note that the terms of the IMA included consent by the Municipalities that the agreement between the County and the EOHWC would be executed, and that all rights and responsibilities contained therein would be transferred to the EOHWC.

Further, the Board of Legislators, by Act No. 225-2016, approved up to Three Million (\$3,000,000) Dollars remaining from the original \$10,000,000 (authorized for the projects for the first five years of the Plan) to be used for regional stormwater retrofit projects for the second five years of the Plan.

The EOHWC has continued to administer, organize, implement and maintain projects to achieve compliance with the retrofit requirements of the NYS DEC’s MS4 SPDES General Permits. The EOHWC seeks to utilize the EOH Fund Earnings for the operation and maintenance costs of stormwater retrofit projects installed for stormwater retrofit plans approved by the New York City Department of Environmental Protection and NYSDEC to achieve compliance with applicable MS4 Permits for the period from January 1, 2016 through December 31, 2022. Payment of the EOH Fund Earnings will be on an annual reimbursement basis, as approved by the County. The term of the Agreement will commence upon execution and continue through December 31, 2022.

On August 6, 2018, the Board of Legislators pursuant to Act No. 120-2018 authorized the County to transfer the EOH Fund Earnings, into a County Trust Account for distribution to the

EOHWC for the operation and maintenance costs as previously defined herein. Authority is now being requested of your Honorable Board to approve the Agreement with the EOHWC on the terms described herein.

The Agreement will serve a public purpose as the continued operation and maintenance of the projects will protect the environment by improving water quality within the Croton Watershed and protect the public health by providing a safer environment by improving water quality into the Croton Watershed.

The Agreement is in the best interests of the County as it will protect the environment and the residents of the County.

The Department will monitor the Agreement by reviewing documentation provided by the EOHWC including, but not limited to, invoices in connection with the Agreement.

Based on the importance of this Agreement, I recommend approval of the attached resolution.

NVD/cp/dk/lac
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACTS 04/18/2016 LISA M. PUAJ, SECRETARY

RESOLUTION

UPON A COMMUNICATION FROM THE COMMISSIONER OF PLANNING, BE IT HEREBY

RESOLVED, that the County of Westchester (the "County"), by and through its Department of Planning, is hereby authorized to enter into an agreement with the East of Hudson Watershed Corporation (the "EOHWC") for the distribution of earnings on the funds from the East of Hudson Water Quality Investment Program Fund (the "EOH WQIP Fund"), of which the County serves as custodian under the 1997 New York City Watershed Memorandum of Agreement and the East of Hudson Water Quality Investment Program Contract, in an amount not-to-exceed Seven Hundred Fifty Thousand (\$750,000) Dollars for the operation and maintenance costs of stormwater retrofit projects that have been approved, installed, and paid for with EOH WQIP Funds, to be paid on an annual reimbursement basis for the period January 1, 2016 through December 31, 2022, upon approval by the County (the "Agreement"); and be it further

RESOLVED, that the Agreement will commence upon execution and continue through December 31, 2022; and be it further

RESOLVED, that the County Executive or his duly authorized designee is authorized to execute any documents and take any actions necessary to effectuate purposes hereof.

Account to be Charged/Credited

		Major Program, Program & Phase	Object/ Sub Object	Trust Account	Dollars
Fund	Dept	Or Unit			
263	19W	W018	4380	TW18	\$750,000

Budget Funding Year(s) FY 2018 Start Date: upon execution End Date: December 31, 2022
 (must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
\$750,000 Federal Aid _____
 (must match resolution) Other \$750,000 _____