



WESTCHESTER
COUNTY CLERK

Timothy C. Idoni

MEMORANDUM

110 Dr. Martin Luther King Jr. Blvd. • White Plains, New York 10601

Date: April 24, 2019

To: Honorable Members of the Board of Acquisition & Contract

From: Timothy C. Idoni
Westchester County Clerk

Re: Authority to enter into a third-party custody agreement with Orange Bank and Trust Company and its custodian bank, Manufacturers and Traders Trust Company related to the deposit of County Funds

The County of Westchester ("County") maintains relationships with various banks for the deposit of County funds. Pursuant to New York General Municipal Law Section 39, the County is required to have a written investment policy regarding the investment, monitoring and reporting of County government funds. Pursuant to the Investment Policy for the County of Westchester (the "Investment Policy"), when the County deposits funds in banks, such deposits are required to be collateralized. Eligible securities that are used to collateralize the County's deposits in a depository bank are required to be held by a third party custodian bank (in most cases).

Authority is now requested of your Board to authorize the County to enter into a third-party custody agreement with Orange Bank and Trust Company and its custodian bank, Manufacturers and Traders Trust Company related to the deposit of County Funds. The proposed agreement will commence upon execution by all parties and would be terminable by any of the parties upon written notice. There is no cost to the County.

This agreement serves a valid public purpose in that it enables the County to comply with the requirements of its Investment Policy. The goal of the agreement is to ensure adequate and safe collateralization of County funds. The County Clerk will receive regular statements for this account in order to monitor the banks' performance.

This procurement is exempt from the operation of the Westchester County Procurement Policy pursuant to Section 3(a) (xx).

I recommend approval of the attached proposed resolution. The County Commissioner of Finance joins in my request.

TCV/cfa/jerk

RESOLUTION

Upon a communication from the County Clerk and the Commissioner of Finance, be it hereby:

RESOLVED, that the County of Westchester is hereby authorized to enter into a third-party custody agreement with Orange Bank and Trust Company (the "Bank") and its custodian bank, Manufacturers and Traders Trust Company (the "Custodian") related to the deposit of County Funds; and be it further

RESOLVED, that the proposed third-party agreement shall contain the following language concerning liability of the Custodian:

"The Custodian shall not be held liable for any loss or damage, including counsel fees, resulting from its action or omission to act or otherwise, except for any loss, damage, claim or expense arising out of its own negligence or willful misconduct, and shall have no obligation hereunder for any loss or damage, including counsel fees, which are sustained or incurred by reason of any action or inaction by the Book Entry System or Depository. The Custodian may, with respect to questions of law, apply for and obtain the advice and opinion of competent counsel and shall be fully protected with respect to anything done or omitted by it in good faith and conformity with such advice or opinion."; and be it further

RESOLVED, that the agreement will commence upon execution by all parties, will be terminable by any of the parties upon written notice and will be at no cost to the County; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	<i>NIA</i>	<i>NIA</i>	<i>NIA</i>	<i>NIA</i>	<i>NIA</i>	<i>NIA</i>

Budget Funding Year(s) ~~2019-2020~~ N/A Start Date Upon contract execution
 End Date Upon contract execution

(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ NIA Federal Aid _____

(must match resolution)

Other _____