

85125

TO: Honorable Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

DATE: May 18, 2021

SUBJECT: Authority to enter into a Brownfield Cleanup Agreement with the New York State Department of Environmental Conservation for the remediation of per- and polyfluoroalkyl substances at Westchester County Airport. (Agreement No. 21-922)

Authority of your Honorable Board is requested for the County of Westchester ("County") to enter into a Brownfield Cleanup Agreement ("Agreement") with the New York State Department of Environmental Conservation ("NYSDEC") for the remediation of per- and polyfluoroalkyl substances at Westchester County Airport ("Airport").

The County and NYSDEC previously entered into Consent Order 3-20180308-44 in connection with per- and polyfluoroalkyl substances (PFAS) in the Airport's groundwater. Based on groundwater sampling data submitted by the County, NYSDEC has accepted the County's application under the Brownfield Cleanup Program and offered to enter into the Agreement.

Under the Agreement, the County will submit work plans and engineering reports for consideration by NYSDEC. If NYSDEC determines that remediation is necessary to protect public health and the environment, the County will submit a remedial work plan. The Agreement will provide for public comment and participation. The Agreement will require the County to reimburse costs incurred by NYSDEC for its oversight work performed at or in connection with the site, and provide NYSDEC access to the Airport. Execution of the Agreement will also terminate the Consent Order.

The County will indemnify and hold NYSDEC, the State of New York ("State"), and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the Agreement by the County prior to the termination date except for those claims, suits, actions, and costs arising from the gross negligence or willful or intentional misconduct by NYSDEC, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to the Agreement.

The term of the Agreement will commence after execution by NYSDEC and continue until any remediation is finished and NYSDEC issues a Certificate of Completion.

The goal and objective of this Agreement is the protection of public health and the environment, and compliance with legal requirements.

Your review and approval of the enclosed Resolution is respectfully requested.

RESOLUTION

Upon a communication from the Commissioner of Public Works and Transportation, be it hereby

RESOLVED, that the County of Westchester (the “County”) is authorized to enter into a Brownfield Cleanup Agreement (Agreement) with the New York State Department of Environmental Conservation (the “NYSDEC”) for the remediation of per- and polyfluoroalkyl substances at Westchester County Airport (Airport); and be it further

RESOLVED, that under the Agreement, the County shall submit work plans and engineering reports for consideration by NYSDEC. If NYSDEC determines that remediation is necessary to protect public health and the environment, the County shall submit a remedial work plan. The Agreement shall provide for public comment and participation. The Agreement shall require the County to reimburse costs incurred by NYSDEC for its oversight work performed at or in connection with the site, and provide NYSDEC access to the Airport. Execution of the Agreement shall also terminate the Consent Order 3-20180308-44; and be it further

RESOLVED, that the County shall indemnify and hold NYSDEC, the State of New York (State), and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the Agreement by the County prior to the termination date except for those claims, suits, actions, and costs arising from the gross negligence or willful or intentional misconduct by NYSDEC, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to the Agreement; and be it further

RESOLVED, that the term of the Agreement shall commence after execution by NYSDEC and continue until any remediation is finished and NYSDEC issues a Certificate of Completion; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute any documents and take any actions reasonably necessary and appropriate to effectuate the purposes of this Resolution.

Agreement No. 21-922

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	161	44	4110	4420		TBD

Budget Funding Year(s): 2021 Start Date: After Execution by NYSDEC End Date: Upon Issuance of Certificate of Completion
 (must match resolution)

Funding Source: Tax Dollars _____

State Aid _____

\$TBD Federal Aid _____

(must match resolution)

Other 100% Airport Special Revenue Fund