

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive recommending the adoption of three (3) Acts to authorize the County of Westchester (the "County") to: 1) enter into a first amendment ("First Amendment") to an inter-municipal agreement dated March 29, 1985 (the "1985 IMA") with the Town/Village of Mt. Kisco (the "Village") and the City of New York (the "City"), acting by and through the Department of Environmental Protection ("NYCDEP"); 2) release from the East of Hudson Water Quality Investment Program Fund (the "EOH WQIP Fund"), of which the County serves as custodian under the New York City Watershed Memorandum of Agreement (the "Watershed MOA") (as defined below), and transfer to a County Trust Account an amount not to exceed Two Million Three Hundred Eighty Thousand Six Hundred Forty-Four (\$2,380,644) Dollars (the "EOH Funds"). The EOH Funds will be provided to the Village for its costs ("Eligible Costs") as defined in the Watershed MOA, to increase the size of its main sewer line from a six (6) inch sewer main to a ten (10) inch sewer main on Croton Avenue in the Village, make improvements to a six hundred thirty-two (632) foot section of its Main Street sewer main, and upgrade components of the Saw Mill River Pump Station, including the installation of a fourth pump station to achieve current *Ten States Standards* (the "EOH Project"); and 3) enter into an inter-municipal agreement (the "IMA") with the Village, which sets forth the terms under which the County will distribute the EOH Funds. It should be noted that the EOH Project is part of a larger sewer diversion project and the distribution of the EOH Funds is conditioned upon the approval and execution of the First Amendment and completion of the larger project as described herein.

Your Honorable Board will recall that, pursuant to Act Nos. 145-1996 and 165-1996, which were approved by your Honorable Board, the County, along with the City, the State of New York, United States Environmental Protection Agency, the Catskill Watershed Corporation, the Coalition of Watershed Towns, certain environmental parties, and the Towns of Bedford, Cortlandt, Lewisboro, Mount Pleasant, New Castle, North Castle, North Salem, Pound Ridge, Yorktown, and the

Town/Villages of Harrison and Mount Kisco are parties to the Watershed MOA. It should be noted that the chief elected official (or appointed designee) of each of the aforementioned municipalities, along with representatives of the County, comprise the Northern Westchester Watershed Committee (the "NWWC").

Your Honorable Board will further recall that, pursuant to Article V, paragraph 140 of the Watershed MOA and the East of Hudson Water Quality Investment Program Contract (which is incorporated into and made a part of the Watershed MOA), the City paid the County Thirty- Eight Million (\$38,000,000) Dollars to create a fund, known as the EOH WQIP Fund, to support a program of water quality investments east of the Hudson River in order to protect New York City's drinking water supply. Pursuant to the Watershed MOA, the EOH WQIP Fund monies may be distributed by the County to fund specified water quality improvement projects as enumerated therein and/or as NYCDEP may authorize ("Eligible Project").

Your Committee has been advised that the County retained Savin Engineers P.C. ("Savin") in 1997 to undertake studies for the purpose of determining the technical and financial feasibility of managing wastewater from wastewater treatment plants ("WWTPs") and other identified areas ("Focus Areas") that currently discharge wastewater into the Croton/Kensico watersheds. The Northern Westchester Watershed Committee ("NWWC") worked with Savin to review the studies and prioritize projects based on water quality impacts and economic feasibility and identified five priority projects: 1) Hallocks Mill Sewer District in Yorktown (the "District"); 2) Riverwoods and Random Farms WWTPs and the Stanwood and Yeshiva Focus Areas in New Castle and Bedford; 3) Bedford Hills/Katonah Focus Area in the Town of Bedford; 4) Lake Shenorock Focus Area in the Town of Somers; and 5) Peach Lake Focus Area in the Town of North Salem.

Your Committee has been further advised that the Fox Hollow Sewer Company, Inc. operates and maintains the Fox Hollow Sewer Corp. Wastewater Treatment Plant (the "Fox Hollow WWTP") in the Town of New Castle and serves a 148-unit condominium

complex known as “Riverwoods”, and certain buildings located in the Yeshiva Farm Settlement (“Yeshiva”) (collectively the “Property”). The Fox Hollow WWTP is in serious disrepair. The Property is located in the New York City Watershed, adjacent to the Kisco River which flows directly into the Croton Reservoir.

Your Committee is further advised that NYCDEP has agreed to provide funding for the decommissioning of the Fox Hollow WWTP and its conversion to a pump station so that the raw wastewater from the Property can be diverted (“Alternative Upgrade Project”). This Alternative Upgrade Project is in connection with the City’s Regulatory Upgrade Program for upgrades at wastewater treatment plants or projects approved by NYCDEP as alternatives to Regulatory Upgrades. The City and the New England Interstate Water Pollution Control Commission (“NEIWPCC”) have entered into an agreement for, among other services, the administration of the City’s Regulatory Upgrade Program. In this regard, NEIWPCC and the Fox Hollow Sewer Company, Inc. have entered into an agreement in connection with the decommissioning of the Fox Hollow WWTP, its conversion to a pump station and the diversion of the raw wastewater from the Property. The newly constructed pump station will pump the effluent (up to 80,000 gallons per 24-hour period as per the current State Pollutant Discharge Elimination System (“SPDES”) permit) to a trunk line that is owned and operated by the Village. The effluent will flow to the Village’s Saw Mill River Pump Station, and then into the County Saw Mill Sewer Trunk Line which flows to the County Water Resource and Recovery Facility in Yonkers.

To accommodate the additional flow from the Property, the EOH Project will include the work required for the Village to increase the size of its sewer line from a six (6) inch sewer main to a ten (10) inch sewer main on Croton Avenue in the Village, make improvements to a six hundred thirty-two (632) foot section of its Main Street sewer main, and upgrade components of the Saw Mill Pump Station, including the installation of a fourth pump station to achieve current *Ten States Standards*. The *Ten States Standards* are the recommended standards for wastewater facilities.

Your Committee has been informed that the 1985 IMA among the County, City, and the Village, set forth *inter alia*, the responsibilities of the parties with regard to the discharge and treatment of sewage from the Mount Kisco Pump Station into the County Saw Mill Valley Trunk Sewer System. Section 4.3(b) of the 1985 IMA allowed only the discharge of sanitary sewage from the corporate boundaries of the Village as of the date of the 1985 IMA. Further to Section 4.3(b), the discharge of sanitary sewage from an adjoining territory would require the consent of the County and the Village. Since the EOH Project, as well as the Alternative Upgrade Project, will result in sanitary sewage flowing from the Property located in the Town of New Castle, consent of the County and the Village is required under the 1985 IMA. Further, the addition of up to 80,000 gallons per 24-hour period requires that the maximum allowable rates of discharge contained in the 1985 IMA be amended.

Further, your Committee has been advised that pursuant to Article V, paragraph 140 subsection (b)(ix) of the Watershed MOA, an Eligible Project for the use of EOH WQIP Fund monies is a project approved by NYCDEP “for any other purpose”. Your Committee has been advised that NYCDEP has approved the EOH Project, subject to the execution of the First Amendment.

Your Honorable Board will recall that, in order to properly spend the EOH WQIP Fund, the County must comply with certain other procedures as set forth in the Watershed MOA, and all State and local laws, rules and regulations, including the Laws of Westchester County. This includes, among other things, compliance with the right of objection procedures specified in paragraph 107(c) of the Watershed MOA. Planning, as the Administrator of the Watershed MOA and any program initiated pursuant thereto, issued a right of objection letter to the requisite parties on February 3, 2022, stating the County’s intent to access and distribute the EOH Funds in connection with this Project. Pursuant to the provisions of Paragraph 107(f), such parties have fifteen (15) days from the date of mailing of the right of objection letter, to object to this decision, or to petition for an additional fifteen (15) day period to raise an objection. Planning has advised that no objections were received during the

applicable timeframe. Accordingly, subject to receipt of the approval of your Honorable Board, the EOH Funds may now be expended in accordance with the Watershed MOA.

Your Committee has been further advised that the NWWC supports the expenditure of the EOH Funds for the Project, and on January 15, 2019, adopted a resolution formalizing that support. The resolution was adopted supporting the allocation of up to Ten Million (\$10,000,000) Dollars of the EOH WQIP Fund to be used for the Project.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the New York State Environmental Quality Review ("SEQR") Act, which requires your Honorable Board to comply with the regulations promulgated thereunder (6 NYCRR Part 617). Planning has advised that, based on its review, these actions may be classified as Type II actions pursuant to Sections 617.5(c)(2), and 617.5(c)(9). Your Committee has reviewed the annexed SEQR status sheet prepared by Planning and concurs with this conclusion.

The first annexed Act, if approved by your Honorable Board, will authorize the County to enter into a First Amendment to the 1985 IMA.

Your Honorable Board will recall that because the County acts as custodian of the EOH WQIP Fund, and because such funds are not currently included in any County operating or capital budget, the second annexed Act, if approved by your Honorable Board, will provide for the transfer of the EOH Funds from the County's general custodial account for the EOH WQIP Fund to a County Trust Account created for the specific purpose of funding this Project. As the Administrator of the Watershed MOA, the Department of Planning ("Planning") will manage the disbursement of the EOH Funds all in accordance with the terms outlined herein, and in the Watershed MOA.

The third annexed Act will authorize the County to enter into an IMA with the Village, which will outline the terms and conditions under which the EOH Funds will be

released. Specifically, the proposed IMA will have a term of five (5) years, will authorize the release of up to Two Million Three Hundred Eighty Thousand Six Hundred Forty-Four (\$2,380,644) Dollars, and will be conditioned upon the completion of the EOH Project and the Alternative Upgrade Project.

Your Committee has carefully considered this use of funds from the EOH WQIP Fund and recommends approval of the three (3) Acts, noting that the Act authorizing the First Amendment must be adopted first, followed by the Act authorizing the release of the EOH Funds and the Act Authorizing the IMA, respectively. It should be further noted that the foregoing Acts require no more than an affirmative vote of the majority of your Honorable Board.

Dated: June 13, 2022
White Plains, New York

James Z. ...
W. ...
Mary ...
J. ...
Robert ...

Mary ...
J. ...

James Z. ...
Mary ...

COMMITTEE ON:
c/lac/5/17/22

Budget &
Appropriations

Public works
& Transportation


Environment,
Energy & Climate

Dated: June 13, 2022
White Plains, New York

The following members attended the meeting remotely pursuant to Chapter 1 of New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

Budget & Appropriations

Catherine F. Parker

Catharine Byr
Mary Jane Skonieczny

Public Works & Transportation

David A. Jablonski
Catharine Byr
Catherine F. Parker

Environment, Energy & Climate

David A. Jablonski
Catharine Byr
Catherine F. Parker

FISCAL IMPACT STATEMENT

SUBJECT: EOH WQIP FUNDS Mount Kisco Pump NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations Other (explain)

Identify Accounts: EOH WQIP Funds

Potential Related Operating Budget Expenses: Annual Amount \$0.00

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$0.00

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Millie Magraw

Title: Coordinator Water Quality

Department: Planning

Date: May 18, 2022

Reviewed By: 

Dep. Budget Director

Date: 5/18/22

TO: Lynne Colavita, Senior Assistant County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM
Assistant Commissioner



DATE: May 18, 2022

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR MOUNT KISCO
PUMP STATION AND SEWER MAIN UPGRADES/IMPROVEMENTS**

PROJECT/ACTION: Three acts, the first involving an amendment of a 1985 agreement with the Village/Town of Mount Kisco and City of New York, the second involving a new agreement with the Village/Town of Mount Kisco, and a third act to authorize the release of funds from the East of Hudson Water Quality Investment Fund to provide for sewer main and pump station improvements/upgrades in the Village of Mount Kisco. Mount Kisco's sewage pump station, located on the Saw Mill River Parkway, will be upgraded to meet current design standards/codes to accommodate not only those that are in the sewer district, but also to be able to receive additional sewage from certain communities (Riverwoods condominium complex and a portion of the Yeshiva Farm Settlement) in the Town of New Castle that are served by the Fox Hollow Wastewater Treatment Plant, which is currently in serious disrepair. Pump station upgrades include replacement of existing equipment, as well as the addition of a fourth pump. Sewer main improvements include repair/lining of approximately 632 linear feet of pipe along Main Street and replacement of approximately 1,900 linear feet of 6-inch diameter pipe with a 10-inch diameter pipe along Croton Avenue.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTIONS:**
- **617.5(c)(2):** replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;
 - **617.5(c)(9):** construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area

and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities.

COMMENTS: While the provision of funds under this funding source will be conditional upon making the sewage connection for the aforementioned New Castle properties, the proposed pump station and pipeline improvements/upgrades are not physically dependent on any other construction. The current project involves replacement of equipment or the addition of equipment within existing developed spaces and would not result in any new environmental impacts. The pump station upgrades and Main Street sewer improvements will serve to protect the environment by improving the resiliency of the station to withstand flooding, eliminating the need for a sewage overflow pipe to Branch Brook, and preventing sewage leaks within the Croton Watershed, which is part of the drinking water supply. The expanded capacity will also provide an alternative solution for a failing sewage treatment system in New Castle, which is also in the Croton Watershed. Further actions needed to reroute sewage from the Riverwoods and Yeshiva properties in New Castle to Mount Kisco's pumping station would be subject to environmental review in accordance with SEQR at the time approvals are being sought to fund/undertake that component.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Vincent Kopicki, Commissioner of Environmental Facilities
Norma Drummond, Commissioner of Planning
Millie Magraw, Program Coordinator (Water Quality & Planning)
Claudia Maxwell, Associate Environmental Planner

ACT NO. ___ - 2022

AN ACT authorizing the County of Westchester to enter into a first amendment to an IMA dated March 29, 1985, among the County, the Town/Village of Mount Kisco, and the City of New York, by and through the Department of Environmental Protection.

BE IT ENACTED by the Board of Legislators of the County of

Westchester as follows:

Section 1. The County of Westchester (the "County"), is hereby authorized to enter into a first amendment ("First Amendment") to an inter-municipal agreement dated March 29, 1985 among the County, City of New York, acting by and through the Department of Environmental Protection, and the Town/Village of Mount Kisco, which set forth *inter alia*, the responsibilities of the parties with regard to the discharge and treatment of sewage from the Mount Kisco Pump Station into the County Saw Mill Valley Trunk Sewer System, in order to consent to the discharge of sanitary sewage from certain properties located outside the corporate boundaries of the Village, in the Town of New Castle. The First Amendment will also increase all references to the maximum allowable rates of discharge of sanitary sewage by an additional 80,000 gallons.

§ 2. All of the remaining terms of the 1985 IMA shall remain in full

force and effect except as amended by the First Amendment.

§ 3. The County Executive or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Executive deems necessary or desirable to accomplish the purposes hereof.

§ 4. This Act shall take effect immediately.