

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

Your Committee is in receipt of a communication from the County Executive recommending the adoption of an Act which, if approved by your Honorable Board, would amend an agreement between the County of Westchester (the "County") and the East of Hudson Watershed Corporation (the "Corporation") in an original amount not to exceed Seven Hundred Fifty Thousand (\$750,000) Dollars in East of Hudson Water Quality Investment Program Fund earnings (the "EOH WQIP Funds") for operation and maintenance costs of stormwater retrofit projects ("Projects") that have been approved, installed, and paid for with EOH WQIP Funds for stormwater retrofit plans approved by the New York State Department of Environmental Conservation ("NYS DEC") 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") to achieve compliance with applicable municipal separate storm sewer system permit ("MS4") (NYS DEC MS4 SPDES General Permit No. GP-O-10-002) (the "MS4 Permit") for the period January 1, 2016 through December 31, 2022 in order to retroactively extend the term from January 1, 2023 through December 31, 2027, and to authorize the use of the remaining balance of Two Hundred Eleven Thousand Five Hundred Sixty Two (\$211,562) Dollars in EOH WQIP Funds for the operation and maintenance costs for these Projects.

As your Committee is aware, pursuant to Act Nos. 145-1996 and 165-1996, which were approved by your Honorable Board, the County is a party to the 1997 New York City Watershed Memorandum of Agreement ("MOA"), along with the City of New York, the State of New York, United States Environmental Protection Agency ("USEPA"), the Catskill Watershed Corporation, the Coalition of Watershed Towns, certain environmental parties, and the Towns of Cortlandt, Lewisboro, Mount Pleasant, New Castle, North Castle, North Salem, Pound Ridge, Bedford, Yorktown, Somers, the Town/Village of Harrison and the Town/Village of Mount Kisco. 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").

Pursuant to Article V, Paragraph 140 of the MOA and the East of Hudson Water Quality Investment Program Contract (which is incorporated into and made a part of the MOA), the City paid to 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 MOA, the EOH WQIP Fund monies may be distributed by the County, as custodian, to fund specified water quality improvement projects as enumerated therein and/or as the NYC DEP may authorize.

Your Committee will recall that the Municipalities entered into an inter-municipal 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 MS4s to obtain a NYS DEC State Pollutant Discharge Elimination System ("SPDES") permit for stormwater discharges. The Municipalities 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 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 the MS4 Permit.

Your Committee will further recall that on December 5, 2011, by Act No. 186-2011, your Honorable Board authorized the transfer of 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 administration, design, construction management, construction and operation and maintenance of the Projects associated with the implementation of the first five years of the Plan. Your Committee is advised by the Department of Planning ("Planning") that no portion of the Ten Million (\$10,000,000) Dollars authorized by Act No. 186-2011 has been used for operation and maintenance of the Projects. Further, as your Committee is aware, by Act No.

225-2016, your Honorable Board authorized up to Three Million (\$3,000,000) Dollars remaining from the original Ten Million (\$10,000,000) Dollars (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. Therefore, although operation and maintenance costs were previously approved by your Honorable Board, those EOH Funds were not used for operation and maintenance costs, but rather, were needed for construction of the Projects.

On December 5, 2011, by Act No. 187-2011, your Honorable Board authorized the County to enter into a five-year inter-municipal agreement ("IMA") with the Municipalities for the purpose of disbursing the funds to partially finance the Projects. At that time, your Honorable Board was advised that the Municipalities were in the process of forming an independent locally-based and locally administered not-for-profit corporation, to be organized under Section 1411 of the New York State Not-For-Profit Corporation Law, or some comparable entity, for the purpose of implementing the Projects and anticipated to be known as the East of Hudson Watershed Corporation (the "Corporation"). Your Honorable Board was further advised that it was anticipated that after the creation of the Corporation, the County and the Corporation would enter into an agreement (the "Corporation Agreement") pursuant to which the County would transfer the EOH WQIP Funds to the Corporation to facilitate the administration, design, construction management, construction, and operation and maintenance of the Projects. Subsequently, the IMA among the County and the Municipalities was executed on June 7, 2012, the Corporation was formed, and the Corporation Agreement between the County and the Corporation was executed on June 7, 2012 transferring all of the rights and responsibilities of the Municipalities contained in the IMA to the Corporation and authorizing the transfer of the EOH WQIP Funds to the Corporation. The terms of the IMA included consent by the Municipalities that the Corporation Agreement be executed and that all rights and responsibilities contained therein be transferred to the Corporation.

Further, on August 6, 2018, by Act No. 120-2018, your Honorable Board authorized the transfer of \$750,000 in EOH WQIP Fund earnings into a County Trust Account for

distribution to the Corporation for the operation and maintenance costs of the Projects. These funds were subsequently transferred into a County Trust Account.

Your Committee is further advised that on or about August 18, 2019, the County and the Corporation entered into an agreement (the "Agreement") in an amount not to exceed \$750,000 in EOH WQIP Fund earnings for the operation and maintenance costs of the Projects for the period commencing retroactively on January 1, 2016 through December 31, 2022. As previously stated herein, there is a remaining balance of \$211,562 in EOH WQIP Fund earnings ("Remaining Funds") in the County Trust Account.

Your Committee is advised that the Corporation has continued to administer, organize, implement and maintain the Projects to achieve compliance with the retrofit requirements of the MS4 Permit and has requested the disbursement of the Remaining Funds and a first amendment to the Agreement (the "First Amendment") in order to reimburse the Municipalities with the Remaining Funds for operation and maintenance costs of the Projects. Payment of the Remaining Funds will be on an annual reimbursement basis, as approved by the County. This First Amendment will retroactively extend the term of the Agreement from January 1, 2023 to December 31, 2027 and will set forth the terms under which the County will distribute the Remaining Funds.

Your Committee has been advised that Section 140(b)(v) of the MOA lists "Stormwater Best Management Practices ("BMPs") at existing concentrated areas of impervious surfaces to the extent such BMPs are necessary to correct or reduce existing erosion and/or pollutant loadings" as eligible expenses for the EOH WQIP Funds.

Your Committee has been further advised that Section 140(c)(iii) of the MOA lists "operation and maintenance costs directly related to or resulting from an eligible project" as eligible expenses for earnings on the EOH WQIP Funds.

Your Committee has been further advised that in order to properly spend the EOH WQIP Funds, the County must comply with certain procedures as set forth in the 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 MOA. Planning, as the administrator of the MOA and any program initiated pursuant thereto, issued a right of objection letter to the requisite parties on September 24, 2024 stating the County's intent to authorize the use of the EOH WQIP Funds for the purposes described herein. Pursuant to the provisions of Paragraph 107(f), such parties have fifteen (15) days from the date of mailing of the notice 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 WQIP Funds may now be expended in accordance with the MOA.

Your Committee is advised that the NWWC supports the First Amendment and the expenditure of the Remaining Funds for the purposes described herein, and on September 17, 2024 voted in favor of the First Amendment and expenditure.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review ("SEQR") Act, which requires your Honorable Board to comply with the regulations promulgated thereunder (6 NYCRR Part 617) have been met. Planning has advised that, based on its review, that the above referenced project may be classified as a Type "II" action pursuant to Section 617.5(c)(1) and Section 617.5(c)(26). Therefore, no environmental review is required. Your Committee has reviewed the annexed SEQR documentation prepared by Planning and concurs with this recommendation.

Your Committee has carefully considered this legislation and recommends approval of the annexed Act, noting that it requires an affirmative vote of the majority of your Honorable Board.

COMMITTEE ON:

C//lac/01.15.25

Dated: February 10th, 2025

White Plains, New York

Henry Zeller Johns

Donald J. [unclear]

Manoffman

Jay [unclear]

Colin [unclear]

Vedat Jasiri

[Signature]

[Signature]

Donald J. [unclear]

[Signature]

Manoffman

Jay [unclear]

Vedat Jasiri

[Signature]

Henry Zeller Johns

Manoffman

Jay [unclear]

Vedat Jasiri

[Signature]

COMMITTEE ON

Budget & Appropriations

Parks & Environment

Public Works & Transportation

FISCAL IMPACT STATEMENT

SUBJECT: EOH WQIP FUNDS O&M EOH WC 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: January 15, 2025

Reviewed By: 
Budget Director

Date: 1/15/25

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

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



DATE: January 3, 2025

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR EAST OF HUDSON
WATERSHED CORPORATION CONTINUED OPERATION AND
MAINTENANCE OF STORMWATER RETROFIT PROJECTS**

The Planning Department has reviewed the above referenced action with respect to the State Environmental Quality Review Act and its implementing regulations, 6NYCRR Part 617 (SEQR).

The action involves the amendment of an agreement between the County of Westchester and the East of Hudson Watershed Corporation, which provided funding from the East of Hudson Water Quality Investment Program (EOH WQIP) Fund for operation and maintenance costs associated with stormwater retrofit projects that have been approved, installed and paid for with EOH WQIP Funds in accordance with stormwater retrofit plans approved by the New York State Department of Environmental Conservation for the towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Village of Mount Kisco, to achieve municipal separate storm sewer system permit compliance.

The term of the original agreement was from January 1, 2016 through December 31, 2022. The amendment will retroactively extend the term to cover the period from January 1, 2023 through December 31, 2027, and will authorize the use of the remaining balance in EOH WQIP Funds for the continued operation and maintenance costs associated with these stormwater retrofit projects.

The proposed agreement amendment may be classified as a Type II action, pursuant to section 617.5(c)(1), "maintenance or repair involving no substantial changes in an existing structure or facility," and 617.5(c)(26), "routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment." As such, no further environmental review is required.

Please contact me if you need any additional information regarding this classification.

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Blanca Lopez, Commissioner
Millie Magraw, Principal Environmental Planner
Claudia Maxwell, Principal Environmental Planner

ACT NO. ___ - 2025

AN ACT authorizing the County of Westchester to enter into a first amendment to an agreement with the East of Hudson Watershed Corporation in order to retroactively extend the term from January 1, 2023 to December 31, 2027, and to authorize the disbursement of the remaining balance of \$211,562 in East of Hudson Watershed Quality Investment Program Fund earnings for operation and maintenance costs for certain approved stormwater retrofit projects

BE IT ENACTED by the County 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 to an agreement with the East of Hudson Watershed Corporation in an original amount not to exceed \$750,000 in East of Hudson Water Quality Investment Program Fund earnings for operation and maintenance costs of stormwater retrofit projects that have been approved, installed, and paid for with East of Hudson Watershed Quality Investment Program Funds for stormwater retrofit plans approved by the New York State Department of Environmental Conservation for the Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Castle, North Salem, Pound Ridge, Somers, Yorktown and the Village of Mount Kisco to achieve compliance with applicable municipal separate storm sewer system permit General Permit No. GP-O-10-002) for the period January 1, 2016 through December 31, 2022, in order to retroactively extend the term of the agreement from January 1, 2023 to December 31, 2027.

§ 2. The County is authorized to disburse the remaining East of Hudson Water Quality Investment Program Fund earnings currently being held in a County Trust Account in the amount of \$211,562 for the aforesaid operation and maintenance costs on an annual reimbursement basis in accordance with the terms of the first amendment to the agreement with the East of Hudson Watershed Corporation.

§ 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.