

ACT NO. __ - 2021

AN ACT authorizing the County of Westchester to enter into an inter-municipal agreement with the Town of Yorktown in order to distribute up to \$10,000,000 of the East of Hudson Water Quality Investment Program Fund, for which the County is custodian under the 1997 Watershed Memorandum of Agreement, in order to fund a portion of the costs to the purpose of funding the Town of Yorktown "Hallocks Mill Sewer District Extension Phase I Project"

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 an inter-municipal agreement (the "IMA") with the Town of Yorktown (the "Town") in order to distribute funds from the County Trust Account established by Act No. __-2021, noting that said funds originally formed a part of the East of Hudson Water Quality Investment Program Fund (the "EOH WQIP Fund"), for which the County is custodian under the 1997 Watershed Memorandum of Agreement (the "Watershed MOA"), in an amount not to exceed Ten Million (\$10,000,000) Dollars (the "EOH Funds") to fund a portion of the Municipality's "Eligible Costs", as defined in the Watershed MOA, to construct approximately five and one-half (5.5) miles of new Town-owned sanitary sewer with a combination of gravity lines and low pressure force mains to three hundred fifteen (315) parcels in the Hallocks Mill Sewer District located in the Town of Yorktown ("Hallocks Mill Sewer District Extension Phase I Project"); and

§ 2. The IMA will have a term of five (5) years commencing upon execution; and

§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; and

§ 4. This Act shall take effect immediately.

**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 authorize release from the East of Hudson Water Quality Investment Program Fund (the "EOH WQIP Fund"), of which the County of Westchester ("County") serves as custodian under the New York City Watershed Memorandum of Agreement (the "Watershed MOA") (as defined below), in an amount not to exceed Ten Million (\$10,000,000) Dollars (the "EOH Funds"). The EOH Funds would be provided to the Town of Yorktown ("Town") to partially fund the Town's costs ("Eligible Costs") as defined in the Watershed MOA, to construct the "Town of Yorktown Hallocks Mill Sewer District Extension Phase I Project" (the "Project"). The purpose of this Project is to construct additional sewer lines in the Hallocks Mill Sewer District. The total estimated cost for the Project is Fourteen Million Three Hundred Thousand (\$14,300,000) Dollars, of which Ten Million (\$10,000,000) Dollars is being requested from the EOH WQIP Fund. "Also transmitted herewith is a proposed Act, which, if adopted, will authorize the County to enter into an inter-municipal agreement ("IMA") with the Town, which sets forth the terms under which the County will distribute the EOH Funds, all as further described herein.

Your Honorable Board will recall 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 advised that the District was established as a sewer service area to provide for the wastewater needs of the Yorktown Heights hamlet and surrounding areas. Portions of the District were initially sewered with the intention that all areas within the District would eventually be sewered. Collected wastewater is treated at the Yorktown Heights Water Pollution Control Plant ("Plant"). The Plant effluent discharges to the Hallocks Mill Brook which flows to the Muscoot River and ultimately the New Croton Reservoir, part of the New York City Croton Watershed. There are approximately one thousand four hundred (1,400) parcels in the District which are currently unsewered. The Town sewer mains do not connect to the property lines of these parcels. These parcels are serviced by residential septic systems which tend to be located on small lots with steep slopes and environmental constraints which are not ideal for septic system performance. There have been reported occurrences of septic system failures. Further, the Department of Planning ("Planning") has advised that information exists which indicates that some septic system failures have gone unreported. Planning has been advised that residents in these areas have expressed interest in the Town constructing sewers to serve their parcels.

Additionally, your Committee has been further advised that a report was prepared for and at the request of the Town by GHD Consulting Services Inc. ("GHD") in October 2016 entitled "*Wastewater Infrastructure and Pump Station Improvements, Town of Yorktown, NY*". The Town, working with GHD identified six hundred sixty (660) properties that were designated as "high priority" parcels in need of sewerage and located in specified "subareas" in the Town. However, due to the estimated cost and complexity of such a large project, the Town has amended the scope of the Project to be limited to the installation of sewers to serve three hundred fifteen (315) parcels in the District as follows: two hundred twenty (220) parcels in the "Birch Street Subarea"; sixty-nine (69) parcels in the "Sparkle Lake Subarea"; and twenty-six (26) parcels in the "Sunrise Street Subarea". The Project will include the construction of approximately five and one-half (5.5) miles of new Town-owned sanitary sewer with a combination of gravity lines and low pressure force mains.

By way of background, 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 of New York (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 NNWWC.

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 (each an "Eligible Project") as enumerated therein and/or as the New York City Department of Environmental Protection may authorize.

Additionally, your Committee has been further advised that Article V, paragraph 140 subsection (b)(ix) of the Watershed MOA includes "Sewerage collection systems or extensions to sewerage collection systems" as eligible expenses of the EOH WQIP Fund:

"Sewerage collection systems or extensions to sewerage collection systems to the extent necessary to serve areas with concentrations of failing or soon to be failing SSTs constructed on inappropriate sites from a water quality perspective (e.g., undersized lots in lakefront communities adjacent to lakes or reservoirs) or to combine sewage flows currently treated at two or more WWTPs and expansions of existing WWTPs or construction of new WWTPs necessary to accommodate the additional flow resulting from such sewerage."

Your Committee has been further advised 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 first 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 the Program. As the Administrator of the Watershed MOA, the Department of Planning ("Planning") will manage the expenditure of the EOH Funds also in accordance with the terms outlined herein and in the Watershed MOA.

The second annexed Act will authorize the County to enter into the IMA with the Town, which IMA 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, and will authorize the release of up to Ten Million (\$10,000,000) Dollars in EOH Funds, and will include the terms and conditions regarding the Initial Funds as described herein. In no event will the County's obligation to provide funding exceed the EOH Funds. Within thirty (30) days of execution of the IMA, the County may distribute an aggregate amount not to exceed One Million (\$1,000,000.) Dollars (the "Initial Funds") to the Town for the purpose of funding Eligible Costs as defined in the Watershed MOA for preliminary and/or pre-construction steps necessary to assist the Town in conducting its responsibilities in connection with design of the Project, including without limitation, environmental review, preparation and issuance of the bid documents. Any request for such Initial Funds must be issued in writing to the Commissioner of Planning ("Commissioner"). Approval of such request shall be in the Commissioner's sole discretion. In no event will the Initial Funds be disbursed if the Town has not provided acceptable insurance certificates in accordance with the IMA. Subsequent to the receipt of the Initial Funds, the Town must provide back up, including all appropriate receipts, invoices, bills or other documentation requested by the County evidencing the proper expenditure of the Initial Funds. It shall be in the Commissioner's sole discretion to determine if the Initial Funds have been spent in compliance with the terms of the Watershed MOA and all County requirements as the Administrator of the EOH WQIP Fund. The Town will not submit a voucher seeking disbursement of the remaining EOH Funds until the Commissioner has determined that the Initial Funds have been spent properly. Further, if the Town determines after the design of the Project is complete, that it will be unable to complete the construction of the Project to include sewer connection to three hundred fifteen (315) parcels, the Town will repay to the County the Initial Funds that have been disbursed to the Town within one hundred eighty (180) days of receipt of the design documents for the Project.

Your Committee has been further advised 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 December 7, 2020 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 also been advised that the NWWC supports the expenditure of the EOH Funds for the septic portion of the Program, 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) have been met. Planning has advised that the Town classified this Project as an Unlisted action. On May 17, 2021, the Town circulated a notice of intent to serve as lead agency along with Part 1 of a full Environmental Assessment Form. On July 6, 2021, the Town declared a Negative Declaration with regard to the Project. Planning has further advised that since the Town has undertaken coordinated review and the County was included in the coordinated review process, then, in accordance with Section 617.6(b)(3), no further review will be required by the County. The SEQR documentation is annexed hereto. Your Committee has carefully reviewed the documentation provided by Planning and concurs with this conclusion.

It should be noted that the foregoing Acts require no more than an affirmative vote

of the majority of your Honorable Board. Your Committee has carefully considered the Project and recommends approval of both Acts.

Dated: July 12, 2021
White Plains, New York

Ruth Walter
Catherine
Vedat Farhi
Doreen Tubily
Margaret A. Cigno
Cheryl
Benjamin Boykoff
J. H. L.
L. M. M.
Maggie Burr
Catherine Parker

Ruth Walter
Vedat Farhi
Doreen Tubily
Margaret A. Cigno
Cheryl
Benjamin Boykoff
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L. M. M.
Maggie Burr
Catherine Parker

Ruth Walter
Catherine
Margaret A. Cigno
Benjamin Boykoff
K. J. Short
Maggie Burr
Catherine Parker

Budget & Appropriations

Public Works &
Transportation

Environment
& Health

FISCAL IMPACT STATEMENT

SUBJECT: IMA with Yorktown - EOH WQIP Fund

☒ 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 TBD

Total Current Year Revenue TBD

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

☐ Additional Appropriations

☐ Other (explain)

Identify Accounts: TBD

Potential Related Operating Budget Expenses: Annual Amount TBD

Describe: An ACT authorizing an Intermunicipal agreement with the Town of Yorktown
which will provide the terms & conditions under the which will distribute funds to the Town
from the East of Hudson Water Quality Investment Program Fund.

Potential Related Operating Budget Revenues: Annual Amount TBD

Describe: _____

Water Quality Investment Program Fund to a County trust account for the Town of Yorktown

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

Current Year: TBD

Next Four Years: TBD

Prepared by: Roberto Nascimento

Title: Sr. Budget Analyst

Department: Budget

Date: June 24, 2021

Reviewed By: 

Budget Director

Date: 6/24/21

FISCAL IMPACT STATEMENT

SUBJECT: Release \$10Million EOH WQIP Fund

☒ 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 TBD

Total Current Year Revenue TBD

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

☐ Additional Appropriations ☐ Other (explain)

Identify Accounts: TBD

Potential Related Operating Budget Expenses: Annual Amount TBD

Describe: An ACT authorizing the release of up to \$10 Million from the East of Hudson

Water Quality Investment Program Fund to a County trust account for the Town of Yorktown

Hallocks Mill Sewer District Extension Phase 1 Project

Potential Related Operating Budget Revenues: Annual Amount TBD

Describe: _____

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

Current Year: TBD

Next Four Years: TBD

Prepared by: Roberto Nascimento

Title: Sr. Budget Analyst

Department: Budget

Date: June 24, 2021

Reviewed By: 

Budget Director

Date: 6/24/21

FISCAL IMPACT STATEMENT

SUBJECT: EOH WQIP FUNDS County Septic Repai ☒ 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: June 17, 2021

Reviewed By: 

Budget Director

Date: 6/17/21

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

FROM: David S. Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: July 8, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR USE OF EOH FUNDS –
HALLOCKS MILL SEWER PROJECT, YORKTOWN**

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

The Town of Yorktown is proposing to undertake a public sewer project and has requested financial assistance through the City of New York's East of Hudson Water Quality Investment Program Fund (EOH Fund). The project involves the expansion of the existing Hallocks Mill Sewer District to provide public sewers to additional residential areas of Yorktown, in order to eliminate septic systems within the drinking watershed. Effluent from these areas will be sent to and treated at the existing Yorktown Heights Water Pollution Control Plant run by the Town. In order to make the aforementioned funds available, the County, which serves as custodian of the EOH Fund, must transfer the designated amount to a County trust account and then enter into an agreement with the Town to disburse the funds for the project.

Pursuant to SEQR, the Town of Yorktown Town Board classified this project as an Unlisted action. On May 17, 2021, the Town Board circulated a notice of intent to serve as lead agency along with Part 1 of a full Environmental Assessment Form. On July 6, 2021 the Town Board declared itself Lead Agency and issued a Negative Declaration for the project. Since the Town of Yorktown has undertaken coordinated review and the County of Westchester was included in the coordinated review process, then, in accordance with section 617.6(b)(3), no further environmental review will be required by the County.

Please do not hesitate to contact me if you have any questions regarding this matter.

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Norma Drummond, Commissioner of Planning
Millie Magraw, Program Coordinator
Claudia Maxwell, Associate Environmental Planner

ACT NO. - 2021

AN ACT authorizing the transfer of up to \$10,000,000 of the East of Hudson Water Quality Investment Program Fund, for which the County of Westchester is the custodian under the 1997 Watershed Memorandum of Agreement, into a County Trust Account for the purpose of funding a portion of the costs for the "Town of Yorktown Hallocks Mill Sewer District Extension Phase I Project"

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County of Westchester (the "County"), as custodian of the East of Hudson Water Quality Investment Program Fund pursuant to the New York City Watershed Memorandum of Agreement (the "Watershed MOA"), dated January 21, 1997, is hereby authorized to transfer Ten Million (\$10,000,000) Dollars of monies currently held in such fund into a County Trust Account (the "EOH Funds") for the "Town of Yorktown Hallocks Mill Sewer District Extension Phase I Project" to construct approximately five and one half (5.5 miles) of new Town-owned sanitary sewer with a combination of gravity lines and low pressure force mains to three hundred fifteen (315) parcels in the Hallocks Mill Sewer District located in the Town of Yorktown; and

§ 2. The County Department of Planning ("Planning") is hereby designated as the Administrator of said County Trust Account for the implementation of the funding in order to ensure that Planning may comply with its obligations as administrator under the Watershed MOA with respect to expenditure of the EOH Funds; and

§ 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; and

§ 4. This Act shall take effect immediately.