

Authorizing The Chairman Of The Ulster County Legislature To Execute A Supplemental Agreement, And Any Amendments Thereto, With The City Of New York And The West Of Hudson Stakeholders, Modifying The 1997 Watershed Memorandum Of Agreement And The 2010 Water Supply Permit, And Thereby Enabling The City Of New York To Participate In The FEMA Hazard Mitigation Grant Program – Department Of Emergency Communications / Emergency Management

Referred to: Law Enforcement and Public Safety Committee (Chairman Briggs and Legislators Gregorius, Loughran, Maio and Ronk), and The Energy and Environment Committee (Chairman Bartels and Legislators Greene, Parete, Ronk, and Wawro)

Chairman of the Law Enforcement and Public Safety Committee, Thomas J. Briggs, and Deputy Chairman Kenneth J. Ronk offer the following:

WHEREAS, this resolution has been submitted by the County Executive on behalf of the Department of Emergency Communications/Emergency Management; and

WHEREAS, on January 21, 1997, The County and other entities entered into the Watershed Memorandum of Agreement (MOA) with the City of New York (NYC), which MOA established a partnership in which the parties agreed “to cooperate in the development and implementation of a Watershed Protection Program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed communities”; and

WHEREAS, among the programs agreed to in the MOA is a program for the NYC Department of Environmental Protection (DEP) to acquire land in the Watershed for watershed protection (the “Land Acquisition Program or LAP”), subject to the terms of both the MOA and of a water supply permit issued to DEP by the New York State Department of Environmental Conservation (DEC) on January 21, 1997 (the “1997 Permit”); and

WHEREAS, the County subsequently agreed, by its signature on the “Agreement among West of Hudson Watershed Stakeholders Concerning NYCDEP’s Continuation of its Land Acquisition Program”, dated December 27, 2010, to the terms and conditions of the successor to the 1997 Permit, the “2010 Water Supply Permit,” (the “2010 Permit”) which continued the DEP’s LAP through December 23, 2025; and

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WHEREAS, the County has established Capital Project No. 406 to implement a flood buyout program through FEMA and the New York State Office of Emergency Management, known as the Hazard Mitigation Grant Program (HMGP), which was created in response to the severe flooding and damage that followed Hurricane Irene and Tropical Storm Lee in August and September 2011; and

WHEREAS, DEP is willing to participate in the County's HMGP and to acquire some of the damaged properties and to assist in the purchase of some damaged properties by other units of local government; and

WHEREAS, the FEMA process to be used in determining fair market value of properties that participate in the program is different from the process set forth in the MOA and the 2010 Permit and it is necessary to modify the MOA and the 2010 Permit so that DEP can comply with the FEMA process; and

WHEREAS, the MOA and the 2010 Permit required that DEP grant conservation easements to the NYS DEC on buyout properties, but it can only do so on those properties to which it takes title; DEP requires modification of the MOA and the 2010 Permit in order to relieve it of the requirement of granting conservation easements on properties to which it does not take title; and

WHEREAS, the above-referenced modifications to the MOA and the 2010 Permit are set forth in the "Supplemental Agreement among West of Hudson Watershed Stakeholders Concerning DEP'S Participation in Federal or State Flood Buy-Out Programs" (the "Supplemental Agreement"); and

WHEREAS, because the County is a party to the MOA, the 1997 Permit, and the 2010 Permit, the DEP is requesting that the County execute the Supplemental Agreement as part of moving forward the HMGP and removing property owners from harm's way; and

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WHEREAS, the County will undertake a programmatic environmental review to comply with the provisions of the State Environmental Quality Review Act, 6 NYCRR Part 617 (SEQRA) prior to commencing any work that would result in physical alteration of the sites, which will include a review of the ultimate ownership and maintenance of the properties; and

WHEREAS, the modification to the MOA constitutes a Type II action under sections 4.2.1 and 4.2.4 of the County of Ulster's State Environmental Quality Review Act (SEQRA) Type II List that was adopted in Resolution No. 118 on April 20, 2010; and

WHEREAS, Ulster County determines that this action does not pose a significant potential environmental impact and may be progressed as a Type II action in accordance with 6 NYCRR Part 617 of SEQRA; now, therefore, be it

RESOLVED, that the Chairman of the Ulster County Legislature is hereby authorized to execute a Supplemental Agreement, and any amendments thereto, with the City of New York and the West of Hudson Stakeholders, modifying the 1997 Watershed MOA and the 2010 Water Supply Permit, thereby enabling the participation of the NYC DEP in the FEMA Hazard Mitigation Grant Program, in the form as provided to the Clerk of the Ulster County Legislature or as modified with the approval of the Ulster County Attorney and Chairman of the Ulster County Legislature,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 20 NOES: 0
(Absent: Legislators Litts, Loughran, and Maloney)

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Passed Committee: Law Enforcement and Public Safety on September 8, 2014

Passed Committee: Energy and Environment on September 23, 2014

FINANCIAL IMPACT:
NONE

STATE OF NEW YORK
ss:
COUNTY OF ULSTER

This is to certify that I, the undersigned Clerk of the Legislature of the County of Ulster have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 23rd Day of September, 2014, and that the same is a true and correct transcript of said resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 25th Day of September in the year Two Thousand and Fourteen.

/s/ Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

Submitted to the County Executive this
25th Day of September, 2014.

Approved by the County Executive this
2nd Day of October, 2014.

/s/ Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

/s/ Michael P. Hein
Michael P. Hein, County Executive