

PROPOSED RESOLUTION NO. 165 – 2020

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A DESIGN-BUILD CONTRACT WITH THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND WESTERN BAYS CONSTRUCTORS IN RELATION TO THE BAY PARK DIVERSION PROJECT.

WHEREAS, the New York State Department of Environmental Conservation (“DEC”) is authorized to enforce the environmental laws of New York State pursuant to Environmental Conservation Law (“ECL”), Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York (“6 NYCRR”), and orders and permits issued thereunder;

WHEREAS, Nassau County (the “County”) is a municipal corporation of the State of New York, having offices at 1550 Franklin Avenue, Mineola, New York. The County Department of Public Works is an agency of the County. The County owns and is responsible for the County’s municipal wastewater treatment plants, including the Sewage Treatment Facility at Bay Park (“Bay Park WWTP”) and the Wastewater Pollution Control Plant at Cedar Creek (“Cedar Creek WWTP”);

WHEREAS, DEC and the County entered into an administrative Order on Consent dated June 29, 2011 (Case No. R1-2100517-46) (the “2011 Order”) addressing violations of the County’s State Pollutant Discharge Elimination System (“SPDES”) permit, and requiring the County to perform operational and repair work on settling tanks, prepare an infrastructure assessment plan for the wastewater treatment infrastructure, submit a process flow diagram identifying the replacement of certain equipment, and complete an environmental benefit project for a feasibility study, among other requirements. The County has completed many of the tasks required by the 2011 Order;

WHEREAS, DEC and the County entered into an administrative consent agreement in December 2017 (such agreement, the “Bay Park Agreement”), including the Cooperative Agreement incorporated into the Bay Park Agreement as Exhibit 1, to modify and replace the 2011 Order, and to identify and incorporate the uncompleted tasks required by the 2011 Order, as well as additional work, including the Bay Park Diversion Project, to repair, rebuild and create resiliency at the Bay Park WWTP;

WHEREAS, the Bay Park Diversion Project will eliminate the discharge of treated wastewater effluent from the Bay Park WWTP into Reynolds Channel by diverting the effluent to the Cedar Creek WWTP, and then through the ocean outflow pipe and into the ocean;

WHEREAS, in accordance with the provisions of the Bay Park Agreement and the Cooperative Agreement, the County and DEC agree that the most efficient method to accomplish the Bay Park Diversion Project is through the authority of the DEC under the Infrastructure Investment Act (Part F of Chapter 60 of the laws of 2015, as amended), allowing the DEC to utilize design-build contracts for capital projects relating to New York State’s physical infrastructure to correct health and safety defects;

WHEREAS, the County and DEC are authorized, pursuant to Article 9, Section 1 of the New York State Constitution, to enter into inter-governmental agreements;

WHEREAS, the County and DEC previously negotiated and entered into a tri-party design-build professional consulting services contract with AECOM USA, Inc. in relation to the Bay Park Diversion Project; and

WHEREAS, the County and DEC are mutually interested in proceeding with the Bay Park Diversion Project and additional work in accordance with the Bay Park Agreement and Cooperative Agreement, and, in furtherance thereof, the County and DEC have negotiated a tri-party design-build contract (the "Design-Build Contract") with Western Bays Constructors, a Joint Venture comprised of John P. Picone, Inc. and Northeast Remsco Construction, Inc., a copy of which agreement is on file with the Clerk of the Legislature.

NOW, THEREFORE, be it

RESOLVED, that the Nassau County Legislature hereby authorizes the County Executive to execute the Design-Build Contract, a Type II action under ECL § 8-0105(5) and 6 NYCRR § 617.5(c)(35), and to execute any and all other instruments or ancillary agreements and to take such other action as is necessary to effectuate and carry out the purposes of the Design-Build Contract.