

110323

DATE: January 17, 2025

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner, Department of Public Works and Transportation

SUBJECT: Authority concerning various grant agreements and cooperative agreements with the Federal Transit Administration.

The Federal Transit Administration (the "FTA") recently advised the County of Westchester (the "County") that the FTA requires that the County provide an authorizing resolution evidencing several authorizations.

The FTA noted, by way of prefacing explanation for the required authorizations, that:

- 1.) The FTA has been delegated authority to award federal financial assistance for transportation projects;
- 2.) The grant or cooperative agreement for federal financial assistance for such projects will impose certain obligations upon the County, as the applicant, and may require the County, as the applicant, to provide the local share of the project cost; and
- 3.) The County, as the applicant, has been, or will be, required to provide all annual certifications and assurances to the FTA required for the project.

Accordingly, the FTA requires that the following authorizations be in place for the County:

- 1.) That the Commissioner of Public Works and Transportation (the "Commissioner") is authorized to execute and file an applications for federal assistance on behalf of the County with the FTA for federal assistance authorized by 49 U.S.C. Chapter 53, title 23, United States Code, or other federal statutes authorizing a project administered by the FTA ("Authority for Applications").

(It is required to be noted that, for the purposes of Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5307, either alone or in addition to

other federal assistance administered by the FTA, the County is the designated recipient as defined by 49 U.S.C. 5307(a)(2).

- 2.) That the Commissioner is authorized to execute and file with its applications the annual certifications and assurances and other documents the FTA requires before awarding a federal assistance grant or cooperative agreement (“Authority for Certifications and Assurances”).
- 3.) That the Commissioner is authorized to execute grant and cooperative agreements with the FTA on behalf of the County (“Authority to Execute”).

It should be noted that, without proof of these authorizations being in place for the County, the FTA has advised the County that the FTA will disallow further drawdowns of FTA funds.

With regard to the foregoing required authorizations:

- 1.) Under Section 241.321(3) of the Laws of Westchester County, the Commissioner has existing statutory authority, as a power and duty of his position, to “[p]repare public transportation and transit projects and applications to be presented by appropriate county officials for federal and/or state grants in aid” (the “Statute”). Accordingly, the Statute provides the Commissioner with the Authority for Applications.
- 2.) Notably, the FTA certifications and assurances are, essentially, a part of all future applications for FTA grants that are made during the federal fiscal year. Therefore, pursuant to the Statute, the Commissioner also already has the Authority for Certifications and Assurances.
- 3.) By resolutions approved on January 9, 2025, your Honorable Board authorized the County Executive to issue certain certificates of authorization to, among others, the Commissioner, pursuant to Section 161.11(1) of the Laws of Westchester County. On January 10, 2025, the County Executive issued such certificates of authorization to the Commissioner. Under those certificates of authorization, the Commissioner is authorized to execute grant and cooperative agreements with the FTA, on behalf of the County, either based upon an approved resolution from your Honorable Board or based upon a ‘short-form’ authorization. Accordingly, the Commissioner already has Authority to Execute, in terms of authority to act on behalf of the County with regard to, among other things, FTA grants and cooperative agreements.

However, in accordance with very longstanding practice, the Department of Public Works and Transportation has, heretofore, always only sought authority from your Honorable Board to enter into each grant and cooperative agreement, as they arise, rather than seek any blanket authority, as suggested by the Authority to Execute.

In order to satisfy the FTA's requirement for the Authority to Execute, however, the County respectfully requests from your Honorable Board authority to enter into grant and cooperative agreements with the FTA; provided, however, that the County will continue to request authority from your Honorable Board for each grant and cooperative agreement, as they arise, in order to, among other things, provide any necessary individual authorizations or details, including, without limitation, specific budgeting of all revenues and accounting and authorization for all expenditures, such as local shares (the "Overall Authorization").

The proposed resolution will serve a public purpose by ensuring that the County can continue to draw down from FTA funds.

The goal and objective of the proposed resolution is to ensure that the County can continue to draw down from FTA funds.

The goal and objective of the proposed resolution is in the best interests of the County in terms of fiscal responsibility, as ensuring that the County can continue to draw down from FTA funds will ensure that the County does not have to find alternative funds for FTA-funded projects.

The goal and objective of the proposed resolution will be tracked and monitored by the staff of the Department of Public Works and Transportation.

The proposed resolution does not relate to anything that constitutes procurement.

I respectfully recommend the adoption of the attached resolution.

HJG/MS/bdm/nm

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/23/2025 RAYMOND SCUKY, SECRETARY

RESOLUTION

Upon a communication from the Commissioner of Public Works and Transportation, be it hereby:

RESOLVED, that, pursuant to Section 241.321(3) of the Laws of Westchester County, the Commissioner of Public Works and Transportation (the "Commissioner") is authorized to execute and file an applications for federal assistance on behalf of the County of Westchester (the "County") with the Federal Transit Administration (the "FTA") for federal assistance authorized by 49 U.S.C. Chapter 53, title 23, United States Code, or other federal statutes authorizing a project administered by the FTA, and that it is hereby noted that for the purposes of Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5307, either alone or in addition to other federal assistance administered by the FTA, the County is the designated recipient as defined by 49 U.S.C. 5307(a)(2); and be it further

RESOLVED, that, pursuant to Section 241.321(3) of the Laws of Westchester County, the Commissioner is authorized to execute and file with its applications the annual certifications and assurances and other documents the FTA requires before awarding a federal assistance grant or cooperative agreement; and be it further

RESOLVED, that, by resolutions approved on January 9, 2025, and certificates of authorization issued to the Commissioner on January 10, 2025, all pursuant to Section 161.11(1) of the Laws of Westchester County, the Commissioner is authorized to execute grant and cooperative agreements with the FTA on behalf of the County (the "Authority to Execute"); and be it further

RESOLVED, that, notwithstanding the foregoing Authority to Execute, said authority shall not be read or construed so as to eliminate the need for future resolutions to be approved for individual grant or cooperative agreements as they arise, it being the intention that such resolutions provide any necessary individual authorizations or details, including, without limitation, specific budgeting of all revenues and accounting and authorization for all expenditures, such as local shares; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to execute any documents and take any actions reasonably necessary and appropriate to effectuate the purposes of this resolution.

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
					N/A

Budget Funding Year(s): _____ Start Date: _____ End Date: _____
(must match resolution)

Funding Source: _____ Tax Dollars: _____
N/A _____ State Aid: _____
(must match resolution) Federal Aid: _____
Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/23/2025 - RAYMOND SCULKY, SECRETARY