



January 9, 2024

Westchester County Board of Legislators  
800 Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is a Local Law which, if adopted by your Honorable Board, would authorize the County of Westchester ("County") to amend certain provisions of Section 167.171 of the Laws of Westchester County ("LWC") regarding emergency contracts. The current law allows the County Executive to execute emergency contracts without competitive bidding as long as a written declaration of the emergency has been provided to the Board of Acquisition and Contract. This law was intended to cover emergency situations in the area of public works contracts, whereas purchase contracts are subject to the provisions of LWC Chapter 836 and under the jurisdiction of the Purchasing Agent. Recently there has been some confusion with the interpretation of Section 167.171(2) because as currently written it applies to both public works contracts and purchase contracts. In order to address this unintended consequence, Section 167.171(2) needs to be corrected by changing the law cited in that section from Section 161.11 to Section 161.11(3).

Additionally, as you know, supply chain problems emerged during COVID-19 lockdowns due to for instance, shifts in demand, labor shortages and precautionary inventory buildup. These issues have not subsided. As a result, there have been a number of instances where an emergency contract was entered into and the one-year term permitted by LWC §167.171(4) was insufficient to complete the work. The reason most given for this timing issue is that there have been contract delays attributable to supply chain issues that are prevalent throughout the construction industry with the biggest impact on delivery times for equipment and supplies. In multiple instances contractors are finding that extended lead times are required for parts and equipment and that there are unprecedented backlogs. In addition, there have been a number of instances where an emergency contract required more than one year to complete because an approval from an outside agency was required that delayed completion of the project, or unanticipated additional work arose during the emergency work, which additional work was necessary to complete the emergency work and such work delayed the completion of the project.

I have been advised that there is no similar time restriction under New York State law for emergency contract awards. Accordingly, the proposed Local Law will address this issue by changing the one-year term limit requirement to three years, and if additional time is necessary to

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complete the emergency work, any extension would be subject to the approval of the Board of Acquisition and Contract.

I have been advised that the attached Local Law is subject to a permissive referendum pursuant to LWC Section 209.171(2), because it seeks to change a provision of law relating to public bidding, purchases or contracts. Consequently, pursuant to LWC Section 209.181, the attached Local Law, if adopted, may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the statutorily required number of qualified electors.

Accordingly, I most respectfully recommend your Honorable Board's favorable consideration of the attached Resolution authorizing a public hearing and Local Law.

Sincerely,

A handwritten signature in black ink, appearing to read "George Latimer", written in a cursive style.

George Latimer  
County Executive

GL/TSA

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

Your Committee is in receipt of a communication from the County Executive recommending the enactment of a Local Law which, if adopted by your Honorable Board, would authorize the County of Westchester (“County”) to amend certain provisions of Section 167.171 of the Laws of Westchester County (“LWC”) regarding emergency contracts. The current law allows the County Executive to execute emergency contracts without competitive bidding as long as a written declaration of the emergency has been provided to the Board of Acquisition and Contract. This law was intended to cover emergency situations in the area of public works contracts, whereas purchase contracts are subject to the provisions of LWC Chapter 836 and under the jurisdiction of the Purchasing Agent. Recently there has been some confusion with the interpretation of Section 167.171(2) because as currently written it applies to both public works contracts and purchase contracts. In order to address this unintended consequence, Section 167.171(2) needs to be corrected by changing the law cited in that section from Section 161.11 to Section 161.11(3).

Additionally, as you know, supply chain problems emerged during COVID-19 lockdowns due to for instance, shifts in demand, labor shortages and precautionary inventory buildup. These issues have not subsided. As a result, there have been a number of instances where an emergency contract was entered into and the one-year term permitted by LWC §167.171(4) was insufficient to complete the work. The reason most given for this timing issue is that there have been contract delays attributable to supply chain issues that are prevalent throughout the construction industry with the biggest impact on delivery times for equipment and supplies. In multiple instances contractors are finding that extended lead times are required for

parts and equipment and that there are unprecedented backlogs. In addition, there have been a number of instances where an emergency contract required more than one year to complete because an approval from an outside agency was required that delayed completion of the project, or unanticipated additional work arose during the emergency work, which additional work was necessary to complete the emergency work and such work delayed the completion of the project.

Your Committee has been advised that there is no similar time restriction under New York State law for emergency contract awards. Accordingly, the proposed Local Law will address this issue by changing the one-year term limit requirement to three years, and if additional time is necessary to complete the emergency work, any extension would be subject to the approval of the Board of Acquisition and Contract.

The Department of Planning has advised that the proposed Local Law does not meet the definition of an “action” under the State Environmental Quality Review Act (“SEQRA”), and its implementing regulations, 6 NYCRR, Part 617. Please refer to the Memorandum from the Department of Planning dated January 8, 2024, which is on file with the clerk of your Honorable Board. As such, no environmental review is required. Your Committee concurs with this recommendation.

Your Committee has been advised that that the attached Local Law is subject to a permissive referendum pursuant to Section 209.171(2) of the Laws of Westchester County, because it changes a provision of law relating to public bidding, purchases or contracts. Consequently, pursuant to Section 209.181 of the Laws of Westchester County, the attached Local Law, if adopted, may not take effect until sixty (60) days after its adoption, assuming that

within that time a petition protesting its adoption is not filed by the statutorily required number of qualified electors.

Your Committee is informed that an affirmative vote of the majority of the total voting power of your Honorable Board is required before the County may adopt the attached Local Law. In addition, also attached is a Resolution authorizing a Public Hearing as required by LWC Section 209.141(4).

After review and careful consideration, your Committee recommends favorable action upon the proposed Local Law.

Dated: \_\_\_\_\_, 2024  
White Plains, New York

**COMMITTEE ON**

C/tsa 1.4.24

# FISCAL IMPACT STATEMENT

SUBJECT: Amend LWC Section 167.171  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: \_\_\_\_\_

Potential Related Operating Budget Expenses: Annual Amount \_\_\_\_\_

Describe: Amend certain provisions of Section 167.171 of the Laws of Westchester  
County regarding emergency contracts

Potential Related Operating Budget Revenues: Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

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

Current Year: \_\_\_\_\_

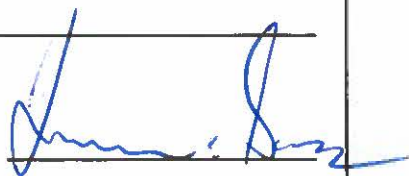
Next Four Years: \_\_\_\_\_

Prepared by: Mark Medwid

Title: Associate Budget Director

Department: Budget

Date: January 5, 2024

Reviewed By: 

Budget Director

Date: 1/5/24

**RESOLUTION NO. -2024**

**RESOLVED**, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. - 2024 entitled “ A LOCAL LAW amending certain provisions of Section 167.171 of the Laws of Westchester County regarding emergency contracts.” The public hearing will be held at \_\_\_\_\_ p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing, and the method for submitting comments, to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.