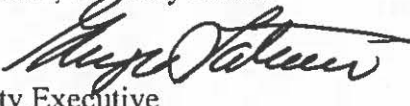


May 10, 2021

TO: Hon. Benjamin Boykin, Chair
Hon. Alfreda Williams, Vice Chair
Hon. MaryJane Shimsky, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer 
Westchester County Executive

RE: Message Requesting Immediate Consideration: **Act – Permanent Easement – Mamaroneck WWTP.**

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators May 10, 2021 Agenda.

Transmitted herewith for your review is an act ("Act") which, if adopted by your Honorable Board, would authorize the County of Westchester ("County" or "Grantee") to accept a permanent easement ("Easement") required in connection with the County's rehabilitation of its outfall jetty located at the County's Mamaroneck Wastewater Treatment Plant ("Project").

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for May 10, 2021 "blue sheet" calendar.

Thank you for your prompt attention to this matter.

George Latimer
County Executive

May 10, 2021

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

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review is an act ("Act") which, if adopted by your Honorable Board, would authorize the County of Westchester ("County" or "Grantee") to accept a permanent easement ("Easement") required in connection with the County's rehabilitation of its outfall jetty located at the County's Mamaroneck Wastewater Treatment Plant ("Project").

The proposed Easement is granted to the County by the People of the State of New York, acting by the Commissioner of General Services ("State" or "Grantor"). The Easement would encompass approximately 0.978 acres of underwater land located in the Village and Town of Mamaroneck, identified on a map entitled "Submerged Land Application Map in the Application of County of Westchester," dated August 3, 2020 and filed in the New York State Office of General Services ("OGS") as OGS Map No. 2711 ("Map"). The proposed Easement is attached hereto and contains the pertinent metes and bounds property descriptions for reference.

The County already has several easements in connection with the existing Mamaroneck Waste Water Treatment Plant ("MWWTP"), dated 1929, 1988 and 1989. The Department of Environmental Facilities ("Department") has advised that the additional Easement is required in connection with the Project, which includes rehabilitation of the outfall jetty bulkhead under which two outfalls run from the MWWTP.

It should be noted that among other terms, the Easement contains the following conditions:

- (1) The Easement... is granted only with respect to the jetty described in the application and shown on the Map. If the jetty shall not have been maintained and used for a period of one year, the easement shall cease and determine without action to such effect be taken by the Grantor and all rights of the Grantee shall then terminate and, furthermore, in such event, the Grantee agrees at the expense of the Grantee and at no expense to the Grantor to remove at once the jetty from the land of the Grantor hereby affected and to leave said land in as nearly the same condition as possible as it was prior to the construction of the jetty.
- (2) Grantees assume all risk in the construction, reconstruction, installation, repair, maintenance, operation and/or removal of the jetty... and shall be solely responsible and answerable in damages for any and all accidents and injuries to person or property (including death), and hereby covenants and agrees to indemnify and hold harmless the Grantor from any violation by

Grantees, its agents, employees, or contractors, of any law, ordinance, rule or regulation affecting or relating to the construction, reconstruction, installation, repair, maintenance, operation and/or removal of said jetty, and from any and all claims, suits, losses, damages or injuries to person or property (including death) of every kind and nature whether direct or indirect, arising out of the construction, reconstruction, installation, repair, maintenance, operation and/or removal thereof, or the carelessness, negligence or improper conduct of the Grantees or any contractor, servant, agent or employee thereof and to pay for and on behalf of the Grantor any and all charges, fees, expenses, costs or judgements arising therefrom. The Grantee agrees, upon being requested so to do, to assume the defense and to defend, at its own cost and expense, any action brought at any time against the Grantor in connection with any such claim, suits, losses or liens as aforesaid.

(3) The Easement... shall not be assigned or transferred without the written consent of the Commissioner of General Services.

(4) The Easement shall not affect the title of the Grantor to any lands underwater contiguous to the jetty and any additions to or accumulation thereon caused by such jetty outside the area of the Easement shall be the property of the Grantor and shall be considered for all purposes as lands underwater.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act ("SEQR") have been met. The Planning Department ("Planning") has advised that pursuant to SEQR and its implementing regulations, 6 NYCRR Part 617, the Easement was reviewed as part of the SEQR review for capital project SM002. As such, attached is a memo stating that the Board of Legislators adopted a Negative Declaration for this action on July 13, 2020 by Resolution 82-2020 and no further environmental review is required.

Based on the foregoing, approval of the attached Act is respectfully recommended.

Very truly yours,



George Latimer
County Executive

GL/mg
Attachments

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

Your Committee is in receipt of a communication from the County Executive recommending approval of an act, which would authorize the County of Westchester ("County" or "Grantee") to accept a permanent easement ("Easement") required in connection with the County's rehabilitation of its outfall jetty located at the County's Mamaroneck Wastewater Treatment Plant ("Project").

The proposed Easement is granted to the County by the People of the State of New York, acting by the Commissioner of General Services ("State" or "Grantor"). The Easement would encompass approximately 0.978 acres of underwater land located in the Village and Town of Mamaroneck, identified on a map entitled "Submerged Land Application Map in the Application of County of Westchester," dated August 3, 2020 and filed in the New York State Office of General Services ("OGS") as OGS Map No. 2711 ("Map"). The proposed Easement is attached hereto and contains the pertinent metes and bounds property descriptions for reference.

The County already has several easements in connection with the existing Mamaroneck Waste Water Treatment Plant ("MWWTP"), dated 1929, 1988 and 1989. The Department of Environmental Facilities ("Department") has advised that the additional Easement is required in connection with the Project, which includes rehabilitation of the outfall jetty bulkhead under which two outfalls run from the MWWTP.

It should be noted that among other terms, the Easement contains the following conditions:

(1) The Easement... is granted only with respect to the jetty described in the application and shown on the Map. If the jetty shall not have been maintained and used for a period of one year, the easement shall cease and determine without action to such effect be taken by the Grantor and all rights of the Grantee shall then terminate and, furthermore, in such event, the Grantee agrees at the expense of the Grantee and at no expense to the Grantor to remove at once the jetty from the land of the Grantor hereby affected and to leave said land in as nearly the same condition as possible as it was prior to the construction of the jetty.

(2) Grantees assume all risk in the construction, reconstruction, installation, repair, maintenance, operation and/or removal of the jetty... and shall be solely responsible and answerable in damages for any and all accidents and injuries to person or property (including death), and hereby covenants and agrees to indemnify and hold harmless the Grantor from any violation by Grantees, its agents, employees, or contractors, of any law, ordinance, rule or regulation affecting or relating to the construction, reconstruction, installation, repair, maintenance, operation and/or removal of said jetty, and from any and all claims, suits, losses, damages or injuries to person or property (including death) of every kind and nature whether direct or indirect, arising out of the construction, reconstruction, installation, repair, maintenance, operation and/or removal thereof, or the carelessness, negligence or improper conduct of the Grantees or any contractor, servant, agent or employee thereof and to pay for and on behalf of the Grantor any and all charges, fees, expenses, costs or judgements arising therefrom. The Grantee agrees, upon being requested so to do, to assume the defense and to defend, at its own cost and expense, any action brought at any time against the Grantor in connection with any such claim, suits, losses or liens as aforesaid.

(3) The Easement... shall not be assigned or transferred without the written consent of the Commissioner of General Services.

(4) The Easement shall not affect the title of the Grantor to any lands underwater contiguous to the jetty and any additions to or accumulation thereon caused by such jetty outside the area of the Easement shall be the property of the Grantor and shall be considered for all purposes as lands underwater.

The Planning Department ("Planning") has advised your Committee that pursuant to the New York State Environmental Quality Review Act ("SEQR") and its implementing regulations, 6 NYCRR Part 617, the Easement was reviewed as part of the SEQR review for capital project SM002. As such, attached is a memo stating that the Board of Legislators adopted a Negative Declaration for this action on July 13, 2020 by Resolution 82-2020 and no further environmental review is required.

As your Committee is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act ("SEQR") have been met. The Planning Department ("Planning") has advised that pursuant to SEQR and its implementing regulations, 6 NYCRR Part 617, the Easement was reviewed as part of the SEQR review for capital project SM002. As such, attached is a memo stating that the Board of Legislators adopted a Negative Declaration for this action on July 13, 2020 by Resolution 82-2020 and no further environmental review is required.

Your Committee has been advised that passage of the attached Act requires an affirmative vote of a majority of the members of your Honorable Board. Your Committee has carefully considered the proposed legislation and concurs with the recommendation of the County Executive and urges your Honorable Board to adopt the annexed Act.

Dated: _____, 20__.
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

Subject: Easement Acquisition, Mamaroneck WRRF Outfall Jetty

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 \$ 500

Total Current Year Revenue \$ -

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

Additional Appropriations

Other (explain)

Identify Accounts: 227-60-0710-5100

Potential Related Operating Budget Expenses: Annual Amount \$ 500

Describe: Cost to acquire a permanent easement from the State of New York for the rehabilitation of the outfall jetty located at the Mamaroneck Treatment Plant

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: N/A

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

Current Year: N/A

Next Four Years: N/A

Prepared by: Marian Pompa, Jr. P.E.

Title: Associate Engineer

Department: Environmental Facilities


Date: May 5, 2021

Reviewed By: 

Budget Director

Date: 5/5/21

TO: Michelle Greenbaum, Assistant County Attorney
Department of Law

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

DATE: April 28, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR NEW YORK STATE
EASEMENT FOR MAMARONECK OUTFALL JETTY**

Pursuant to your request, made on behalf of the Department of Environmental Facilities, 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 action involves the acceptance of an easement from the State of New York for the installation and maintenance of a jetty on top of underwater land owned by the state, located off the coast of Harbor Island Park in the Village of Mamaroneck. The jetty is being reconstructed under capital project SM002—Mamaroneck Waste Water Treatment Plant Outfall Jetty Rehabilitation—in order to protect an existing sewer outfall pipe that serves the County's Mamaroneck Water Resource Recovery Facility.

Capital project SM002 was previously reviewed by the Westchester County Board of Legislators, which identified the project as an Unlisted action under SEQR. In accordance with SEQR, a Short Environmental Assessment Form was prepared and on July 13, 2020, a Negative Declaration was issued for the project by the Board of Legislators via Resolution 82-2020. Since the easement is a component of this project, no further environmental review is required.

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
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

THIS INDENTURE made this 26th day of January, 2021, between THE PEOPLE OF THE STATE OF NEW YORK acting by the Commissioner of General Services having an office and place of business at the Coming Tower, 36th Floor, Empire State Plaza, Albany, New York 12242, hereinafter referred to as the "Grantor," and County of Westchester, having a place of business at 270 North Ave., New Rochelle, New York 10801 hereinafter referred to as the "Grantee,"

WITNESSETH, that the Grantor, pursuant to Section 75, subdivision 7(b) of the Public Lands Law and the Findings of the Commissioner dated January 26, 2021 and in consideration of the sum of Five Hundred Dollars (\$500.00), lawful money of the United States of America, paid by the Grantee and upon the terms and conditions hereinafter expressed, does hereby give and grant unto the Grantee and the successors and assignees of the Grantee, the right, privilege and easement for the installation, use and maintenance of a jetty for the protection of a pre-existing sewer outfall pipeline, herein after referred to as "jetty," on a parcel of land underwater. Such easement shall be exercised in those lands described as follows:

All that piece or parcel of land under the waters of the Mamaroneck Harbor situate in the Village of Mamaroneck, Town of Mamaroneck, County of Westchester, State of New York, being bounded and described as follows:

Beginning at the southernmost corner of a grant of lands under water to the Village of Mamaroneck on July 18, 1949 recorded in Book 71 of Patents at page 385; said point also being on the U.S. Pierhead and Bulkhead line approved August 3, 1914; thence from said point of beginning northeasterly along said grant the following two (2) courses and distances:

- 1) N 62° 46' 50" E a distance of 110.91 feet to a point; and
- 2) N 22° 44' 43" E a distance of 26.12 feet to a point; thence through the lands of the People of the State of New York and under the waters of Mamaroneck Harbor the following eight (8) courses and distances:

- 1) S 55° 40' 47" E a distance of 308.32 feet to a point;
- 2) S 01° 05' 58" E a distance of 40.37 feet to a point;
- 3) S 54° 10' 48" E a distance of 89.63 feet to a point;
- 4) S 35° 49' 12" W a distance of 39.79 feet to a point;

- 5) N 54° 06' 01" W a distance of 240.44 feet to a point;
- 6) S 45° 04' 48" W a distance of 67.42 feet to a point;
- 7) N 60° 27' 53" W a distance of 228.81 feet to a point; and
- 8) N 12° 42' 51" E a distance of 23.65 feet to a point on the southerly boundary of the first mentioned grant to the Village of Mamaroneck; thence easterly along said boundary S 77° 17' 09" E a distance of 23.43 feet to the point or place of beginning. Containing 0.978 acre of land more or less.

Shown on a map entitled "Submerged Land Application Map in the Application of County of Westchester," dated August 3, 2020 and filed in the New York State Office of General Services in Albany, New York as OGS Map No. 2711.

The grant of easement shall be in perpetuity from the date hereof subject to the following covenants, terms and conditions:

1. The easement hereby granted is granted only with respect to the jetty described in the application and shown on the map previously mentioned. If the jetty shall not have been maintained and used for a period of one year, the easement shall cease and determine without action to such effect be taken by the Grantor and all rights of the Grantee shall then terminate and, furthermore, in such event, the Grantee agrees at the expense of the Grantee and at no expense to the Grantor to remove at once the jetty from the land of the Grantor hereby affected and to leave said land in as nearly the same condition as possible as it was prior to the construction of the jetty.
2. Grantees assume all risk in the construction, reconstruction, installation, repair, maintenance, operation and/or removal of the jetty referred to in this Indenture, and shall be solely responsible and answerable in damages for any and all accidents and injuries to person or property (including death), and hereby covenants and agrees to indemnify and hold harmless the Grantor from any violation by Grantees, its agents, employees, or contractors, of any law, ordinance, rule or regulation affecting or relating to the construction, reconstruction, installation, repair, maintenance, operation and/or removal of said jetty, and from any and all claims, suits, losses, damages or injuries to person or property (including death) of every kind and nature whether direct or indirect, arising out of the construction, reconstruction, installation, repair, maintenance, operation and/or removal thereof, or the carelessness, negligence or improper conduct of the Grantees or any contractor, servant, agent or employee thereof and to pay for and on behalf of the Grantor any and all charges, fees, expenses, costs or judgments arising therefrom. The Grantee agrees, upon being requested so to do, to assume the defense and to defend, at its own cost and expense, any action brought at any time against the Grantor in connection with any such claim, suits, losses or liens as aforesaid.
3. The easement hereby granted shall not be assigned or transferred without the written consent of the Commissioner of General Services.
4. This grant of easement shall not affect the title of the Grantor to any lands underwater contiguous to the aforesaid jetty and any additions to or accumulation thereon caused by

such jetty outside the area of the easement granted shall be the property of the Grantor and shall be considered for all purposes as lands underwater.

The word "Grantee" shall be construed as if read "Grantees" whenever the sense of this Indenture so requires. The use of the neuter pronoun in any reference to "Grantee" shall be construed to include any individual "Grantee," and the word "successors" shall be construed as if read "heirs" whenever the sense of this Indenture so requires.

All the covenants, terms and conditions of this Indenture shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed by their duly authorized representative on the day and year first above written.

THE PEOPLE OF THE STATE OF NEW YORK

By: RoAnn M. Destito
RoAnn M. Destito
Commissioner of General Services

STATE OF NEW YORK }
 : SS.:
COUNTY OF ALBANY }

On the ^{26th} day of January, in the year 2021, before me, the undersigned personally appeared RoAnn M. Destito personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

SUSAN G. PULVER
NOTARY PUBLIC-STATE OF NEW YORK
No. 01PU6289995
Qualified in Columbia County
My Commission Expires 10-07-2021

Susan G. Pulver
Notary Public, State of New York
Qualified in County of:
My Commission Expires:

Approved as to form this 25th day
of February, 2021

LETITIA JAMES
Attorney General

By: Gary F. Selay
Principal Attorney

EASEMENT

**THE PEOPLE OF THE STATE OF
NEW YORK**

TO

WESTCHESTER COUNTY

*Recorded in the Department of State
in Volume 63 of Miscellaneous Deeds
and Title Papers at page 7
on March 11 2021*

*Rossana Rosado
Secretary of State*

By *Richard [Signature]*

AN ACT authorizing the County of Westchester ("County" or "Grantee") to accept a permanent easement from the People of the State of New York, acting by the Commissioner of General Services ("State" or "Grantor") required in connection with the County's rehabilitation of its outfall jetty located at the County's Mamaroneck Wastewater Treatment Plant ("Project").

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

Section 1. The County is hereby authorized to accept the Easement from the State required in connection with the rehabilitation of its outfall jetty located at the County's Mamaroneck Wastewater Treatment Plant, noting that the Easement area encompasses approximately 0.978 acres of underwater land located in the Village and Town of Mamaroneck, identified on a map entitled "Submerged Land Application Map in the Application of County of Westchester," dated August 3, 2020 and filed in the New York State Office of General Services ("OGS") as OGS Map No. 2711 ("Map").

§2. The County Executive or his authorized designee is empowered to execute any and all documents necessary and appropriate to effectuate the purposes hereof.

§4. This Act shall take effect immediately.