



George Latimer
County Executive

April 11, 2024

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

Dear Members of the Board of Legislators:

Transmitted herewith for your review and approval are the following acts in connection with Capital Project SPK26 – McGregory Brook Relief Sewer (“SPK26”):

- (1) a superseding bond act (the “Bond Act”) which, if adopted, would authorize the County of Westchester (the “County”) to issue up to \$1,900,000 in bonds of the County to finance the construction of a relief sewer on the McGregory Brook Intercepting Sewer located in the City of Peekskill (“McGregory Brook Relief Sewer”); and
- (2) A related amending bond act (the “Amending Bond Act”), which, if adopted, would amend Bond Act No. 83-2023, by (i) removing the authorization for \$400,000 bonds for design and construction management costs associated with project SPK26, and (ii) reflecting the correct estimated maximum cost and the amount of bonds authorized thereunder of \$2,900,000 for the remaining projects SOS07, SPK23, SY044, SY045, and SY053.

The Bond Act, in the total amount of \$1,900,000, would finance the cost of design, construction management and construction associated with the construction of the McGregory Brook Relief Sewer. Work would include, but not be limited to, the installation and/or reconstruction of sanitary sewer pipes and manholes.

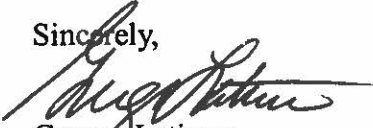
The Amending Bond Act would amend Bond Act No. 83 - 2023, by removing the authorization for \$400,000 bonds associated with project SPK26 for the construction of the McGregory Brook Relief Sewer, in the City of Peekskill, thereby reducing the estimated maximum cost and the amount of bonds authorized under Bond Act No. 83 - 2023 by \$400,000, and reflecting the correct estimated maximum cost and the amount of bonds authorized thereunder of \$2,900,000 for the remaining projects SOS07, SPK23, SY044, SY045, and SY053.

The Department of Environmental Facilities has advised that SPK26 is necessary to fix a portion of the McGregory Brook Intercepting Sewer that was constructed at a very flat slope. This portion of the sewer requires augmenting to handle potential flow increases in the upstream tributary areas. The sewer must be augmented with a relief sewer to increase flow capacity to equivalent levels found in upstream and downstream pipe segments.

Design is currently being undertaken by a consultant and is expected to be completed by the end of 2024. It is anticipated that construction will take 10 months to complete and will begin after award and execution of construction contracts.

Based on the importance of this capital project to the County, favorable action on the annexed proposed Acts is respectfully requested.

Sincerely,



George Latimer
County Executive

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a transmittal from the County Executive recommending approval by the County of Westchester (“County”) of the following in connection Capital Project SPK26 – Gregory Brook Relief Sewer (“SPK26”):

- (1) a superseding bond act (the “Bond Act”) which, if adopted, would authorize the County of Westchester (the “County”) to issue up to \$1,900,000 in bonds of the County to finance the construction of a relief sewer on the Gregory Brook Intercepting Sewer located in the City of Peekskill (“Gregory Brook Relief Sewer”); and
- (2) a related amending bond act (the “Amending Bond Act”), which, if adopted, would amend Bond Act No. 83-2023, by (i) removing the authorization for \$400,000 bonds for design and construction management costs associated with project SPK26, and (ii) reflecting the correct estimated maximum cost and the amount of bonds authorized thereunder of \$2,900,000 for the remaining projects SOS07, SPK23, SY044, SY045, and SY053.

The Bond Act prepared by Norton Rose Fulbright, in the total amount of \$1,900,000, would finance the cost of design, construction management and construction associated with the construction of the Gregory Brook Relief Sewer. Work would include, but not be limited to, the installation and/or reconstruction of sanitary sewer pipes and manholes. but not be limited to, the installation and/or reconstruction of sanitary sewer pipes and manholes.

The Amending Bond Act would amend Bond Act No. 83 - 2023, by removing the authorization for \$400,000 bonds associated with project SPK26 for the construction of the Gregory Brook Relief Sewer, in the City of Peekskill, thereby reducing the estimated maximum cost and the amount of bonds authorized under Bond Act No. 83 - 2023 by \$400,000, and reflecting the correct estimated maximum cost and the amount of bonds authorized thereunder of \$2,900,000 for the remaining projects SOS07, SPK23, SY044, SY045, and SY053.

Your Committee has been advised by the Department of Environmental Facilities has advised that SPK26 is necessary to fix a portion of the McGregory Brook Intercepting Sewer that was constructed at a very flat slope. This portion of the sewer requires augmenting to handle potential flow increases in the upstream tributary areas. The sewer must be augmented with a relief sewer to increase flow capacity to equivalent levels found in upstream and downstream pipe segments.

Design is currently being undertaken by a consultant and is expected to be completed by the end of 2024. It is anticipated that construction will take 10 months to complete and will begin after award and execution of construction contracts.

The Department of Planning has advised your Committee that based on its review, the authorization of the proposed capital project may be classified as a Type “II” action pursuant to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 (“SEQR”). Therefore, no environmental review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

It should be noted that an affirmative vote of two-thirds of the members of your Honorable Board is required in order to adopt the Bond Act and the Amending Bond Act. Your Committee has carefully considered the proposed Bond Act and Amending Bond Act, and recommends approval of both of the proposed Acts.

Dated: _____, 2024
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: SPK26

NO FISCAL IMPACT PROJECTED

SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

Source of County Funds (check one):

Current Appropriations

Capital Budget Amendment

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 1,900,000 PPU 30 Anticipated Interest Rate 3.60%

Anticipated Annual Cost (Principal and Interest): \$ 100,297

Total Debt Service (Annual Cost x Term): \$ 3,008,910

Finance Department: Interest rates from April 17, 2024 Bond Buyer - ASBA

SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): \$ -

Potential Related Revenues (Annual): \$ -

Anticipated savings to County and/or impact of department operations
(describe in detail for current and next four years):

SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded: 20

Prepared by: Joe Brown

Title: Capital Program Coordinator

Department: DEF

Date: 4/18/24

Reviewed By: 

04/18/24
Budget Director

Date: 4/18/24

TO: Michelle Greenbaum, Senior Assistant County Attorney
Jeffrey Goldman, Senior Assistant County Attorney
Carla Chaves, Senior Assistant County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM
Assistant Commissioner



DATE: April 1, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT:
SPK26 MCGREGORY BROOK RELIEF SEWER**

PROJECT/ACTION: Per Capital Project Fact Sheet as approved by the Planning Department on 03-22-2024 (Unique ID: 2422)

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no environmental review is required for the proposed action, because the project or component of the project for which funding is requested may be classified as a **TYPE II action** pursuant to section(s):

- **617.5(c)(2):** replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;

COMMENTS: The project involves reconstruction of the sewer within the roadway, as the chosen alternative.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Lawrence Soule, Budget Director
Tami Altschiller, Assistant Chief Deputy County Attorney
Nat Federici, Deputy Commissioner, Department of Environmental Facilities
Dianne Vanadia, Associate Budget Director
Joseph Brown, Capital Program Coordinator, Department of Environmental Facilities
Susan Darling, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Principal Environmental Planner

ACT NO. _____ - 2024

BOND ACT DATED _____, 2024.

A BOND ACT AUTHORIZING THE ISSUANCE OF \$1,900,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS FOR THE INSTALLATION OF A NEW RELIEF SEWER ADJACENT AND CONNECTED TO THE EXISTING MCGREGORY BROOK INTERCEPTING SEWER, IN AND FOR THE COUNTY'S PEEKSKILL SANITARY SEWER DISTRICT.

WHEREAS, the County, by separate amending Bond Act, shall amend Act No. 83-2023 dated May 15, 2023, to remove the authorization therein of \$400,000 bonds for design and construction management costs of the installation of a new relief sewer adjacent and connected to the existing McGregory Brook Intercepting Sewer in the City of Peekskill (SPK26); and

WHEREAS, no obligations have been issued under Act No. 83-2023 for project SPK26 or shall be issued to pay costs of SPK26; and

WHEREAS, it has now been determined that it would be beneficial to authorize an additional \$1,500,000 bonds for construction costs and consolidate such bonds with the \$400,000 bonds previously authorized in Bond Act 83-2023 for SPK26; and

WHEREAS, the capital project hereinafter described has been duly approved in the adopted capital budget for the current fiscal year; and

WHEREAS, the plan for the financing of the estimated maximum cost of such capital project, as hereinafter set forth in this Bond Act, is in conformity with such capital budget; and

WHEREAS, all other conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, to the extent required, have been performed; and

WHEREAS, it is now desired to authorize the financing of the cost of such capital project;
NOW, THEREFORE,

BE IT ENACTED, by the Board of Legislators of the County of Westchester, New York (the "County"), by the affirmative vote of not less than two thirds of the entire voting strength thereof, as follows:

Section 1. For paying the design, construction management and construction costs for the installation of a new relief sewer adjacent and connected to the existing McGregory Brook Intercepting Sewer in the City of Peekskill, including incidental expenses in connection therewith, and construction or reconstruction of sewer pipes and manholes, there are hereby authorized to be issued \$1,900,000 bonds of said County pursuant to the provisions of the Local Finance Law. To the extent that the details of the aforesaid class of objects or purposes set forth in this Bond Act are inconsistent with any details set forth in the current Capital Budget of the County, such Budget shall be deemed and is hereby amended to the extent inconsistent herewith.

Section 2. It is hereby determined that the estimated maximum cost of the aforesaid class of objects or purposes is \$1,900,000, and that the plan for the financing thereof is by the issuance of the \$1,900,000 bonds of said County authorized to be issued pursuant to this Bond Act.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is forty years, pursuant to subdivision four of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of the County are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due

and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not paid from the assessment of properties assessable for this purpose in the County's Peekskill Sanitary Sewer District, as allocated by the County, or other sources, there shall annually be levied on all the taxable real property of said County a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County by the manual or facsimile signature of the Commissioner of Finance and a facsimile of the corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as said Commissioner of Finance shall deem best for the interests of the County; including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, the Commissioner of Finance shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. The Commissioner of Finance is hereby further delegated the power to authorize the sale and issuance of the bonds authorized pursuant to this Bond Act (a) at a discount in the manner authorized by paragraphs e and f of Section 57.00 of the Local Finance Law, (b) at private sale pursuant to the applicable provisions of the Local Finance Law and any regulations of the New York State Comptroller appertaining thereto, including the private sale of bonds at a premium, (c) as capital appreciation bonds or term bonds at public sale or private sale pursuant to

the applicable provisions of the Local Finance Law and any regulations of the New York State Comptroller appertaining thereto, and (d) at a variable rate of interest in the manner authorized by Section 54.90 of the Local Finance Law, including notes issued in anticipation thereof. The Commissioner of Finance is hereby authorized to enter into such agreements as said Commissioner of Finance shall determine reasonable and necessary to facilitate the issuance, sale, resale and, or repurchase of such bonds or notes pursuant to the provisions of Section 54.90 of the Local Finance Law. Such bonds and, or notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Commissioner of Finance. Such notes shall be of such terms, form and contents as may be prescribed by said Commissioner of Finance consistent with the provisions of the Local Finance Law.

Section 10. The Commissioner of Finance is hereby further authorized, at the sole discretion of the Commissioner of Finance, to execute a project financing agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the class of objects or purposes described in Section 1 hereof, or a portion thereof, by a bond, and, or note issue of said County in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 11. The intent of this Bond Act is to give the Commissioner of Finance sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and, or notes without resorting to further action of this Board of Legislators.

Section 12. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or
 - (2) The provisions of law which should be complied with at the date of publication of this Bond Act are not substantially complied with,
- and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This Bond Act shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this Bond Act, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 15. This Bond Act, which shall take effect immediately in accordance with the provisions of Section 33.10 of the Local Finance Law and as provided in Section 107.71 of the Westchester County Charter, shall be published in summary form in the official newspaper of said County for purposes of this Bond Act, together with a notice of the Clerk of the Board of Legislators in substantially the form provided in Section 81.00 of the Local Finance Law.

The foregoing Bond Act was duly put to a vote which resulted as follows:

AYES:

NOES:

ABSENT:

The Bond Act was thereupon declared duly adopted.

* * *

APPROVED BY THE COUNTY EXECUTIVE

Date: _____, 2024

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, the undersigned Clerk of the Board of Legislators of the County of Westchester, New York, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Board of Legislators of said County, including the Bond Act contained therein, held on _____, 2024, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

I FURTHER CERTIFY that said meeting was (i) open to the general public pursuant to Section 103 of the Public Officers Law or (ii) conducted in conformance with Section 103-a of the Public Officers Law.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

Newspaper and/or Other News Media

Date Given

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s) of Posted Notice

Date of Posting

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Board of Legislators on _____, 2024.

Clerk of the County Board of Legislators
of the County of Westchester, New York

(CORPORATE
SEAL)

LEGAL NOTICE

A Bond Act, a summary of which is published herewith, has been adopted by the Board of Legislators on _____, 2024 and approved by the County Executive on _____, 2024 and the validity of the obligations authorized by such Bond Act may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Westchester, in the State of New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the Constitution.

Complete copies of the Bond Act summarized herewith shall be available for public inspection during normal business hours at the Office of the Clerk of the Board of Legislators of the County of Westchester for a period of twenty days from the date of publication of this Notice.

ACT NO. _____-2024

A BOND ACT AUTHORIZING THE ISSUANCE OF \$1,900,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS FOR THE INSTALLATION OF A NEW RELIEF SEWER ADJACENT AND CONNECTED TO THE EXISTING MCGREGORY BROOK INTERCEPTING SEWER, IN AND FOR THE COUNTY'S PEEKSKILL SANITARY SEWER DISTRICT.

class of objects or purposes: design, construction management and construction costs for the installation of a new relief sewer adjacent and connected to the existing McGregor Brook Intercepting Sewer in the City of Peekskill, including incidental expenses in connection therewith, and construction or reconstruction of sewer pipes and manholes,

period of probable usefulness: forty years

amount of obligations to be issued: \$1,900,000

Dated: _____, 2024
White Plains, New York

Clerk of the County Board of Legislators of the County of Westchester, New York