

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

Your Committee is in receipt of a transmittal from the County Executive recommending approval of an Act which, if adopted, would authorize the County of Westchester (the "County") to acquire a permanent easement from the State of New York, or the current owner of record (the "State"), over approximately 3.8 acres of property along, in and under the waters of the Long Island Sound in the vicinity of Playland Park (the "Easement Area") in order to facilitate the County's construction and on-going maintenance of a living shoreline and reef in, under and along the Long Island Sound (the "Project").

The Department of Public Works and Transportation ("DPW&T") has advised that the easement and Project are necessary to provide additional areas within the tidal zone to protect the vulnerable barrier beach located at the eastern edge of Playland Park that contains the driveway entrance to the Edith Read Sanctuary and that also serves as a barrier between the Long Island Sound and Manursing Lake. In order to decrease the wave action on the beach, a series of breakwater barriers will be installed, including a series of boulder sills which will be located in the Easement Area. The construction work will include the installation of breakwater features, intertidal marsh, and a heavily planted berm at the beach area. The breakwater features are designed to temper the wave action at the beach and include boulder sills and reef balls. The reef balls are concrete formed round structures with circular holes formed into the walls and potentially will provide habitat for oysters and mussels. An intertidal marsh will be planted landward of these structures which will further enhance the habitat for shoreline organisms such as crabs, fish and birds. Above the tidal area, a berm will be installed which will consist of a well graded material core and topsoil cover which will be planted with native woody trees, shrubs, perennials and grasses. In addition, the Project will include an educational and outreach component such as interpretive signage and other measures to communicate the importance of living shorelines.

DPW&T has advised that design of the Project has been finalized and permits have been acquired from the United States Army Corps of Engineers, New York State Department

of Environmental Conservation, and New York State Department of State. It is estimated that construction will take six (6) months to complete.

DPW&T has further advised that the County must obtain this easement in order to construct the Project on State-owned property in the Long Island Sound and to fund a portion of the Project with proceeds that were previously authorized in connection with Capital Project BLP40 – Stormwater Management – Various County Facilities II, by Bond Act No. 60-2021 in the amount of \$1,500,000, Bond Act No. 91-2022 in the amount of \$500,000 and Bond Act No. 203-2023 in the amount of 2,000,000.

Pursuant to the terms of the easement, the County shall pay the State \$500.00 in administrative fees and will agree to assume all risks with the construction, reconstruction, installation, repair, maintenance, operation and/or removal of the improvements constructed in connection with the Project, and shall be solely responsible and answerable in damages for any and all accidents and injuries to person or property (including death). Additionally the County shall covenant and agree to indemnify and hold harmless the State from any violation by the County, 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 improvements, 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 County or any contractor, servant, agent or employee thereof and to pay for and on behalf of the State any and all charges, fees, expenses, costs or judgments arising therefrom. The County shall further agree, 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 State in connection with any such claim, suits, losses or liens as aforesaid.

The Department of Planning (“Planning”) has advised your Committee that based on its review, the Project was previously reviewed by the County Board of Legislators, which classified the Project as a “Type I” action under the State Environmental Quality

Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR Part 617. In accordance with SEQRA, a Full Environmental Assessment Form was prepared and, on April 26, 2021, a Negative Declaration was issued by the County Board of Legislators (Resolution 88-2021). Planning has further advised that since the current request is for the acceptance of an easement from the State only with no change in the scope of the Project, the original Negative Declaration remains valid and no further environmental review is required. Your Committee concurs with this recommendation.

Your Committee has been advised that an affirmative vote of a majority of the voting strength of the County Board of Legislators is required for approval of the proposed Act.

Your Committee has carefully considered and recommends approval of the proposed Act.

Dated: February 21st, 2024
White Plains, New York

James J. Kelly
John J. Kelly
David J. Tubiolo
John W. ...
Maryanne ...
...
...

David J. Tubiolo
John W. ...
Maryanne ...
...

COMMITTEE ON

c/jpi 1.30.24

Budget & Appropriations

Parks & Environment

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: BPL40

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

EASEMENT AGREEMENT WITH NYS FOR LIVING SHORELINE \$500 CHARGE TO BPL40-06-E (BOND ACT 203-2023)

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal

PPU

Anticipated Interest Rate

Anticipated Annual Cost (Principal and Interest):

Total Debt Service (Annual Cost x Term):

\$ -

Finance Department:

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:

N/A

SECTION E - EXPECTED DESIGN WORK PROVIDER

County Staff

Consultant

Not Applicable

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget

Date: 1/24/24

Reviewed By: 

Budget Director

Date: 1/31/24



Memorandum
Department of Planning

TO: John Paul Iannace, Senior Assistant County Attorney
Department of Law

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

DATE: January 23, 2024

SUBJECT **STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT**
: **NYS EASEMENT FOR LIVING SHORELINE/ARTIFICIAL REEF, RYE**

The Planning Department has reviewed the above referenced action in accordance with the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 (SEQR).

The action involves the acceptance of a permanent easement from the State of New York over approximately 3.8 acres of property in and under the waters of Long Island Sound in order to install and maintain an artificial reef in Long Island Sound off the shores of the County's Playland Park and Edith G. Read Wildlife Sanctuary in Rye. The overall project, which is being funded by capital project BPL40, was previously reviewed by the Westchester County Board of Legislators, which classified the project as a Type I action under SEQR. In accordance with SEQR, a Full Environmental Assessment Form was prepared and, on April 26, 2021, a Negative Declaration was issued by the Board of Legislators (Resolution 88-2021). Since the current action does not involve a change in scope, the original Negative Declaration remains valid and no further environmental review is required.

Please do not hesitate to contact me if you have any questions regarding this matter.

DSK/cnm

Att.

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Blanca Lopez, Commissioner of Planning
Suzette Lopane, Landscape Architect
Claudia Maxwell, Principal Environmental Planner

AN ACT authorizing the County of Westchester to accept an easement from the State of New York in order to facilitate the County's construction and on-going maintenance of a living shoreline and reef in, under and along the Long Island Sound in the vicinity of Playland Park.

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

Section 1. The County of Westchester (the "County") is hereby authorized to accept all necessary property rights from the State of New York, or the current owner of record (the "State"), including but not limited to a permanent easement, over approximately 3.8 acres of property along, in and under the waters of the Long Island Sound in the vicinity of Playland Park (the "Easement Area") in order to facilitate the County's construction and on-going maintenance of a living shoreline and reef in, under and along the Long Island Sound (the "Project").

§2. Pursuant to the terms of the easement, the County shall pay the State \$500.00 for administrative fees and will agree to assume all risks with the construction, reconstruction, installation, repair, maintenance, operation and/or removal of the improvements constructed in connection with the Project, and shall be solely responsible and answerable in damages for any and all accidents and injuries to person or property (including death). Additionally the County shall covenant and agree to indemnify and hold harmless the State from any violation by the County, 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 improvements, 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 County or any contractor, servant, agent or employee thereof and to pay for and on behalf of the State any and all charges, fees, expenses, costs or judgments arising therefrom. The County shall further agree, upon being requested so to do, to assume the defense of and to defend, at its own cost and expense, any action brought at any time against the State in connection with any such claim, suits, losses or liens as aforesaid.

§3. 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.