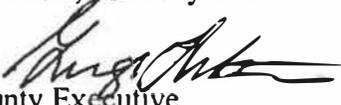


March 22, 2021

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: **Bond Act – WD309 –
Water Storage Facilities and Maintenance Program.**

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators March 22, 2021 Agenda.

Transmitted herewith for your review and approval is a legislative package which, if approved by your Honorable Board, would authorize the County of Westchester (“County”) to proceed with capital project WD309 – Water Storage Facilities and Maintenance Program. In addition to related documents: PH, ENV RES, 2 ACTS, STATE REGULATION RESOLUTION.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 22, 2021 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



George Latimer
County Executive

March 17, 2021

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 is a legislative package which, if approved by your Honorable Board, would authorize the County of Westchester ("County") to proceed with capital project WD309 – Water Storage Facilities and Maintenance Program ("WD309" or "Project"), for the benefit of County Water District No. 3 ("District"), subject to an order issued by the Comptroller of the State of New York ("State Comptroller") permitting the expenditure, as described herein. WD309 provides for the rehabilitation and maintenance of the existing water storage tower for the Grasslands Reservation ("Grasslands"), including but not limited to, painting and coating of the interior and exterior of the storage tower, paving of the existing service roadway and area surrounding the tank, required drainage remediation work, housekeeping site work, electrical and control instrumentation improvements, and piping and valve work, and incidental expenses in connection therewith, which is a specific object or purpose, in and for the benefit of the District.

The Department of Environmental Facilities ("Department") has advised that the 1.5 million gallon water storage tower was last recoated in 1997 and at that time a cathodic protection system was installed. The life expectancy of a recoated water storage tower with cathodic protection is approximately twenty (20) years. The Department has advised that the outside of the water tank itself has started to rust. In order to maintain the integrity of the tower, it is necessary to address the rusting of the tank. Further, I am advised that the County Department of Health has determined that it is imperative that the Department implement this rehabilitation Project.

As you may recall, your Honorable Board, by Act No. 193-2015, previously authorized the County to issue bonds in an amount not-to-exceed \$500,000 to finance design and construction management for the Project. I am advised that these bonds have not been sold. The design has been completed. It is now requested that Act No. 193-2015 be amended to increase the amount authorized by \$9,300,000 to finance the construction portion of WD309 bringing the total authorized amount, as amended, to \$9,800,000 which is the maximum estimated cost of the Project. Construction is estimated to take approximately twelve (12) months to complete.

The Department has prepared a report dated January 5, 2021 (“District Report”) on behalf of the District, which recommends the Project. The Department has advised that WD309 is necessary for the proper maintenance and service of District facilities to ensure the District’s continued effective operation in order to provide a continuous, uninterrupted supply of drinking water in compliance with federal, state and local regulatory requirements. Based on its review, the Department has determined that the Project is the best, most cost effective option available to the District for this purpose. A copy of the District Report is attached hereto for your Honorable Board’s review.

By Act No. 63-1977, the District was duly established pursuant to Article 5-A of the New York County Law (“Article 5-A”). It comprises the territorial limits of the Valhalla Campus at Grasslands. The District provides water to over fifty separate County, State, and private facilities including, but not limited to, the Westchester Medical Center, County Departments of Correction, Public Works and Transportation, Social Services and Emergency Services, the New York Medical College, and the New York State Department of Transportation. The average daily consumption rate for the District is approximately 0.65 million gallons. Consumers of District water are both County and non-County users and are billed for their water consumption and related District costs.

As your Honorable Board may recall, Article 5-A imposes certain legal requirements on the County before projects can move forward. One such requirement is that your Honorable Board must conclude, after holding a public hearing that the proposed Project is in the public interest. A proposed resolution authorizing legal notice for the public hearing is attached hereto (“Public Hearing Resolution”). Should your Honorable Board, after the public hearing, determine that the Project is in the public interest, it is respectfully requested that your Honorable Board approve the first Act annexed hereto.

Further, pursuant to Article 5-A, permission of the State Comptroller is required in certain instances for the issuance of bonds to finance an increase and improvement of water district facilities. Section 268.3 of Article 5-A provides, in pertinent part, that:

“Whenever it is proposed or required that the county in which a district is located shall finance an expenditure or contract for the purposes authorized in this section by the issuance of the bonds...and the cost to the typical property or, if different, the typical one or two family home...is above the average estimated cost to the typical properties or or homes for similar types of expenditures as may be annually computed by the state comptroller, no such expenditure shall be made or contract let, unless the state comptroller, on behalf of the state, shall consent to such expenditure.” (Emphasis added).

In accordance with the above-referenced section, the State Comptroller issues annual guidelines setting forth average estimated costs with respect to, among other things, county water districts. The guidelines designate cost thresholds for such special districts at or below which permission of the State Comptroller is determined to be unnecessary. For 2021, the State Comptroller provided “there was insufficient data to calculate meaningful average estimated costs. Therefore, any type of district not listed above will be subject to applicable requirements for obtaining the Comptroller’s approval, irrespective of the cost to the typical property or home, if debt is proposed to be issued to finance the improvement.” A copy of the guidelines is annexed hereto.

As noted, the District is not a typical district, as it does not consist of any “typical property” or “typical one or two-family homes”. Rather, it is a District substantially owned by the County. Accordingly, where District property is owned by the County and district improvements are not taxed to or paid for by “typical property” or “typical one or two-family home” owners as defined in 2 N.Y.C.R.R. Section 85.2, the cost of the proposed increase and improvement must be calculated over all taxable parcels in the County. The Finance Department has advised that debt issuances associated with District capital expenses are expensed through bills to the County’s General Fund and are a contributing factor to the County’s tax levy. The District’s operating budget is also a contributing factor to the County’s tax levy.

The Department, in conjunction with the Finance Department, has calculated that the average cost that will result from the increase and improvement to the facilities of the District in connection with WD309 equates to a single year debt payment of approximately \$376,000, which, if distributed over the 256,792 taxable parcels in the County, equates to an estimated average increase in tax assessment of \$1.46 per parcel.

In order to obtain the permission of the State Comptroller, State regulations require that the County submit a verified application (“Application”) in the form prescribed by 2 N.Y.C.R.R. Part 85 (“State Regulations”), to the Office of the State Comptroller. The State Regulations further require that your Honorable Board adopt a resolution (“State Regulations Resolution”) stating that it believes the following: the contents of the Application are accurate; that the proposed improvements are in the public interest; that said improvements will not constitute an undue burden on the property that will bear the cost thereof; and if the cost of the proposed improvements are to be assessed in whole or in part against benefited property, that all real property to be so assessed will be benefited by the proposed improvements and that no benefited property will be excluded. A second Act is annexed hereto which, if approved by your Honorable Board, will direct that a verified application be submitted to the State Comptroller.

The Department of Planning (“Planning”) has advised that based on its review, WD309 falls within the definition of an Unlisted action under the State Environmental Quality Review (“SEQR”) Act and its implementing regulations 6 N.Y.C.R.R. Part 617, which requires an assessment of environmental impacts. A Short Environmental Assessment Form prepared by Planning is attached to assist your Honorable Board in complying with SEQR. Should your Honorable Board conclude that the proposed action will not have any significant adverse impact on the environment, it must approve the Resolution (“SEQR” Resolution”) issuing a Negative Declaration prior to enacting the Acts and Bond Act. As you know, your Honorable Board may utilize the professional advice and assistance of the Planning Department in making your required determination under the applicable SEQR regulations.

In order to proceed with the Project, approval of your Honorable Board is required as follows:

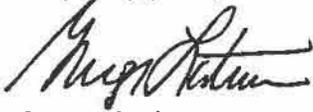
1. Public Hearing Resolution – authorizing a public hearing to be held;
2. SEQR Resolution – issuing a Negative Declaration pursuant to SEQR regulations;
3. Act – authorizing the County to proceed with WD309 for the benefit of the District, subject to the permission of the State Comptroller;
4. Act - directing that a verified application be submitted to the State Comptroller;

5. State Regulations Resolution – as required by the State Regulations (2 N.Y.C.R.R. Part 85) in order to submit the verified application to the State Comptroller; and

6. Bond Act – authorizing the issuance of up to \$9,800,000 in bonds to finance WD309 subject to the permission of the State Comptroller authorizing such expenditure.

Accordingly, based upon the importance of WD309, I respectfully recommend that your Honorable Board adopt the Public Hearing Resolution. Furthermore, in the event that your Honorable Board should, following the public hearing, conclude that the proposed Project is in the public interest, then I urge adoption of the remainder of the legislative package.

Very truly yours,

A handwritten signature in cursive script, appearing to read "George Latimer".

George Latimer
County Executive

GL/LAC
Attachments

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

Your Committee is in receipt of a transmittal from the County Executive, which, if approved by your Honorable Board, would authorize the County of Westchester (“County”) to proceed with capital project WD309 – Water Storage Facilities and Maintenance Program (“WD309” or “Project”), for the benefit of County Water District No. 3 (“District”), subject to an order issued by the Comptroller of the State of New York (“State Comptroller”) permitting the expenditure, as described herein. WD309 provides for the rehabilitation and maintenance of the existing water storage tower for the Grasslands Reservation (“Grasslands”), including but not limited to, painting and coating of the interior and exterior of the storage tower, paving of the existing service roadway and area surrounding the tank, required drainage remediation work, housekeeping site work, electrical and control instrumentation improvements, and piping and valve work, and incidental expenses in connection therewith, which is a specific object or purpose, in and for the benefit of the District.

The Department of Environmental Facilities (“Department”) has advised that the 1.5 million gallon water storage tower was last recoated in 1997 and at that time a cathodic protection system was installed. The life expectancy of a recoated water storage tower with cathodic protection is approximately twenty (20) years. The Department has advised that the outside of the water tank itself has started to rust. In order to maintain the integrity of the tower, it is necessary to address the rusting of the tank. Further, I am advised that the County Department of Health has determined that it is imperative that the Department implement this rehabilitation Project.

As you may recall, your Honorable Board, by Act No. 193-2015, previously authorized the County to issue bonds in an amount not-to-exceed \$500,000 to finance design and construction management for the Project. I am advised that these bonds have not been sold. The design has been completed. It is now requested that Act No. 193-2015 be amended to increase the amount authorized by \$9,300,000 to finance the construction portion of WD309 bringing the total authorized amount, as amended, to \$9,800,000 which is the maximum estimated cost of the Project. Construction is estimated to take approximately twelve (12) months to complete.

The Department has prepared a report dated January 5, 2021 (“District Report”) on behalf of the District, which recommends the Project. The Department has advised that WD309 is necessary for the proper maintenance and service of District facilities to ensure the District’s continued effective operation in order to provide a continuous, uninterrupted supply of drinking water in compliance with federal, state and local regulatory requirements. Based on its review, the Department has determined that the Project is the best, most cost effective option available to the District for this purpose. A copy of the District Report is attached hereto for your Honorable Board’s review.

By Act No. 63-1977, the District was duly established pursuant to Article 5-A of the New York County Law (“Article 5-A”). It comprises the territorial limits of the Valhalla Campus at Grasslands. The District provides water to over fifty separate County, State, and private facilities including, but not limited to, the Westchester Medical Center, County Departments of Correction, Public Works and Transportation, Social Services and Emergency Services, the New York Medical College, and the New York State Department of Transportation. The average daily consumption rate for the District is approximately 0.65 million gallons. Consumers of District water are both County and non-County users and are billed for their water consumption and related District costs.

As your Honorable Board may recall, Article 5-A imposes certain legal requirements on the County before projects can move forward. One such requirement is that your Honorable Board must conclude, after holding a public hearing that the proposed Project is in the public interest. A proposed resolution authorizing legal notice for the public hearing is attached hereto (“Public Hearing Resolution”). Should your Honorable Board, after the public hearing, determine that the Project is in the public interest, it is respectfully requested that your Honorable Board approve the first Act annexed hereto.

Further, pursuant to Article 5-A, permission of the State Comptroller is required in certain instances for the issuance of bonds to finance an increase and improvement of water district facilities. Section 268.3 of Article 5-A provides, in pertinent part, that:

“Whenever it is proposed or required that the county in which a district is located shall finance an expenditure or contract for the purposes authorized in this section by the issuance of the bonds...and the cost to the typical property or, if different, the typical

one or two family home...is above the average estimated cost to the typical properties or or homes for similar types of expenditures as may be annually computed by the state comptroller, no such expenditure shall be made or contract let, unless the state comptroller, on behalf of the state, shall consent to such expenditure.” (Emphasis added).

In accordance with the above-referenced section, the State Comptroller issues annual guidelines setting forth average estimated costs with respect to, among other things, county water districts. The guidelines designate cost thresholds for such special districts at or below which permission of the State Comptroller is determined to be unnecessary. For 2021, the State Comptroller provided “there was insufficient data to calculate meaningful average estimated costs. Therefore, any type of district not listed above will be subject to applicable requirements for obtaining the Comptroller’s approval, irrespective of the cost to the typical property or home, if debt is proposed to be issued to finance the improvement.” A copy of the guidelines is annexed hereto.

As noted, the District is not a typical district, as it does not consist of any “typical property” or “typical one or two-family homes”. Rather, it is a District substantially owned by the County. Accordingly, where District property is owned by the County and district improvements are not taxed to or paid for by “typical property” or “typical one or two-family home” owners as defined in 2 N.Y.C.R.R. Section 85.2, the cost of the proposed increase and improvement must be calculated over all taxable parcels in the County. The Finance Department has advised that debt issuances associated with District capital expenses are expensed through bills to the County's General Fund and are a contributing factor to the County's tax levy. The District’s operating budget is also a contributing factor to the County’s tax levy.

Your Committee has been advised that the Department, in conjunction with the Finance Department, has calculated that the average cost that will result from the increase and improvement to the facilities of the District in connection with WD309 equates to a single year debt payment of approximately \$376,000, which, if distributed over the 256,792 taxable parcels in the County, equates to an estimated average increase in tax assessment of \$1.46 per parcel.

Your Committee has been further advised that in order to obtain the permission of the State Comptroller, State regulations require that the County submit a verified application (“Application”) in the form prescribed by 2 N.Y.C.R.R. Part 85 (“State Regulations”), to the Office of the State Comptroller. The State Regulations further require that your Honorable Board adopt a resolution (“State Regulations Resolution”) stating that it believes the following: the contents of the Application

are accurate; that the proposed improvements are in the public interest; that said improvements will not constitute an undue burden on the property that will bear the cost thereof; and if the cost of the proposed improvements are to be assessed in whole or in part against benefited property, that all real property to be so assessed will be benefited by the proposed improvements and that no benefited property will be excluded. A second Act is annexed hereto which, if approved by your Honorable Board, will direct that a verified application be submitted to the State Comptroller.

Your Committee notes that the Department of Planning (“Planning”) has advised that based on its review, WD309 falls within the definition of an Unlisted action under the State Environmental Quality Review (“SEQR”) Act and its implementing regulations 6 N.Y.C.R.R. Part 617, which requires an assessment of environmental impacts. A Short Environmental Assessment Form (“EAF”) prepared by Planning is annexed hereto. Your Committee has carefully considered the proposed legislation and has reviewed the EAF. For the reasons set forth in the EAF, your Committee believes that the proposed action will not have any significant adverse impact on the environment and urges your Honorable Board to adopt the resolution (“SEQR Resolution”) issuing a Negative Declaration prior to enacting the Acts and Bond Act.

In order to proceed with the Project, approval of your Honorable Board is required as follows:

1. Public Hearing Resolution – authorizing a public hearing to be held;
2. SEQR Resolution – issuing a Negative Declaration pursuant to SEQR regulations;
3. Act – authorizing the County to proceed with WD309 for the benefit of the District, subject to the permission of the State Comptroller;
4. Act - directing that a verified application be submitted to the State Comptroller;
5. State Regulations Resolution – as required by the State Regulations (2 N.Y.C.R.R. Part 85) in order to submit the verified application to the State Comptroller; and
6. Bond Act – authorizing the issuance of up to \$9,800,000 in bonds to finance WD309 subject to the permission of the State Comptroller authorizing such expenditure.

Your Committee has carefully considered WD309 and based on its importance, it is recommended that your Honorable Board adopt the Public Hearing Resolution. Further, in the event that your Honorable Board should, following the public hearing, conclude that the

proposed actions are in the public interest, then it is recommended that your Honorable Board adopt the remainder of the legislative package.

Dated: _____, 2021
White Plains, New York

COMMITTEE ON:
c/lac/3.1.21

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: WD309

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 \$ 9,800,000 PPU 40 Anticipated Interest Rate 1.75%

Anticipated Annual Cost (Principal and Interest): \$ 334,158

Total Debt Service (Annual Cost x Term): \$ 13,366,320

Finance Department: Interest rate from March 4, 2021 Bond Buyer

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: 106

SECTION E - EXPECTED DESIGN WORK PROVIDER

County Staff

Consultant

Not Applicable

Prepared by: CJ Gelardo

Title: Capital Program Coordinator

Department: Environmental Facilities

Date: 3/15/21

Reviewed By: 

Det. Budget Director

Date: 3/16/21

RESOLUTION NO. ____ – 2021

WHEREAS, the Westchester County Board of Legislators (“Board”) duly established County Water District No. 3 (“District”) in 1977 pursuant to Article 5-A of the New York State County Law (“Article 5-A”); and

WHEREAS, the District is comprised of the territorial limits of the County’s Valhalla Campus at Grasslands; and

WHEREAS, the District is wholly owned by the County of Westchester (“County”); and

WHEREAS, the Department of Environmental Facilities has prepared and submitted to this Honorable Board a report dated January 5, 2021, as may be amended from time to time (“District Report”), which recommends capital project: WD309 – Water Storage Facilities and Maintenance Program (“WD309”), which represents an increase and improvement of District facilities; and

WHEREAS, WD309 will finance design, construction management and construction costs for the rehabilitation and capital maintenance of the existing water storage tower for the Grasslands Reservation, including but not limited to, painting and coating of the interior and exterior of the storage tower, paving of the existing service roadways and area surrounding the tank, required drainage remediation work, housekeeping site work, electrical and control instrumentation improvements, and piping and valve work, and incidental expenses in connection therewith, which is a specific object or purpose, in and for the benefit of the District.; and

WHEREAS, the County is currently seeking authorization of the issuance of up to \$9,300,000 in bonds of the County to finance WD309, stating the estimated maximum cost of the capital project is \$9,800,000 subject to the permission of the Comptroller of the State of New York; noting that the financing plan of the WD309 includes a \$500,000 in bonds previously authorized by Act 193-2015; and

WHEREAS, the Department has advised that the cost resulting from the proposed increase and improvement of district facilities to all taxable parcels in the County represents an estimated average tax assessment increase of \$1.46 per parcel, as more fully set forth in the District Report; and

WHEREAS, in accordance with Article 5-A, this Board is required to schedule a public hearing.

NOW, THEREFORE, BE IT

RESOLVED, that a public hearing shall be held upon the proposed increase and improvement of facilities for the District, as more fully set forth in the District Report dated January 5, 2021, as may be amended from time to time; said hearing to be held in the Board of Legislators Chambers, Room 800, Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 on the _____ day of _____, 2021 at _____ .m.; and be it further

RESOLVED, that the Clerk of the Board is hereby authorized and empowered take all necessary steps in furtherance hereof; and be it further

RESOLVED, that the Clerk of the Board is hereby directed to cause notice of such public hearing to be published in the official newspapers of the County of Westchester having a general circulation in the District and in the manner required by law, the first publication thereof to be not less than ten (10) or more than twenty (20) days before the date set forth above for the public hearing. Such Notice shall be substantially in the form attached hereto; and be it further

RESOLVED, that this Resolution shall take effect immediately

NOTICE OF PUBLIC HEARING

Property owners in Westchester County are hereby notified that legislation is currently before the Westchester County Board of Legislators (“Board”) to carry out the following proposed capital project WD309 – Water Storage Facilities and Maintenance Program (“WD309”) (“Capital Project”), for the benefit of County Water District No. 3 (the “District”) as more fully set forth herein and in the District Report dated January 5, 2021, as may be amended from time to time (“District Report”). The District Report is available for review from the Office of the Commissioner of the Westchester County Department of Environmental Facilities.

The issuance of bonds would finance the cost of design, construction management and construction costs for the rehabilitation and capital maintenance of the existing water storage tower for the Grasslands Reservation, including but not limited to, painting and coating of the interior and exterior of the storage tower, paving of the existing service roadways and area surrounding the tank, required drainage remediation work, housekeeping site work, electrical and control instrumentation improvements, and piping and valve work, and incidental expenses in connection therewith, which is a specific object or purpose, in and for the benefit of the District.

It should be noted that the District does not consist of any private one or two family homes. It does not include any property owned by individual private property owners, but rather it is a District wholly owned by the County. The County is currently seeking authorization of a bond act to authorize the issuance of up to \$9,300,000, in bonds of the County, subject to the permission of the New York State Comptroller, stating the estimated maximum cost of the Capital Project is \$9,800,000, including \$500,000 in previously authorized bonds of the County. The average cost that will result from the increase and improvement to the facilities of the District in connection with the Capital Project equates to a single year debt payment of approximately \$376,000, which, if distributed over the 256,792 taxable parcels in the County, equates to an estimated average increase in tax assessment of \$1.46 per parcel.

Notice is hereby given that a public hearing will be held by the Board of Legislators of Westchester County on the ___ day of _____, 20__ at __:____.m. in the chambers of the Westchester County Board of Legislators, 8th floor, 148 Martine Avenue, White Plains, New York for the purpose of hearing persons or parties interested in the aforementioned increase and improvement of facilities for the District.

Dated: _____, 2021
White Plains, New York

Clerk and Chief Administrative Officer of the County
Board of Legislators Westchester County, New York