## ACT 125 - 2023 (BOND) ACT 126 - 2023

Reference SPC37

## 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 an act, which, if adopted, will amend the County's current-year capital budget ("Capital Budget Amendment"), as well as adoption of a related bond act ("Bond Act") in the amount of \$4,750,000 prepared by the law firm Norton Rose Fulbright to finance capital project SPC37 – Port Chester Wastewater Treatment Plant – Bulkhead Rehabilitation ("SPC37").

Your Committee is advised that the Capital Budget Amendment will amend the County's current-year capital budget to increase the County share for SPC37 by \$2,000,000. The Department of Environmental Facilities ("Department") has advised that additional funding is required based on the latest cost estimate and due to material and labor cost escalations.

The Bond Act, in the amount of \$4,750,000, would finance the cost of reconstruction or rehabilitation of steel or stone bulkheads along the Byram River and the refurbishment of the effluent line, at or for the County's Port Chester Wastewater Treatment Plant ("Plant").

The Department has advised that the steel bulkhead was installed in 1989 during the construction of the Plant's secondary treatment facilities, and the stone bulkhead was built as part of the original Plant the County acquired from the Village of Port Chester. The bulkhead rehabilitation is required to ensure its structural integrity as well as protect the Plant and the adjacent tanks and buildings.

It should be noted that your Honorable Board has previously authorized the County to issue bonds in connection with prior components of SPC37 as indicated in the annexed fact sheet.

The Planning Department has advised your Committee that based on its review, SPC37 has been classified as a Type "II" action pursuant to the State Environmental Quality Review Act

("SEQR") and its implementing regulations, 6 NYCRR Part 617. Therefore, no further environmental review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this conclusion.

The Planning Department has advised your Committee that the Planning Board has previously reviewed SPC37 and issued a report, and that since there is no change in the scope of the work and this is simply a change in the financing plan, no further action by the Planning Board is necessary at this time.

Your Committee has carefully considered the proposed Capital Budget Amendment, as well as the related Bond Act, and recommends approval of both of the proposed Acts, noting that the Bond Act may only be enacted following adoption of the Capital Budget Amendment. It should also be noted that an affirmative vote of two-thirds of the members of your Honorable Board is required in order to amend the County's Capital Budget and to adopt the Bond Act.

Dated: July 10th, 2023
White Plains, New York

Security White Plains, New York

Draw July 10th, 2023

White Plains, New York

July 10th, 2023

White Plains, New York

July 10th, 2023

COMMITTEE ON

s: MG/4-10-23

ct & Appropriations

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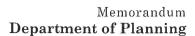
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Public Works & Transportation

## **FISCAL IMPACT STATEMENT**

CAPITAL PROJECT #	f:SPC37	NO FISCAL IMPACT PROJECTED
	SECTION A - CAPITAL BUI To Be Completed by	
GENERAL FUNI	D AIRPORT FUND	X SPECIAL DISTRICTS FUND
,	Source of County Funds (check one):	Current Appropriations
		X Capital Budget Amendment
	SECTION B - BONDING AU  To Be Completed by	
Total Principal	\$ 4,750,000 <b>PPU</b>	30 Anticipated Interest Rate 3.55%
Anticipated Ar	nnual Cost (Principal and Interest):	\$ 249,236
Total Debt Ser	vice (Annual Cost x Term):	\$ 7,477,080
Finance Depar	tment: Interest rates from June 1, 20	023 Bond Buyer - ASBA
S	ECTION C - IMPACT ON OPERATING BUD  To Be Completed by Submitting Department	
Potential Relat	ted Expenses (Annual): \$	-
Potential Relat	ted Revenues (Annual): \$	-
	vings to County and/or impact of departed that is the courrent and next four years):	ment operations
	SECTION D - EMPLO	
	s per federal guidelines, each \$92,000 of a	51
	SECTION E - EXPECTED DESIGN	I WORK PROVIDER
County Staff	X Consultant	Not Applicable
Prepared by:	Joe Brown	
Title:	Capital Program Coordinator	Reviewed By:
Department:	DEF	Budget Director
Date:	6/1/23	Date: (7)3





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 27, 2023

SUBJECT:

STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT:

SPC37 Port Chester Wastewater Treatment Plant – Bulkhead Rehabilitation

**PROJECT/ACTION:** Per Capital Project Fact Sheet as approved by the Planning Department on

04-06-2023 (Unique ID: 2192)

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further 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:** None.

#### DSK/dvw

cc: Andrew Ferris, Chief of Staff

Paula Friedman, Assistant to the County Executive

Lawrence Soule, Budget Director

Tami Altschiller, Assistant Chief Deputy County Attorney

C.J. Gelardo, Associate Engineer, Department of Environmental Facilities

Joseph Brown, Capital Program Coordinator, Department of Environmental Facilities

Dianne Vanadia, Senior Budget Analyst

Kelly Sheehan, Assistant Commissioner

Michael Lipkin, Associate Planner

Claudia Maxwell, Associate Environmental Planner



#### **Department of Planning**

432 Michaelian Office Building White Plains, NY 10601

To: The Westchester County Planning Board

From: Kelly Sheehan, Assistant Commissioner

Date: March 28, 2023

RE: Capital Budget Amendment -

SPC37 Port Chester Wastewater Treatment Plant – Bulkhead Rehabilitation

The County Executive is requesting an amendment to the 2023 Capital Budget to modify the funding of the above project. Capital project SPC37 Port Chester Wastewater Treatment Plant – Bulkhead Rehabilitation will provide funding for the rehabilitation of the steel and stone bulkheads.

A Capital Budget Amendment in the amount of \$2,000,000 is being requested to provide additional funding for the removal and replacement of deteriorated structural members such as piles, sheeting, and the application of a protective coating on the bulkhead wall as well has refurbishing the 30-inch effluent pipe. The additional funding is required due to material and labor cost escalations.

This project was classified as a PL2, project with physical planning aspects of concern to the Planning Board in the 2016 Report on the Capital Project Requests adopted July 7, 2015.

There are no changes to the physical planning aspects of this project as reviewed by the Board; therefore, no further action by your Board is necessary.

cc: Norma V. Drummond, Commissioner David S. Kvinge, Assistant Commissioner William Brady, Chief Planner Michael Lipkin, Associate Planner ACT No. 125 - 2023

An Act amending the 2023 County Capital Budget Appropriations for Capital Project SPC37 Port Chester Wastewater Treatment Plant Bulkhead Rehabilitation

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

Section 1. The Capital section of the 2023 County Budget is hereby amended as follows:

	Previous 2023 Appropriation	Change	Revised 2023 Appropriation
I. Appropriation	\$3,350,000	\$2,000,000	\$5,350,000

Section 2. The estimated method of financing in the Capital Section of the 2023 Westchester County Capital Budget is amended as follows:

#### II. METHOD OF FINANCING

Bonds and/or Notes	\$3,350,000	\$2,000,000	\$5,350,000
Non County Shares	\$0		\$0
Cash	<u> </u>		\$0
Total	\$3,350,000	\$2,000,000	\$5,350,000

Section 3. The ACT shall take effect immediately.

BOND ACT DATED July 10, 2023.

A BOND ACT AUTHORIZING THE ISSUANCE OF \$4,750,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY THE COST OF THE RECONSTRUCTION OR REHABILITATION OF BULKHEADS ALONG THE BYRAM RIVER AND REFURBISHMENT OF THE EFFLUENT LINE, AT OR FOR THE PORT CHESTER WASTEWATER TREATMENT PLANT.

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 such capital project; NOW, THEREFORE,

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

Section 1. For paying the cost of the reconstruction or rehabilitation of steel or stone bulkheads along the Byram River and the refurbishment of the effluent line, at or for the Port Chester Wastewater Treatment Plant, a class of objects or purposes, including incidental expenses in connection therewith, there are hereby authorized to be issued \$4,750,000 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 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 \$4,750,000, and that the plan for the financing thereof is by the issuance of the \$4,750,000 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 thirty years under subdivision ninety-four of paragraph a of Section 11.00 of the Local Finance Law, as each item under said class has a period of probable usefulness of at least thirty years under subdivisions four or twenty-two 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 of Westchester, New York, 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 Port Chester 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 of Westchester, New York, 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 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 and loan 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 moneys 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 and Administrative Officer

of the County Board of Legislators in substantially the form provided in Section 81.00 of the Local Finance Law.

#### CAPITAL PROJECT FACT SHEET

	CAPI	IAL PROJECT	FACI	SHEEL				
Project ID:*	× CI	BA		F	Fact Sheet Date:*			
SPC37				0	03-16-2023			
Fact Sheet Year:*	Proj	Project Title:*			Legislative District ID:			
2023	TRE	T CHESTER WAST ATMENT PLANT - ABILITATION			6,			
Category*	Depa	rtment:*		(	CP Uniqu	e ID:		
SEWER AND WATER DISTRIC	CTS ENV	IRONMENTAL FA	CILITIES		192			
Overall Project Description  This project will provide funding erosion due to wave action of the below the waterline.	for the repair a Long Island So	nd/or rehabilitation ound, it is prudent to	of the stee inspect th	l and stone e steel cel	e bulkhead ls and sto	ds. Becaunes of the	se of the s bulkhead	alinity and above and
☐ Best Management Practices	□ En	ergy Efficiencies		×	] Infrastru	cture		
☐ Life Safety	□ Pro	oject Labor Agreem	ent		Revenue	(		
☐ Security	□ Ot							
FIVE-YEAR CAPITAL PROG		sands)						
	Estimated Ultimate Total Cost	Appropriated	2023	2024	2025	2026	2027	Under Review
Gross	5,350	3,350	0	0	0	0	0	2,000
Less Non-County Shares	0	0	0	0	0	0	0	0
Net	5,350	3,350	0	0	0	0	0	2,000
Expended/Obligated Amount (in	n thousands) a	s of: 509						
Current Bond Description: Admembers such as piles, sheeting, v bulkhead wall; and refurbishing o	walers, tie rods, f the 30-inch ef	and all necessary ap	e removal ppurtenan	and repla ces; applic	cement of a	deterioral protective	ted structu e coating o	ral on the
Financing Plan for Current Req	uest:							
Non-County Shares:		\$ 0						
Bonds/Notes:		4,750,000						
Cash:		0						
Total:		\$ 4,750,000						
SEQR Classification:								
TYPE II								
Amount Requested: 4,750,000								
Comments: The additional funding is required	based on the la	atest cost estimate de	ue to mate	rial and la	ıbor cost e	scalations		
	sou on my it					_ 3		
Energy Efficiencies: NONE								

06-01-2023 10:30:19 AM Page 1 of 2

## **Appropriation History:**

Year	Amount	Description
2011	100,000	STUDY/DESIGN FOR BULKHEAD REHABILITATION AND EMERGENCY EFFLUENT BY-PASS
2016	500,000	DESIGN AND CONSTRUCTION MANAGEMENT
2017	1,000,000	CONSTRUCTION.
2020	750,000	CONSTRUCTION
2021	1,000,000	COST ESCALATION

## **Total Appropriation History:**

3,350,000

## Financing History:

Year	Bond Act #	Amount	Issued	Description
11	147	100,000	51,476	PRELIMINARY COSTS FOR BYRAM RIVER STUDY
16	64	500,000	170,420	DESIGN & C/M REHAB OF STEEL AND STONE BULKHEADS ALONG BYRAM RIV - PORTCHESTER

## **Total Financing History:**

600,000

## Recommended By:

Department of Planning	Date
WBB4	04-06-2023
Department of Public Works	Date
RJB4	04-07-2023
Budget Department	Date
Budget Department DEV9	<b>Date</b> 04-10-2023

Page 2 of 2

# PORT CHESTER WASTEWATER TREATMENT PLANT - BULKHEAD REHABILITATION (SPC37)

**User Department:** 

**Environmental Facilities** 

Managing Department(s):

Environmental Facilities; Public Works;

**Estimated Completion Date:** 

TBD

Planning Board Recommendation: Project approved in concept but subject to subsequent staff review.

FIVE YEAR CAPITAL P	ROGRAM (in the	ousands)							
	Est Ult Cost App	propriated	Exp / Obl	2023	2024	2025	2026	2027	Under Review
Gross	3,350	3,350	509						
Non County Share									
Total	3,350	3,350	509						

#### **Project Description**

This project will provide funding for the repair and/or rehabilitation of the steel and stone bulkheads. Because of the salinity and erosion due to wave action of the Long Island Sound, it is prudent to inspect the steel cells and stones of the bulkhead above and below the waterline.

#### **Current Year Description**

There is no current year request.

### **Impact on Operating Budget**

The impact on the District Operating Budget is the debt service associated with the issuances of bonds.

Appropriation I	History		
Year		Description	Status
2011	100,000	Study/Design for bulkhead rehabilitation and emergency effluent bypass	COMPLETE
2016	500,000	Design and construction management	DESIGN
2017	1,000,000	Construction.	AWAITING BOND AUTHORIZATION
2020	750,000	Construction	AWAITING BOND AUTHORIZATION
2021	1,000,000	Cost escalation	AWAITING BOND AUTHORIZATION
Total	3,350,000		

	Appropriated	Collected	Uncollected
<b>Bond Proceeds</b>	3,350,000	221,896	3,128,104
Total	3,350,000	221,896	3,128,104

Bonds Au	thorize	de de			
Bond A	ct	Amount	Date Sold	Amount Sold	Balance
147	11	100,000	12/01/21	51,476	48,524
64	16	500,000	12/01/21	170,420	329,580
То	tal	600,000		221,896	378,104

STATE OF NEW YORK
)
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 July 10, 2023 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, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

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 to be given to the following newspapers and/or other news media as follows:

Newspaper and/or other news media

Date Given July 6, 2023

WVOX FIOS1 News Channel 12 The Journal News

Hometown Media

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 July 6, 2023

Clerk

of Legislators

Malika Vanderberg

Westchester County Board

#### www.westchesterlegislators.com

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Board of Legislators on July 14, 2023.

ON THE STER COUNTY

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

AYES:

Legislator Jose Alvarado

Legislator Nancy Barr

Legislator Catherine Borgia Legislator Benjamin Boykin Legislator Terry Clements Legislator Margaret Cunzio Legislator Vedat Gashi Legislator David Imamura

Legislator Christopher Johnson

Legislator Damon Maher
Legislator James Nolan
Legislator Catherine Parker
Legislator Erika Pierce
Legislator Colin Smith
Legislator David Tubiolo

Legislator Jewel Williams-Johnson Legislator Tyrae Woodson-Samuels

NOES:

ABSENT:

The Bond Act was thereupon declared duly adopted.

APPROVED BY THE COUNTY EXECUTIVE

Date:

STATE OF NEW YORK	)	
	)	SS
COUNTY OF WESTCHESTER	)	

I HEREBY CERTIFY that I have compared the foregoing Act No. 125 - 2023, and (Bond) Act No. 126 - 2023, with the originals on file in my office, and that the same are correct transcripts therefrom, and of the whole, of said original Act, and (Bond) Act, which were duly adopted by the Westchester County Board of Legislators, of the County of Westchester on July 10, 2023, and approved by the County Executive on July 18, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 18<sup>th</sup> day of July, 2023.

Malika Vanderberg

The Clerk of the Westchester County Board of Legislators

County of Westchester, New York

