



## Westchester Joint Water Works

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June 15, 2023

Hon. George Latimer  
Westchester County Executive  
148 Martine Avenue, 9th Floor  
White Plains, NY 10601

Hon. Vedat Gashi, Chairman and Honorable Members  
Westchester County Board of Legislators  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601

**Re: Westchester Joint Water Works ("WJWW") Request for County Approval of the Exchange Transaction for Construction of a Filtration Plant in the Town of Harrison**

Dear County Executive Latimer, Chairman Gashi and Members of the County Board of Legislators:

WJWW is a not-for-profit public benefit corporation formed in 1927 by the State Legislature at the request of the Town/Village of Harrison, Town of Mamaroneck and Village of Mamaroneck to operate a public water system. WJWW supplies water to its three member municipalities for their retail sale to their water consumers and to portions of the cities of Rye and New Rochelle. WJWW also supplies water on a wholesale basis to the Village of Larchmont and Veolia, which sells water to the City of Rye, Village of Rye Brook and Village of Port Chester. In all, up to 100,000 County residents depend on WJWW to provide clean, safe drinking water.

To comply with federal and state drinking water regulations, and to maintain the safety of the water delivered to County residents, WJWW is required to construct a Filtration Plant to treat the water that WJWW withdraws from the Kensico Reservoir. The Filtration Plant is a substantial engineering and construction project with a capital cost of approximately \$138 million. The construction of the Filtration Plant is an urgent matter of public health: the U.S. Environmental Protection Agency ("**EPA**"), in an administrative order issued to WJWW in 2019, determined that the Filtration Plant is required to address WJWW's recent violations of EPA's maximum contaminant level ("**MCL**") for haloacetic acids ("**HAAS**"), as discussed in further detail below.

Since 2019, WJWW has been working with the County to undertake the evaluations and legal processes required to construct the Filtration Plant on a vacant 13.4-acre parcel of County-owned land at the periphery of the County airport (the "**County Parcel**"). This

effort has included the execution of a 2021 Memorandum of Understanding between the County and WJWW, public hearings, and the preparation of all required SEQRA documents, the Storm Water Pollution Prevention Plan for the County Parcel (the "**SWPPP**"), and the final engineering documents for the construction of the Filtration Plant at the County Parcel. With the County's consent, WJWW has also submitted permit applications to state and local agencies.

On May 26, 2023, the New York City Department of Environmental Protection ("**NYCDEP**") approved the SWPPP, confirming that the construction of the Filtration Plant at the County Parcel will not harm the Kensico Reservoir, will have no stormwater impact on downstream properties, and will comply with the stringent NYCDEP standards for the protection of Kensico Reservoir and its watershed.

In light of the NYCDEP approval, WJWW is now formally requesting the County to approve the proposed real estate transaction (the "**Exchange Transaction**") by which the County would deed title of the 13.4-acre County Parcel to WJWW for construction of the Filtration Plant in exchange for a WJWW-owned 13.4-acre parcel, also adjoining the County airport, that WJWW would deed to the County (the "**WJWW Parcel**").

To assist the County in evaluating the request to approve the Exchange Transaction, this letter:

- provides the required background information, including the location of the County Parcel and WJWW Parcel;
- describes the history of WJWW's effort to construct the Filtration Plant;
- summarizes the terms of the contemplated Exchange Transaction;
- summarizes the Filtration Plant's environmental impacts;
- explains why the County Parcel is the best location for the Filtration Plant; and
- explains why it is critically important that the County consider WJWW's request soon, so as not to further delay construction of the Filtration Plant.

As requested, attached are:

- A draft of the real estate contract to effectuate the Exchange Transaction (Tab A);
- A Federal Aviation Administration ("**FAA**") letter regarding the Exchange Transaction (Tab B);
- Environmental review materials – the Draft Environmental Impact Statement ("**DEIS**") (Tab C), the Final Environmental Impact Statement ("**FEIS**") (Tab D),

SEQRA Findings (Tab E), and a resolution regarding minor post-FEIS site plan changes (Tab F);

- The SWPPP (Tab G) and NYCDEP’s approval of the SWPPP (Tab H);
- Final design documents (Tab I).
- Basis of estimate cost report (Tab J)

Public comments on the Filtration Plant are included in FEIS Appendix A (Tab D).

### **Background**

The map below shows the location of: (i) Rye Lake (a component of the Kensico Reservoir); (ii) the location of the existing Rye Lake Pump Station; (iii) the existing raw water transmission main that conveys water from the Pump Station to the Purchase Street Storage Tanks; (iv) the County Parcel on Purchase Street, adjacent to this transmission main; and (v) the WJWW Parcel:



The areas bounded by the dashed orange lines depict the two 13.4-acre tracts that would be subject to the proposed Exchange Transaction. The Filtration Plant must be

located in this general area because the Filtration Plant will filter the raw water from the Rye Lake Pump Station before the water is conveyed to the Purchase Street Storage Tanks.

### **History of WJWW's Effort to Build the Filtration Plant**

In 1994, an engineering firm retained by WJWW prepared a site evaluation report to identify possible locations for the Filtration Plant. The report ranked the County Parcel as the overall best location for the facility. See FEIS, Appendix C, p. at 7 (discussing "Site 3"). The report deemed the County Parcel superior to all other locations because: (i) the site fronts Purchase Street (a State Highway also known as Route 120); (ii) the Filtration Plant would therefore be in close proximity to the existing WJWW water transmission main beneath Purchase Street, thereby minimizing cost and construction impacts; (iii) the County Parcel has easy access, via Purchase Street, to Interstate 684, facilitating truck traffic; (iv) the County Parcel is zoned for business use (rather than residential use); and (v) the existing trees at the County Parcel would screen views of the Filtration Plant from vantage points in the surrounding area. *Id.* at 4, 8 & Table 8.

The same report deemed the current WJWW Parcel (which had yet to be purchased by WJWW) as the second most suitable location for the Filtration Plant. *Id.* at 8 & Table 10 (discussing "Site 5"). The report noted, however, that unlike the County Parcel, the WJWW Parcel is zoned for residential use and that there would be greater visual and construction noise impacts to the surrounding neighbors. *Id.*

At that time, however, Westchester County declined to make the County Parcel available to WJWW for construction of the Filtration Plant. As a result, in 1998, in anticipation of the potential need to build a Filtration Plant for its Rye Lake water source, WJWW acquired the WJWW Parcel and adjoining land that collectively comprised a 39-acre parcel with frontage on Purchase Street.

In 2000, WJWW sold approximately two-thirds of the 39-acre parcel to Sylvan Development, retaining the WJWW Parcel and an easement running from Purchase Street to the WJWW Parcel. See DEIS Figure 5-2.

On June 9, 2004, the Supreme Court for Westchester County issued a permanent injunction requiring WJWW to build the Filtration Plant in order to bring its system into compliance with the New York State Sanitary Code, which regulates public drinking water systems. That injunction remains in effect today.

After the Court's ruling, WJWW pursued an unsuccessful appeal and an unsuccessful petition to the New York State Department of Health ("**NYSDOH**") to forgo construction of a costly filtration plant in favor of a less costly ultraviolet treatment facility.

Thereafter, WJWW prepared to proceed with construction of the Filtration Plant on the WJWW Parcel. The project was identified as exempt from SEQRA pursuant to the Type II category that is today codified at 6 N.Y.C.R.R. § 617.5(c)(35) (“a particular course of action specifically required to be undertaken pursuant to a judgment or order”). WJWW submitted applications for site plan approval and a special exception use permit to the Harrison Planning Board, which issued a negative declaration under SEQRA and granted certain approvals on June 21, 2005. A local property owner (Sylvan Development), however, thereafter brought a raft of lawsuits challenging different permits and approvals for the proposed facility at the WJWW Parcel.

As a result, the Planning Board rescinded its prior negative declaration and approvals, determined that it would serve as the lead agency for the SEQRA review, and issued a positive declaration under SEQRA on June 11, 2007, thereby requiring preparation of an environmental impact statement (“**EIS**”) prior to the Planning Board’s decision-making on WJWW’s applications to build the facility at the WJWW Parcel.

In accordance with a scope determined by the Planning Board, WJWW proceeded to prepare a draft EIS, which the Planning Board certified as complete on September 25, 2007. The public hearing on the draft EIS was conducted on November 15, 2007. Subsequently, the Town Planner, on behalf of the Planning Board, prepared a six-page memorandum providing review comments on the draft EIS. His review comments requested further discussion of the potential for adverse impacts on adjoining residential land and a further analysis of alternatives, including an evaluation of whether the County had changed its prior position as to the availability of airport land for the Filtration Plant and an evaluation of a regional water treatment facility instead of a WJWW-owned treatment facility.

WJWW had completed its obligations as the applicant for full compliance with the SEQRA review process by submitting a proposed Final Environmental Impact Statement to the Planning Board in July 2008. Yet the Planning Board never completed the SEQRA process for WJWW’s proposal to build the Filtration Plant on the WJWW Parcel. Without completion of the SEQRA review process, no further action could be taken to construct the Filtration Plant at that location.

As a result of the stalled Planning Board process, WJWW explored partnering on a County-lead regional water treatment and conveyance alternative. This option was further evaluated by WJWW, but ultimately, the other regional water utilities involved pursued options that did not provide treated water to WJWW’s system.

With the regional water treatment and conveyance option no longer available, WJWW then investigated the viability of constructing a pipeline for the conveyance of treated water from New York City’s Shaft 20 in Yonkers, which would eliminate WJWW’s use of untreated Rye Lake water. In 2016, the alternative was rejected due to its exorbitant cost and the identified adverse environmental impacts.

Thereafter, in 2019, as a result of further discussions between WJWW and the County, WJWW learned that the County – subject to compliance with SEQRA and other conditions – would consider the parcel exchange transaction by which WJWW would acquire the 13.4-acre County Parcel in exchange for the 13.4-acre WJWW Parcel.

As a result, WJWW’s planning efforts reverted to the original preferred alternative of locating the Filtration Plant on the County Parcel. In a letter to the County dated September 30, 2022, the FAA determined that the proposed land swap “would have no material impact on aircraft operations, at, to, or from the airport; would not affect the safety of people and property on the ground adjacent to the airport as a result of aircraft operations; and would not have an adverse effect on the value of prior Federal investment ... [and therefore] the FAA does not have the authority to ... disapprove ... the proposed project.” FAA Letter, p. 2 (Tab B).

### **The Terms of the Proposed Exchange Transaction**

The proposed exchange contract between the County and WJWW is attached as Tab A. It provides for the County to deed title to the County Parcel to WJWW in exchange for WJWW deeding title to the WJWW Parcel to the County. WJWW provided the draft exchange contract to the County Attorney on March 7, 2023 and has not received any comments on the form of the document.

The two parcels are of the same acreage, and both are unimproved land adjoining the airport. A licensed appraiser, in reports dated March 27, 2023 and provided to the County Attorney at that time, has determined each parcel to be of the same value. Accordingly, the proposed exchange contract provides for the exchange of the parcels without additional cash consideration paid by either party.

The proposed exchange contract further provides that the transaction would “close” (*i.e.*, the titles would be exchanged by the parties pursuant to the contract) only after WJWW receives the remaining discretionary permits and approvals required for WJWW to construct the Filtration Plant at the County Parcel.

The proposed contract further provides for a process by which the County would allow the Filtration Plant to connect to the airport’s sanitary sewer system, with WJWW to bear the costs of the connection.

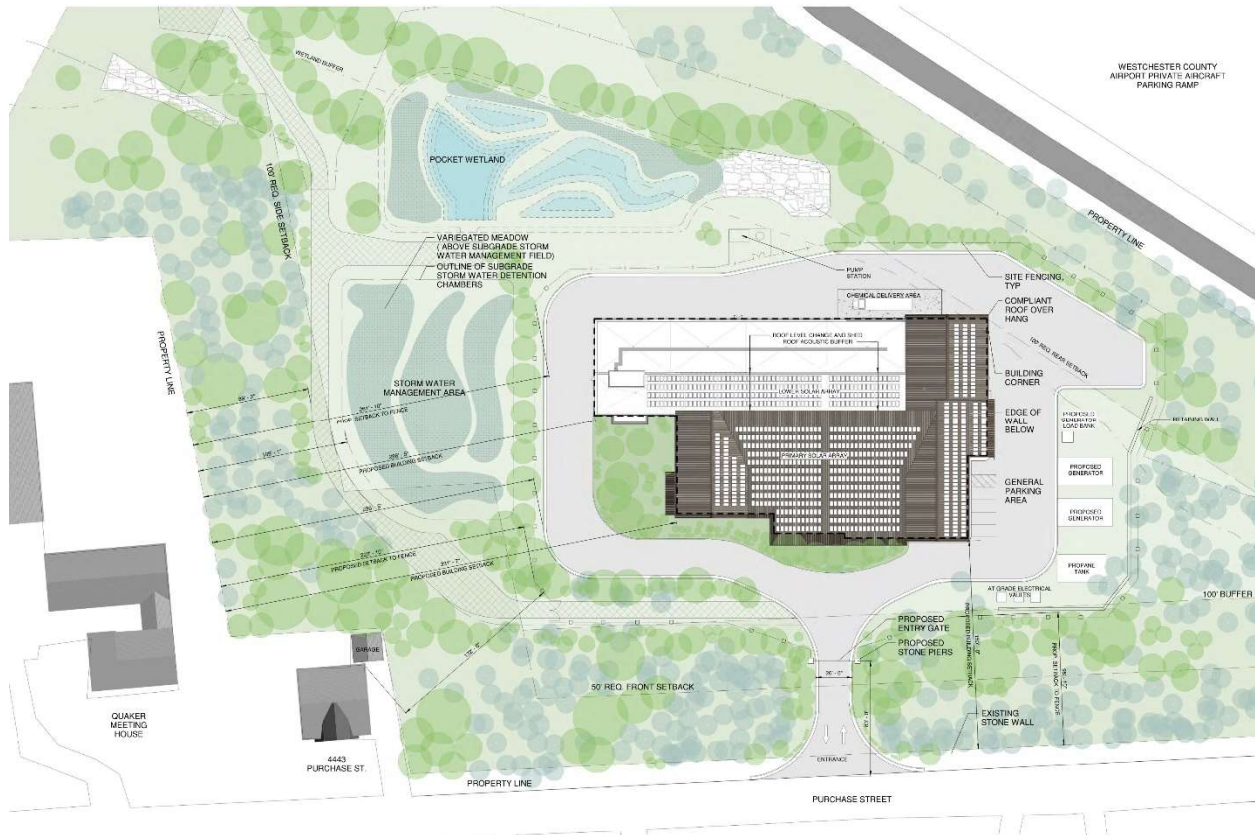
### **The SEQRA Process and Environmental Impacts**

WJWW, as lead agency, has completed the SEQRA process for constructing and operating the Filtration Parcel on the County Parcel, as follows:

- On March 10, 2021, the Commissioner of the New York State Department of Environmental Conservation (“**NYSDEC**”) determined that WJWW would serve as the lead agency for the SEQRA review.
- On March 23, 2021, WJWW adopted a draft scope for the EIS.
- On April 13, 2021, WJWW held a duly noticed public session on the draft scope.
- On May 10, 2021, WJWW closed the public comment period on the draft scope, and thereafter considered all comments received on the draft scope and prepared a response to comment document.
- On October 26, 2021, WJWW published the final scope for the EIS.
- On April 12, 2022, WJWW accepted the DEIS as adequate and complete for public review.
- On May 25, 2022, WJWW held a duly noticed public hearing on the DEIS.
- On June 6, 2022, WJWW closed the public comment period on the DEIS.
- On September 28, 2022, WJWW published the FEIS.
- On October 12, 2022, the WJWW board enacted a resolution approving the issuance of WJWW’s SEQRA Findings Statement.

The County Board of Legislators and relevant County departments were identified as “involved agencies” and were provided with all SEQRA notices and documents throughout the process.

To assess the potential environmental impacts of the Filtration Plant, the DEIS and FEIS examined the site plan that WJWW has proposed for the facility. The site plan depicted below is similar to the one assessed in the DEIS and FEIS but reflects minor changes made after publication of the FEIS to reduce construction in the buffer area to the wetlands on the County Parcel:



The site plan locates the Filtration Plant roughly in the center of the County Parcel. The plant would be set back approximately 155 feet from Purchase Street and 288 feet from its northern neighboring property. The plant would be setback at a minimum of 100 feet from the airport property, meeting the Town of Harrison’s rear and side yard setback zoning requirements. As depicted in the site plan, the many existing trees (light green) and newly planted trees (darker green) would partially screen views of the plant from Purchase Street to the west and the neighbors (a residence and house of worship) to the north.

The DEIS and FEIS assessed the environmental impacts of the Filtration Plant at the County Parcel with respect to all relevant area of potential concern, including Land Use, Zoning, and Public Policy, Community Character and Visual Impacts, Fiscal and Economic Impacts, Community Service, Utilities, Stormwater, Geology- Soils and Topography, Vegetation and Wetlands, Archaeological and Historical Resources, Traffic and Transportation, Noise, Air, Public Health, and Construction. The documents also identify numerous mitigation measures to reduce the potential for environmental impacts in these areas. The mitigation measures include:

- Restricting the area of clearing to only what is necessary to provide the space needed for essential equipment, project infrastructure, and workspaces that ensure a safe and fully functional facility.



- Implementation of a landscaping plan, including the installation of approximately 300 trees, to replace some of the invasive vegetation to be cleared, enhancing the visual quality of the development with diverse indigenous species, screening man-made structures from the street and other public vantage points, and retaining natural vegetation along the street as a buffer.
- Designing the building to comply with the dimensional zoning standards of the County Parcel's business district zoning including yard setbacks, building height, and building lot coverage, so that the building is contained within the requisite zoning envelope.
- Exterior lighting to be energy efficient and shielded and directed downward so as not to illuminate off-site areas or parts of the site that do not need to be lit.
- The façade of the building will include a partial stone veneer that resembles the stone used in walls along the street and the building will be of muted colors to blend into its surroundings. A gabled roof will make the building look less commercial. The front façade will include windows and translucent panels to provide visual interest.
- The Filtration Plant will connect to an existing sanitary main on the airport property via a four-inch force main to the Westchester County Airport Sewer Collection System to eliminate the need for onsite sewage discharge. Treatment of the wastewater will occur at the Blind Brook Wastewater Treatment Plant, which is outside of the Kensico Watershed.
- Photovoltaic arrays (solar panels) will be installed on the roof of the building to reduce demand for nonrenewable energy resources and partially offset energy and climate-related impacts.
- Preparation and implementation of a SWPPP that meets the standards and requirements of NYSDEC, NYCDEP, and the Town/Village of Harrison code.
- Utilization of dust control practices during construction, including providing a temporary truck wash off station onsite to remove dust from construction vehicles and equipment before exiting the site, applying water or calcium chloride to bare soil periodically as necessary, maintaining low onsite construction vehicle speeds, and covering stockpiles if they are to remain for more than a few days.
- Construction dump trucks will be covered when exporting from the site.
- Delineate by temporary fencing areas of clearing prior to disturbance to prevent accidental encroachment into wetlands or areas that are not to be disturbed.

- The required two emergency generators will be installed on the south side of the building, which is as far as possible from the residence and Purchase Friends Meeting House properties to the north.
- Sound barriers consisting of sound attenuated enclosures and exhaust silencers will mitigate noise from the generators and 100-foot front and side setback buffers will further reduce impacts from noise on the surrounding neighborhood.
- All construction equipment will be turned off when not in use, as New York State law requires no idling of unused equipment in excess of five minutes.
- Use of ambient sensitive self-adjusting back up alarms.
- Mufflers will be required on all equipment.
- The Project will adhere to the Town/Village of Harrison Noise Ordinance limits. No construction will take place on Sundays.
- The above ground propane storage tank and backup diesel generator tanks will be equipped with overflow fill protections and meet all applicable requirements of Federal, State, and local agencies, including secondary containment.
- Truck drivers will be directed to use major roads and highways where possible to avoid the use of residential roads and back streets. All construction truck traffic will be required to approach and depart the Site from and to the north.
- Retain reusable soil on-site to the extent practical to reduce off-site shipments/truck trips.

Based on these mitigation measures and the results of a thorough environmental review, the DEIS and FEIS concluded that locating the Filtration Plant at the County Parcel would not result in any significant impacts to the environment.

Because the County Parcel is located in the watershed of the Kensico Reservoir, the Filtration Plant and its sewer line require approvals from the NYCDEP, including its approval of the SWPPP. *See* Public Health Law § 1100; 10 N.Y.C.R.R. § 128-3.9; 15 Rules of the City of New York (“**RCNY**”) Chapter 18. To approve the SWPPP, NYCDEP must determine that the Filtration Plant will comply with rigorous standards to protect the reservoir from contamination, degradation and pollution. *See* 15 RCNY § 18-39. As noted above, on May 26, 2023, NYCDEP approved the SWPPP, confirming that the construction and operation of the Filtration Plant at the County Parcel will not harm the Kensico Reservoir and will comply with the stringent performance standards required for new construction in its watershed. Similarly, the NYC Watershed Inspector General, an office within the Environmental Protection Bureau of the New York Attorney General’s office, reviewed drafts of the SWPPP and determined that the final SWPPP had addressed each of its earlier comments.

## **Reasons for Locating the Filtration Plant on the County Parcel**

The SEQRA Findings Statement approved by the WJWW board of trustees on October 12, 2022, selected the County Parcel as the best location for the Filtration Plant, as compared to the WJWW Parcel and the other alternatives studied in the DEIS and FEIS. All three members of the WJWW board – the Town Supervisor/Mayor of the Town/Village of Harrison, the Town Supervisor of the Town of Mamaroneck, and the Mayor of the Village of Mamaroneck – approved the resolution to issue the SEQRA Findings Statement selecting the County Parcel as the location for the Filtration Plant.

The SEQRA Findings Statement acknowledges that the WJWW Parcel has two environmental characteristics that weigh in its favor: (a) unlike the County Parcel, it is not within the Kensico Reservoir watershed; and (b) construction of the Filtration Plant at the WJWW Parcel would require the removal of approximately 366 trees with a diameter of 8" or greater, which is fewer than the approximately 408 trees of this size that would be removed to construct the Filtration Plant on the County Parcel. In considering the first issue, WJWW concluded that the Filtration Plant, as designed, will not result in adverse impacts to the Kensico Reservoir because of the Filtration Plant's comprehensive stormwater management facilities and the requirement that the facility's design, operations, construction and SWPPP comply with the stringent regulations that the NYCDEP has put into place to protect the reservoir. WJWW also noted that water treatment facilities are commonly located within the New York City watershed. As to the issue of tree removal, WJWW noted that the removal of trees at the WJWW Parcel would impact an ecologically valuable native Oak-Tulip Tree Forest as compared to the trees at the County Parcel, most of which are less ecologically valuable invasive species and Successional Southern Hardwood Forest.

Against the two considerations favoring the WJWW Parcel, the SEQRA Findings Statement weighed the following considerations favoring the County Parcel:

- The County Parcel is in a business (non-residence) zoning district, while the WJWW Parcel is in an R-2, One-Family Residence zoning district. As noted above, a key impediment to the Planning Board's completion of action on the prior SEQRA review to build the Filtration Plant on the WJWW Parcel was the perceived conflict and concerns regarding project consistency with surrounding residential land uses given that the WJWW Parcel is situated in the R-2 One-Family Residence district.
- The County Parcel is bordered to the northeast, east, southeast and south by airport-related uses. Within a ½-mile from the County Parcel there are several water supply facilities, including the Rye Lake Pump Station and ultraviolet (UV) treatment facility, and the Purchase Street Water Storage Tanks, all owned and managed by WJWW. The Rye Lake water source is also within a ½ mile from the County Parcel. Interstate 684 is approximately 500 feet from the County Parcel,

and Westchester County Airport is contiguous to the County Parcel. Development of the Filtration Plant on the County Parcel would be consistent with the surrounding utility and transportation facilities.

- By contrast, the WJWW Parcel is adjacent to the airport only on its narrow eastern lot line; it is otherwise surrounded by land zoned for residential use. *See* DEIS Figure 5-3. The WJWW Parcel is adjacent to existing residential uses to the north and a golf course to the south and adjoins the presently undeveloped but approved Sylvan Development residential subdivision to the west, with access to Purchase Street only through this subdivision via a residential side street. The WJWW Parcel is surrounded by fewer utility and transportation land uses and more residential land uses than the County Parcel.
- The construction of the facility on the WJWW Parcel would require disturbance of regulated freshwater wetlands. By contrast, the construction of the Filtration Plant on the County Parcel avoids any disturbance of wetlands.
- The construction of the facility on the WJWW Parcel would involve more extensive construction to provide the requisite utility connections, because the WJWW Parcel is not situated proximate to existing utility lines. All utilities – and a new water main – would have to run along the proposed 2,700-foot long access road within the easement from Purchase Street. DEIS Figure 5-2. The County Parcel has more convenient connections to existing utilities and the existing water main beneath Purchase Street due to its location with frontage on Purchase Street.
- The WJWW Parcel – unlike the County Parcel – has no direct street frontage on Purchase Street, requiring a long driveway and associated increase in tree clearing and construction disturbance. *See* DEIS Figure 5-2. The 12.77 acres of disturbance on the WJWW Parcel is more than double the 6.16 acres of disturbance required for construction of the Filtration Plant on the County Parcel. The construction of the facility on the WJWW Parcel would result in approximately double the extent of impervious surfaces (4.6 acres), as compared to the 2.4 acres of impervious surfaces to be constructed at the County Parcel.

### **The Need for Prompt Approval of the Exchange Transaction**

In consultation with the County, WJWW has proposed the land swap to expedite construction of the Filtration Plant. Since the County expressed its receptivity to the land swap in 2019, WJWW has spent almost four years and \$7 million to date preparing engineering plans, the SWPPP and the required SEQRA documents to move the project forward. At this point, the planning process can go no further unless and until the County approves the Exchange Transaction, because the Town of Harrison Planning Board has stated that it will not schedule a public hearing on WJWW's pending land use applications unless and until the County approves the transaction.

WJWW is under substantial pressure to construct the Filtration Plant as soon as possible. This pressure comes from different sources.

First and foremost is that the Filtration Plant is required to bring the WJWW system into compliance with safe drinking water regulations and ensure the safety of the drinking water that WJWW supplies to up to 100,000 County residents. The federal Safe Drinking Water Act regulations establish a MCL for HAA5 at 0.060 milligrams per liter. 40 C.F.R. § 141.64(b). The EPA has determined that organic materials in surface water interact with required treatment chemicals to form HAA5 in drinking water. *See* National Primary Drinking Water Regulations; Stage 2 Disinfectants and Disinfection Byproducts Rule, 71 Fed. Reg. 388, 393 (Jan. 4, 2006). The EPA has determined that the MCL for HAA5 provides for increased public health protection against the increased risks for cancer and reproductive and developmental health effects (*i.e.*, birth defects) from exposure to HAA5. *Id.* at pp. 394-400. Monitoring data collected by WJWW in the first, second and third quarters of 2019 established a violation of the HAA5 MCL in the WJWW system. In immediate response to these MCL violations, WJWW began an aggressive water distribution system flushing program that wastes approximately 80 million gallons of water per year at a cost of close to \$500,000 per year to water consumers. These measures remain in place and are expected to continue until the Filtration Plant is constructed and operational. As a result of the MCL violation, on November 26, 2019, the EPA ordered WJWW to construct the Filtration Plant to reduce the organic content of the Rye Lake water in the WJWW system, thereby reducing the likelihood of future violations of the HAA5 MCL. And as noted above, WJWW was, many years ago, subject to a state court injunction requiring it to construct the Filtration Plant in order to comply with State law.

The second source of pressure is that U.S. Department of Justice on behalf of EPA and the New York Attorney General's office on behalf of NYSDOH have provided notice to WJWW and its three member municipalities that they will bring enforcement actions against WJWW and the municipalities seeking massive civil penalties of many millions of dollars if a consent decree is not signed committing WJWW and the municipalities to construct the Filtration Plant on an expedited schedule that can only be met by continuing on the path we have been on for the last four years of building the Filtration Plant on the County Parcel. These are not idle threats: statutory penalties under the Safe Drinking Water Act are up to \$32,500 per day per violation, and penalties for violating State law are also substantial. It is the WJWW system water customers or the municipalities who would ultimately bear the cost of paying these civil penalties if the Filtration Plant is further delayed. These enforcement actions can only be resolved by proceeding with the proposed consent decree that is currently being negotiated by the parties – a settlement of the enforcement actions that assumes that WJWW can proceed with its plan to construct the Filtration Plant on the current schedule that takes advantage of the work we have done to design and obtain approval of the Filtration Plant's construction on the County Parcel.

County disapproval of the proposed Exchange Transaction – or prolonged inaction on WJWW’s request for approval – would delay construction of the Filtration Plant thereby putting the health of up to 100,000 County residents at risk. Given the enormous amount of effort required to construct the facility, attempting to move the proposal back to the WJWW Parcel – as the County Parcel neighbors have suggested – would delay its construction by years and add millions of dollars to the project cost and consequently result in even higher water rates for consumers. This delay would have grave consequences for public health by deferring the mitigation of an already existing public health threat that will only be made worse by the progression of climate change. For all these reasons, WJWW respectfully requests that the County approve the proposed Exchange Transaction as soon as possible.

WJWW would be pleased to provide any further information that the County may request to consider the request for approval of the Exchange Transaction.

Respectfully submitted,



Paul Kutzy, P.E.  
Manager, WJWW

cc: Hon. Kenneth Jenkins, Deputy County Executive  
Joan McDonald, Director of Operations  
Hon. Thomas A. Murphy, Mayor, Village of Mamaroneck  
Hon. Rich Dionisio, Supervisor/Mayor, Town/Village of Harrison  
Hon. Jaine Elkind Eney, Supervisor, Town of Mamaroneck

**Attachments:**

Tab A Draft Exchange Transaction Contract  
Tab B FAA Letter dated September 30, 2022 regarding Exchange Transaction  
Tab C DEIS for Filtration Plant on County Parcel (without appendices)  
Tab D FEIS for Filtration Plant on County Parcel (without appendix B)  
Tab E WJWW SEQRA Findings Statement for Filtration Plant on County Parcel  
Tab F Post-FEIS site plan change resolution and technical memorandum  
Tab G Storm Water Pollution Prevention Plan for Filtration Plant on County Parcel  
Tab H NYCDEP Approval dated May 26, 2023 for Filtration Plant on County Parcel  
Tab I Final Engineering Documents for Filtration Plant on County Parcel  
Tab J Basis of Estimate Cost Report for Filtration Plant on County Parcel