

Westchester County

George Latimer
County Executive

November 13, 2024

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

Dear Members of the Board of Legislators:

Transmitted herewith for your review and approval are three bond acts ("Bond Acts") of the County of Westchester ("County") related to capital project RD017 – Material Recovery Facility and Transfer Station Rehabilitation ("RD017") as follows:

- (1) an Amending Bond Act which would reduce the amount of bonds authorized by Bond Act No. 99-2019 from \$7,500,000 to \$4,700,000, a decrease of \$2,800,000 ("Bond Act Amending 99-2019");
- (2) an Amending Bond Act which would reduce the amount of bonds authorized by Bond Act No. 85-2020 from \$300,000 to \$170,000 ("Bond Act Amending 85-2020"), a decrease of \$130,000; and
- (3) a Bond Act which would amend Bond Act No. 215-2023, which authorized the County to issue bonds for design, construction management, and construction for various improvements to transfer stations and the Materials Recovery Facility in and for the County's Refuse Disposal District No. 1 ("District"). This bond act would increase the estimated maximum amount and the amount of bonds authorized by \$2,930,000 to \$18,760,000, representing a consolidation of (i) \$2,800,000 from Act No. 99-2019, and (ii) \$130,000 from Act No. 85-2020 ("Consolidated Bond Act Amending 215-2023").

It should be noted that Bond Act Amending 99-2019 and Bond Act Amending 85-2020 do not authorize the issuance of additional bonds or change the existing authorization or purpose in any way, other than by preventing any additional issuance of bonds thereunder. Furthermore, in the aggregate Bond Act Amending 99-2019 and Bond Act Amending 85-2020 would decrease the total amount authorized for RD017 by \$2,930,000.

The Department of Environmental Facilities ("Department") has advised that the Bond Acts are necessary to consolidate and reallocate unissued bond authorizations of prior bond act numbers 85-2020 and 99-2019 into 215-2023. Through dedicated efforts to reduce costs where possible, the Refuse and Recycling Division ("Division") of the Department has realized cost savings in connection with certain bonded projects.

Bond Act 85-2020 involved a study of the Yonkers Transfer Station Facility for redundancy, which has been completed for less than the budgeted amount. Therefore, the Department seeks to reallocate the remaining bonding to other projects.

Office of the County Executive

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Additionally, Bond Act 99-2019 authorized financing for a large-scale project at the Yonkers Transfer Station related to a New York State Department of Environmental Conservation (“NYSDEC”) Consent Order. During design, several project stages were developed. A basin was designed and implemented as the first phase of the project. Following completion of the basin, an extended sampling period was implemented by NYSDEC. At this time, NYSDEC has indicated that it is satisfied with the operation of the basin and is not directing further work. Accordingly, the Department is seeking to use the remaining bonding allowance for other projects.

Bond Act 215-2023 authorized financing for facility and processing upgrades at the District Transfer Stations and Material Recovery Facility (“MRF”), for which design is and/or will be undertaken by a consultant, and procurement will be managed in house. The first project expected to be completed under RD017 is the Yonkers transfer station/MRF roofs and related equipment. Design for that component was already has a completed and the Department of Public Works and Transportation is in the process of preparing bid documents. It is estimated that construction will take nine months to complete and will begin after award and execution of the construction contracts.

The Department has further advised that these components of RD017 have previously received financing approval of your Honorable Board, and RD017 has previously received approval by the New York State Comptroller (“Comptroller”) in accordance with Section 268 of the New York State County Law by an Order of the Comptroller dated January 26, 2018.

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

Sincerely,



~~George Latimer~~

~~Westchester County Executive~~

Kenneth Jenkins

Acting County Executive

Attachments

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

Your Committee is in receipt of an amended bond act, prepared by the law firm Norton Rose Fulbright, which would reduce the amount of bonds of the County of Westchester (“County”) authorized by prior Bond Act No. 99-2019 to finance Capital Project RD017 – Material Recovery Facility and Transfer Station Rehabilitation (“RD017”) from \$7,500,000 to \$4,700,000, a decrease of \$2,800,000 (“Bond Act Amending 99-2019”).

The Bond Act Amending 99-2019 would finance the costs of design, construction management and construction of leachate collection facilities at the County’s Yonkers Material Recovery Facility and Transfer Station in the amount of \$4,700,000. It should be noted that Bond Act Amending 99-2019 would not authorize the issuance of additional bonds or change the existing authorization or purpose in any way, other than by preventing any additional issuance of bonds thereunder.

The Department of Environmental Facilities (“Department”) has advised that the Bond Act Amending 99-2019 is one of three necessary to consolidate and reallocate unissued bond authorizations of prior bond act numbers 85-2020 and 99-2019 into 215-2023. Through dedicated efforts to reduce costs where possible, the Refuse and Recycling Division (“Division”) of the Department has realized cost savings in connection with certain bonded projects.

The Department has further advised that Bond Act 99-2019 authorized financing for a large-scale project at the Yonkers Transfer Station related to a New York State Department of Environmental Conservation (“NYSDEC”) Consent Order. During design, several project stages were developed. A basin was designed and implemented as the first phase of the project. Following completion of the basin, and extended sampling period was implemented by NYSDEC. At this time, NYSDEC has indicated that it is satisfied with the operation of the basin and is not directing further work. Accordingly, the Department is seeking to use the remaining bonding allowance for other projects.

The Department has further advised that these components of RD017 have previously received bonding approval, and RD017 has previously received approval by the New York State Comptroller (“Comptroller”) in accordance with Section 268 of the New York State County Law by an Order of the Comptroller dated January 26, 2018.

The Department of Planning has advised your Committee that based on its review, RD017 may be classified as a Type “II” action pursuant to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 (“SEQR”). Therefore, no environmental review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

It should be noted that an affirmative vote of two-thirds of the members of your Honorable Board is required in order to adopt the Amended Bond Act. Your Committee recommends the adoption of the proposed Amended Bond Act.

Dated: _____, 20____.
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: RD017

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

AMEND ACT 215-2023 BY ADDING \$2,930,000; REDUCE ACTS 99-2019 AND 85-2020 BY \$2,930,000

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 18,760,000 PPU 25 Anticipated Interest Rate 3.55%

Anticipated Annual Cost (Principal and Interest): \$ 1,109,536

Total Debt Service (Annual Cost x Term): \$ 27,738,408

Finance Department: maab 11-8-24

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: 204

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget


Date: 11/12/2024

Reviewed By: 

11/12/24 Budget Director

Date: 11/13/24

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

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

DATE: September 25, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT:
RD017 Material Recovery Facility and Transfer Station Rehabilitation**

PROJECT/ACTION: Per Capital Project Fact Sheet as approved by the Planning Department on 09-03-2024 (Unique ID: 2668)

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

- **617.5(c)(2):** replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;
 - **617.5(c)(31):** purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials.
-

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
Nat Federici, Deputy Commissioner, Dept. of Environmental Facilities
Dianne Vanadia, Associate Budget Director
Susan Darling, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Principal Environmental Planner

ACT NO. _____ - 202__

BOND ACT DATED _____, 202__.

A BOND ACT AMENDING ACT NO. 99-2019, WHICH AUTHORIZED THE ISSUANCE OF \$7,500,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY THE DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS OF LEACHATE COLLECTION FACILITIES AT THE YONKERS MATERIAL RECOVERY FACILITY AND TRANSFER STATION, IN AND FOR THE BENEFIT OF THE COUNTY'S REFUSE DISPOSAL DISTRICT NO. 1, TO REDUCE THE ESTIMATED MAXIMUM COST AND AMOUNT OF BONDS AUTHORIZED BY \$2,800,000.

WHEREAS, pursuant to Act No. 99-2019, dated June 3, 2019, the Board previously authorized the issuance of \$7,500,000 bonds to finance the cost of the design, construction management and construction costs of leachate collection facilities at the Yonkers Material Recovery Facility and Transfer Station in and for the benefit of the County's Refuse Disposal District No. 1; and

WHEREAS, \$4,005,147 obligations have heretofore been issued under Bond Act No. 99-2019; and

WHEREAS, it is now desired to (i) reduce the estimated maximum cost and amount of bonds authorized under Act No. 99-2019 by \$2,800,000, leaving \$4,700,000 authorized herein, and (ii) by separate bond act, transfer and consolidate the \$2,800,000 bonds authorized under Act No. 99-2019 into Act No. 215-2023; and

NOW, THEREFORE,

BE IT ENACTED BY THE COUNTY 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 of said Board), AS FOLLOWS:

Section (A): The Bond Act duly adopted by this Board on June 3, 2019, entitled:

ACT NO. 99-2019.

A BOND ACT AUTHORIZING THE ISSUANCE OF \$7,500,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY THE DESIGN,

CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS OF LEACHATE COLLECTION FACILITIES AT THE YONKERS MATERIAL RECOVERY FACILITY AND TRANSFER STATION, IN, AND FOR THE BENEFIT OF, THE COUNTY'S REFUSE DISPOSAL DISTRICT NO. 1.

is hereby amended to read as follows:

A BOND ACT AUTHORIZING THE ISSUANCE OF \$4,700,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY THE DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS OF LEACHATE COLLECTION FACILITIES AT THE YONKERS MATERIAL RECOVERY FACILITY AND TRANSFER STATION, IN, AND FOR THE BENEFIT OF, THE COUNTY'S REFUSE DISPOSAL DISTRICT NO. 1.

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 conditions precedent to the financing of the capital purposes 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 COUNTY BOARD OF LEGISLATORS OF THE COUNTY OF WESTCHESTER, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Board), AS FOLLOWS:

Section 1. For the class of objects or purposes of financing the design, construction management and construction costs of leachate collection facilities at the Yonkers Material Recovery Facility and Transfer Station, including incidental expenses in connection therewith, there are hereby authorized to be issued \$4,700,000 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 \$4,700,000, and that the plan for the financing thereof is by the issuance of the \$4,700,000 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 twenty-five years pursuant to subdivision six 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 County's Refuse Disposal District No. 1, 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, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, the Commissioner of Finance shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. The Commissioner of Finance is hereby further delegated the power to authorize the sale and issuance of the bonds authorized pursuant to this Bond Act (a) at a discount in the manner authorized by paragraphs e and f of Section 57.00 of the Local Finance Law, (b) at private sale pursuant to the applicable provisions of the Local Finance Law and any regulations of the New York State Comptroller appertaining thereto, including the private sale of bonds at a premium, (c) as capital appreciation bonds or term bonds at public sale or private sale pursuant to the applicable provisions of the Local Finance Law and any regulations of the New York State Comptroller appertaining thereto, and (d) at a variable rate of interest in the manner authorized by Section 54.90 of the Local Finance Law, including notes issued in anticipation thereof. The Commissioner of Finance is hereby authorized to enter into such agreements as said Commissioner of Finance shall determine reasonable and necessary to facilitate the issuance, sale, resale and, or repurchase of such bonds or notes pursuant to the provisions of Section 54.90 of the Local Finance Law. Such bonds and, or notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance.

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

Section 10. The Commissioner of Finance is hereby further authorized, at the Commissioner of Finance's sole discretion, 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 of the Board of Legislators in substantially the form provided in Section 81.00 of the Local Finance Law.

Section (B). The amendments of the bond act set forth in Section (A) of this act shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond act, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond act, as so amended.

Section (C). This Act shall take effect immediately upon approval by the County Executive. No legal notice, as described in Section 81.00 of the Local Finance Law, is required to be published in connection with this Act, as this Act does not increase the amount of bonds previously authorized.

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

AYES:

NOES:

ABSENT:

The Bond Act was thereupon declared duly adopted.

* * *

APPROVED BY THE COUNTY EXECUTIVE

Date: _____

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

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

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

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

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

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

Newspaper and/or Other News Media

Date Given

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

Designated Location(s) of Posted Notices

Date of Posting

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

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

(CORPORATE
SEAL