



Public Works & Transportation Meeting Agenda

Committee Chair: Erika Pierce

800 Michaelian Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, March 20, 2023

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations and Housing committees.

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

Chairwoman Catherine Borgia will be participating remotely from Clear View School and Day Treatment Center, 480 Albany Post Road, Briarcliff, NY, 10510

MINUTES APPROVAL

Monday, March 13, 2022 at 10:00 a.m.

I. ITEMS FOR DISCUSSION

1. [2023-95](#) IMA-West 3rd Street Sewer Project-Mount Vernon

AN ACT authorizing the County of Westchester to enter into an intermunicipal agreement with the City of Mount Vernon whereby the County shall procure, coordinate and administer all required services for the design and construction of the West Third Street Pump Station and Sanitary Sewer Project, on behalf of the City, and at no cost to the County.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND PUBLIC WORKS & TRANSPORTATION

Joint with Budget & Appropriations

Guests: DEF: Commissioner Vincent Kopicki; Budget Dept.: Budget Director Larry Soule; Law Dept.: Assistant Chief Deputy County Attorney Tami Altschiller and Senior Assistant County Attorney JP Iannace

2. [2023-96](#) IMA-West 3rd Street Sewer Project-NYS Environmental Facilities

Corporation & Mount Vernon

AN ACT authorizing the County of Westchester to enter into an intermunicipal agreement with the New York State Environmental Facilities Corporation and the City of Mount Vernon to fully fund the design and construction of the West Third Street Pump Station and Sanitary Sewer Project.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND PUBLIC WORKS & TRANSPORTATION

Joint with Budget & Appropriations committee

Guests: DEF: Commissioner Vincent Kopicki; Budget Dept.: Budget Director Larry Soule; Law Dept.: Assistant Chief Deputy County Attorney Tami Altschiller and Senior Assistant County Attorney JP Iannace

3. [2023-93](#) BOND ACT-BPL1A-65 Lake Street, White Plains

A BOND ACT authorizing the issuance of TWO MILLION, SEVEN HUNDRED FIFTY THOUSAND (\$2,750,000) DOLLARS in bonds of Westchester County to finance Capital Project BPL1A - Housing Implementation Fund II.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, PUBLIC WORKS & TRANSPORTATION AND HOUSING

Joint with Budget & Appropriations and Housing committees

Guest: Planning Dept.: Commissioner Norma Drummond

4. [2023-94](#) ACT-IMDA-White Plains & Mount Hope Community Development Corporation

AN ACT authorizing the County of Westchester (the "County") to enter into an inter-municipal developer agreement with the City of White Plains and Mount Hope Community Development Corporation, its successors or assigns, to fund certain infrastructure improvements as well as authorizing the County to grant and accept any property rights necessary in furtherance thereof, all for the purpose of constructing 55 senior affordable rental units and one employee unit at 65 Lake Street in the City of White Plains, that will affirmatively further fair housing and remain affordable for a period of not less than 50 years.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, PUBLIC WORKS & TRANSPORTATION AND HOUSING

Joint with Budget & Appropriations and Housing

Guest: Planning Dept.: Commissioner Norma Drummond

II. OTHER BUSINESS

III. RECEIVE & FILE

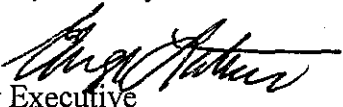
ADJOURNMENT

Memorandum

Office of the County Executive
Michaelian Office Building

March 6, 2023

TO: Hon. Catherine Borgia, Chair
Hon. Nancy Barr, Vice Chair
Hon. Christopher Johnson, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer 
Westchester County Executive

RE: **Message Requesting Immediate Consideration: 2 Acts - IMA with the City of Mount Vernon and an IMA with the NYS Environmental Facilities Corporation & City of Mount Vernon.**

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 6, 2023 Agenda.

Transmitted herewith for your review and approval is a legislative package which, if adopted, would authorize the County of Westchester (the "County") to: 1) enter into an intermunicipal agreement ("City IMA") with the City of Mount Vernon (the "City") whereby the County shall procure, coordinate and administer all required services for the design, construction and construction management of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County's Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues (the "West Third Street Pump Station and Sanitary Sewer Project"), on behalf of the City and at no cost to the County; and 2) enter into an intermunicipal funding agreement ("Funding IMA") with the New York State Environmental Facilities Corporation ("EFC") and the City to fully fund the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 6, 2023 "blue sheet" calendar.

Thank you for your prompt attention to this matter.



George Latimer
County Executive

March 6, 2023

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

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a legislative package which, if adopted, would authorize the County of Westchester (the "County") to: 1) enter into an intermunicipal agreement ("City IMA") with the City of Mount Vernon (the "City") whereby the County shall procure, coordinate and administer all required services for the design, construction and construction management of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County's Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues (the "West Third Street Pump Station and Sanitary Sewer Project"), on behalf of the City and at no cost to the County; and 2) enter into an intermunicipal funding agreement ("Funding IMA") with the New York State Environmental Facilities Corporation ("EFC") and the City to fully fund the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project. Copies of the aforementioned proposed City IMA and Funding IMA are transmitted herewith.

In June, 2018, the United State Department of Justice and the New York State Attorney General's Office filed a complaint against the City (United States v. City of Mt. Vernon, 18 Civ.5845) in Federal court to address discharges of raw sewage and other illicit pollutants from its storm sewer systems into the Hutchinson and Bronx Rivers. The United States District Court in the Southern District of New York entered a series of remedial orders against the City directing the City to comply with Federal and State laws and regulations associated with sanitary sewer and storm sewer systems (the "Federal Court Orders"). On or about May 10, 2022 the County, City and the New York State Department of Environmental Conservation ("DEC") on behalf of the State of New York ("State") entered into a Memorandum of Understanding ("MOU") which describes a City-County-State proposed partnership and path forward to comprehensively improve sanitary sewer and storm sewer systems within the City, and undertake related efforts to increase the flood resilience of these systems in the face of increasing storm intensity resulting for climate change.

Office of the County Executive

Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Email: CE@westchestergov.com
Telephone: (914)995-2900

westchestergov.com

The MOU broadly outlines the financial, oversight and construction activities designed to achieve substantial progress and ultimately full compliance by the City with the Federal Court Orders and with all Federal and State laws and regulations associated with sanitary sewer and storm sewer systems.

As part of proposed partnership set forth in MOU, the City has identified the West Third Street Pump Station and Sanitary Sewer Project to improve sanitary sewer and storm sewer systems within the City and has requested the County's assistance to procure, coordinate and administer all required services for the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project on behalf of the City. The West Third Street Pump Station and Sanitary Sewer Project will consist of the design and provision of all necessary labor, material and equipment required for construction of an underground sewer pumping station at an existing underground chamber that has been used to divert flow from two existing City sewers into a ten inch (10") borehole into the County's Hutchinson Trunk Sewer tunnel. The borehole has become irreparably clogged and can no longer function in this capacity. In addition, to the new underground sewer pumping station, work will consist of, but is not limited to, construction of a new gravity sewer to accept the discharge from the pumps and convey sewage to the existing City sanitary sewer system, all necessary appurtenances for the pumping station, sanitary sewer, and site restoration.

The West Third Street Pump Station and Sanitary Sewer Project shall be fully funded by the EFC, thus, the County shall enter into the Funding IMA with the EFC and City to fund the Project. Pursuant to the terms of the Funding IMA, the County shall submit payment requests to the EFC and the EFC shall tender payment to the County. The County shall then pay the consultants, contractors and suppliers necessary to complete the Third Street Pump Station and Sanitary Sewer Project.

The County shall also simultaneously enter into the City IMA with the City that sets forth the terms whereby the County shall procure, coordinate and administer all required services for the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project on behalf of the City. The City shall fully cooperate with the County, its contractors and consultants in connection with all aspects of the design and construction of the West Third Street Pump Station and Sanitary Sewer Project including without limitation, granting the County, its contractors and consultants full access to all real property, infrastructure, documents, records and any data within City's custody and control related the West Third Street Pump Station and Sanitary Sewer Project. The City shall further provide, at its sole expense, sufficient personnel and services required to support the design and construction of the West Third Street Pump Station and Sanitary Sewer Project, including but not limited to traffic and pedestrian control, police and engineering services.

It should be noted by your Honorable Board, that pursuant to the terms of the aforementioned proposed agreements, the West Third Avenue Street Pump Station and Sanitary Sewer Project shall be undertaken by the County at no cost to the County.

It should be further noted by your Honorable Board that officials from the EFC and DEC have advised that up to \$150,000,000 in funds may be made available to the City to fund sanitary sewer, storm sewer and flood resiliency improvements within the City, and should the City request and the County desire to jointly undertake any other projects in addition to the West Third Avenue

Street Pump Station and Sanitary Sewer Project within the City, that further authorization shall be requested from Your Honorable Board in order to enter into additional intermunicipal funding agreements and intermunicipal agreements, as required.

As you are aware, your Honorable Board is required to make a determination of environmental significance as required by the State Environmental Quality Review Act. The Department of Planning has advised that, based on its review, this action is classified as a "Type II" action pursuant to the State Environmental Quality Review Act ("SEQRA"). Therefore, no further environmental review is required. As you know, your Honorable Board may use such expert advice to reach its own conclusion.

I believe that the entering into these agreements to improve sanitary sewer and storm sewer systems within the City be of great benefit to the health of City and County residents as well as the environment of the County in general. Therefore, I recommend the favorable action of your Honorable Board on the annexed proposed legislation.

Sincerely,



George Latimer
County Executive

GL/JPI/
Attachments

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

Your Committee is in receipt of a communication from the County Executive recommending approval of a legislative package which contains the following proposed acts authorizing the County to: 1) enter into an intermunicipal agreement (“City IMA”) with the City of Mount Vernon (the “City”) whereby the County shall procure, coordinate and administer all required services for the design, construction and construction management of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County’s Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues (the “West Third Street Pump Station and Sanitary Sewer Project”), on behalf of the City and at no cost to the County; and 2) enter into an intermunicipal funding agreement (“Funding IMA”) with the New York State Environmental Facilities Corporation (“EFC”) and the City to fully fund the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project. Copies of the aforementioned proposed City IMA and Funding IMA are transmitted herewith.

In June, 2018, the United State Department of Justice and the New York State Attorney General’s Office filed a complaint against the City (United States v. City of Mt. Vernon, 18 Civ.5845) in Federal court to address discharges of raw sewage and other illicit pollutants from its storm sewer systems into the Hutchinson and Bronx Rivers. The United States District Court in the Southern District of New York entered a series of remedial orders against the City directing the City to comply with Federal and State laws and regulations associated with sanitary sewer and storm sewer systems (the “Federal Court Orders”). On or about May 10, 2022 the County, City and the New York State Department of Environmental Conservation (“DEC”) on behalf of the State of New York (“State”) entered into a Memorandum of Understanding (“MOU”) which describes a City-County-State proposed partnership and path forward to comprehensively improve sanitary sewer and storm sewer systems within the City, and undertake related efforts to increase the flood resilience of these systems in the face of increasing storm intensity resulting for climate change. The MOU broadly outlines the financial, oversight and construction activities designed to achieve substantial progress and ultimately full compliance by the City with the Federal Court Orders and with all Federal and State laws and regulations associated with sanitary sewer and storm sewer systems.

As part of proposed partnership set forth in MOU, the City has identified the West Third Street Pump Station and Sanitary Sewer Project to improve sanitary sewer and storm sewer systems within the City and has requested the County's assistance to procure, coordinate and administer all required services for the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project on behalf of the City. The West Third Street Pump Station and Sanitary Sewer Project will consist of the design and provision of all necessary labor, material and equipment required for construction of an underground sewer pumping station at an existing underground chamber that has been used to divert flow from two existing City sewers into a ten inch (10") borehole into the County's Hutchinson Trunk Sewer tunnel. The borehole has become irreparably clogged and can no longer function in this capacity. In addition, to the new underground sewer pumping station, work will consist of, but is not limited to, construction of a new gravity sewer to accept the discharge from the pumps and convey sewage to the existing City sanitary sewer system, all necessary appurtenances for the pumping station, sanitary sewer, and site restoration.

The West Third Street Pump Station and Sanitary Sewer Project shall be fully funded by the EFC, thus, the County shall enter into the Funding IMA with the EFC and City to fund the Project. Pursuant to the terms of the Funding IMA, the County shall submit payment requests to the EFC and the EFC shall tender payment to the County. The County shall then pay the consultants, contractors and suppliers necessary to complete the West Third Street Pump Station and Sanitary Sewer Project.

The County shall also simultaneously enter into the City IMA with the City that sets forth the terms whereby the County shall procure, coordinate and administer all required services for the design, construction and construction management of the West Third Street Pump Station and Sanitary Sewer Project on behalf of the City. The City shall fully cooperate with the County, its contractors and consultants in connection with all aspects of the design and construction of the West Third Street Pump Station and Sanitary Sewer Project including without limitation, granting the County, its contractors and consultants full access to all real property, infrastructure, documents, records and any data within City's custody and control related the West Third Street Pump Station and Sanitary Sewer Project. The City shall further provide, at its sole expense, sufficient personnel and services required to support the design and construction of the West Third Street Pump Station

and Sanitary Sewer Project, including but not limited to traffic and pedestrian control, police and engineering services.

It should be noted by your Honorable Board, that pursuant to the terms of the aforementioned proposed agreements, the West Third Avenue Street Pump Station and Sanitary Sewer Project shall be undertaken by the County at no cost to the County.

It should be further noted by your Honorable Board that officials from the EFC and DEC have advised that up to \$150,000,000 in funds may be made available to the City to fund sanitary sewer, storm sewer and flood resiliency improvements within the City, and should the City request and the County desire to jointly undertake any other projects in addition to the West Third Avenue Street Pump Station and Sanitary Sewer Project within the City, that further authorization shall be requested from Your Honorable Board in order to enter into additional intermunicipal funding agreements and intermunicipal agreements, as required.

The Planning Department has advised that, based on its review, this is a “Type II” action under the State Environmental Quality Review Act (“SEQRA”), and its implementing regulations, 6 NYCRR Part 617, which is an action determined not to have a significant effect on the environment and therefore does not require further environmental review. Your Committee has reviewed the annexed SEQRA documentation prepared by the Planning Department and concurs with this conclusion.

It should be noted that approval of the two (2) Acts authorizing the County to enter into the City IMA and Funding IMA, respectively, both require the affirmative vote of a majority of the voting strength of your Honorable Board.

Your Committee believes that entering into these agreements to improve sanitary sewer and storm sewer systems within the City be of great benefit to the health of City and County residents as

well as the environment of the County in general. Therefore, your Committee recommends the favorable action of your Honorable Board on the annexed proposed legislation.

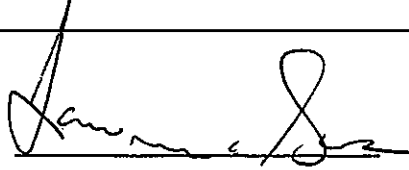
Dated: _____, 2023
White Plains, New York

COMMITTEE ON


C: jpi 3.1.2023

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: <u>SW033</u>	<input checked="" type="checkbox"/> NO FISCAL IMPACT PROJECTED		
SECTION A - CAPITAL BUDGET IMPACT To Be Completed by Budget			
<input type="checkbox"/> GENERAL FUND	<input type="checkbox"/> AIRPORT FUND		
<input checked="" type="checkbox"/> SPECIAL DISTRICTS FUND			
Source of County Funds (check one):			
<input checked="" type="checkbox"/> Current Appropriations			
<input type="checkbox"/> Capital Budget Amendment			
100% FUNDED NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION			
SECTION B - BONDING AUTHORIZATIONS			
Total Principal	\$ -	PPU	Anticipated Interest Rate
Anticipated Annual Cost (Principal and Interest):			
Total Debt Service (Annual Cost x Term):	\$ -		
Finance Department:			
SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service) To Be Completed by Submitting Department and Reviewed by Budget			
Potential Related Expenses (Annual):	\$ -		
Potential Related Revenues (Annual):	\$ -		
Anticipated savings to County and/or impact of department operations (describe in detail for current and next four years):			

SECTION D - EMPLOYMENT As per federal guidelines, each \$92,000 of appropriation funds one FTE Job			
Number of Full Time Equivalent (FTE) Jobs Funded:	76		
SECTION E - EXPECTED DESIGN WORK PROVIDER			
<input type="checkbox"/> County Staff	<input checked="" type="checkbox"/> Consultant	<input type="checkbox"/> Not Applicable	
Prepared by:	<u>Dianne Vanadia</u>	Reviewed By:	
Title:	<u>Sr. Budget Analyst</u>		
Department:	<u>Budget</u>	<u>DV 3/3/23</u>	Budget Director
Date:	<u>3/3/23</u>	Date:	<u>3/3/23</u>

TO: Vincent Kopicki, Commissioner
Department of Environmental Facilities

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

DATE: October 27, 2022

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR MOUNT VERNON
THIRD STREET SEWER PROJECT**

PROJECT/ACTION: The project involves the installation of an underground pumping station and sewer lines on West 3rd Street between 8th and 10th avenues in the City of Mount Vernon in order to bypass a clog in the connection between the existing pipe and the County's Hutchinson Valley High Level Interceptor. The project will include an aboveground control panel and may also include installation of a natural gas emergency generator in the vicinity to ensure uninterrupted operation during power outages. County assistance is being sought to help in the administration and implementation of the project, which involves City infrastructure and State financing.

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 because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTIONS:**
- **617.5(c)(6):** street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
 - **617.5(c)(9):** construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;
 - **617.5(c)(13):** extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list.
-

COMMENTS: The City of Mount Vernon is under several court orders to correct violations associated with the discharge of raw sewage and other illicit pollutants from its storm sewer system into the Hutchinson and Bronx rivers. While the County is not subject to these court orders, the

County has been asked to participate in the administration and oversight of sewer improvements needed to bring the City of Mount Vernon into compliance. The 3rd Street Pumping Station project involves the installation of an approximately 12-foot square underground chamber atop of the shaft over the existing clogged sewer pipe, along with approximately 400 linear feet of new sewer piping to redirect the sewage to another sewer line, which has sufficient capacity, to the east. The project is located in an urban area. The pump chamber and sewer line will be installed within the road right-of-way. The associated control panel and emergency generator, if included in the project, would be installed in the vicinity and will occupy minimal square footage. The project will eliminate the need for the temporary aboveground pump that is currently being used to bypass the clog.

DSK/cnm

cc: Norma Drummond, Commissioner
John Paul Iannace, Senior Assistant County Attorney
Claudia Maxwell, Associate Environmental Planner

ACT NO. 2023 - _____

An Act authorizing the County of Westchester to enter into an enter into an enter into an intermunicipal agreement with the City of Mount Vernon whereby the County shall procure, coordinate and administer all required services for the design and construction of the West Third Street Pump Station and Sanitary Sewer Project, on behalf of the City, and at no cost to the County.

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

Section 1. The County of Westchester is hereby authorized to enter into an intermunicipal agreement (“IMA”) with the City of Mount Vernon (the “City”) whereby the County shall procure, coordinate and administer all required services for the design and construction of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County’s Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues (the “West Third Street Pump Station and Sanitary Sewer Project”), on behalf of the City. The City shall provide, at its sole expense, sufficient personnel and services required to support the design and construction of the West Third Street Pump Station and Sanitary Sewer Project, including but not limited to traffic and pedestrian control, police and engineering services.

§2. The term of the IMA shall commence upon full execution and shall have a term of five (5) years, or terminate upon completion and acceptance of the West Third Street Pump Station and Sanitary Sewer Project by the County and City, whichever is earlier, and shall be at no cost to the County.

§3. The County Executive or his authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to effectuate the purposes hereof.

§4. This Act shall take effect immediately.

THIS INTERMUNICIPAL AGREEMENT (“IMA” or “Agreement”) made this _____ day of _____, 2023, by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (the “County”),

and

THE CITY OF MOUNT VERNON, a municipal corporation of the State of New York, having an office and place of business at One Roosevelt Square, Mount Vernon, New York 10550 (hereinafter the “City”).

WHEREAS, on or about May 10, 2022 the County, City and the New York State Department of Environmental Conservation (the “Department”) on behalf of the State of New York (the “State”) entered into a Memorandum of Understanding (the “MOU”) which describes a City-County-State proposed partnership and path forward to comprehensively improve sanitary sewer and storm sewer systems within the City, and undertake related efforts to increase the flood resilience of these systems in the face of increasing storm intensity resulting from climate change. That MOU outlines the financial, oversight and construction activities designed to achieve substantial progress and ultimately full compliance by the City with Federal and State laws and regulations associated with sanitary sewer and storm sewer systems; and

WHEREAS, on June 16, 2022 the City declared an emergency (the “City’s Emergency Declaration”) to protect the public health and to render all required available assistance vital to the security, well-being and health of the citizens of the City and to take all reasonable and responsible efforts including but not limited to: (1) the application for and securing of funding, (2) increase of pollution related fines and penalties, and (3) deviation from standard procurement procedures where necessary to prevent and mitigate irreparable injury to humans and the environment and expedite compliance with the Clean Water Act and all Federal Orders; and

WHEREAS, Article 5-G of the New York General Municipal Law (“GML”) authorizes municipal corporations and districts to perform their functions, duties, and powers on a cooperative basis with other municipal corporations and districts pursuant to municipal cooperation agreements; and

WHEREAS, both the County and the City are municipal corporations as that term is defined in

New York GML Article 5-G, Section 119-n and they desire to enter into this inter-municipal agreement (“IMA”) whereby the County shall assist the City to procure, coordinate and administer all required services for the design and construction of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County’s Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues, as more fully described in **Schedule “A”** (the “Project”) for the benefit of the City; and

WHEREAS, the Environmental Facilities Corporation (“EFC”) will fund the cost of the design and construction of the Project pursuant to a separate funding agreement (the “Funding Agreement”) with the County and the City in an amount of approximately Nine Million (\$9,000,000.00) Dollars of even date herewith, and transmit these funds directly to the County in order for the County to make required payments to any consultants, contractors and/or supplier for design, engineering, construction, project management, community outreach, equipment purchases, and other related services in connection with the design and construction of the Project on behalf of the City; and

WHEREAS, upon completion the City will own, operate and maintain any improvements, infrastructure, facilities and systems constructed as a result of the Project, subject to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

1. **RECITALS**: The above recitals, including any defined terms, are hereby incorporated by reference into the body of this Agreement.
2. **PERFORMANCE OF WORK**: In accordance with all applicable laws, rules and regulations, including State and County procurement requirements, the County, at no cost to the County, agrees to procure all services and equipment necessary to design and construct the Project, in accordance with the scopes of work and budgets attached hereto and made a part hereof as Schedule “A” (the “Work”). The City and County acknowledge and agree that the procurement, coordination and administration of the Work shall be done by the County, at no cost to the County, in consultation with the City.

3. **EMERGENCY DECLARATION:** The parties acknowledge and agree that the County is procuring and performing the Work in reliance upon the City's Emergency Declaration, a copy of which is attached hereto and made a part hereof as Schedule "B."

4. **TERM:** The term of this Agreement shall commence on full execution and shall have a term of five (5) years, or terminate upon completion and acceptance of the Project by the County and City, whichever is earlier, unless terminated sooner pursuant to the provisions of this Agreement.

5. **COSTS:** (a) Pursuant to the Funding Agreement, the EFC has agreed to fund all costs related to the Project up to at least Nine Million (\$9,000,000.00) Dollars ("Project Funds"). However, if determined to be necessary by the EFC, the amount of Project Funds may be increased.

(b) Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall the County be expected or required to incur any costs of any kind whatsoever or be under any other obligation or liability hereunder in connection with the Project. It is acknowledged and agreed by the County and City that in no event shall the County have any obligation to make any payments to a contractor, consultant or supplier in connection with the Project unless and until the EFC has previously paid the County for the same.

(c) In the event the costs for the Project exceed the amount of Project Funds identified in Section 5(a) above, and the EFC is unwilling or unable to fund such additional costs, the City shall be solely responsible to pay such costs in excess of the Project funding and shall make payment to the County within ten (10) business days of a disbursement request submitted by the County to the City.

(d) Notwithstanding the above, should the City fail to pay any Project costs in excess of the Project Funds identified in Section 5(a) above within said ten (10) business days, the County shall have no further obligation to continue with the construction of the Project, the County may terminate this Agreement and the County shall have no further obligations or liability in connection with this Agreement.

6. **PAYMENT:** The parties agree that all payments for the Work set forth in this Agreement will be made by EFC to the County for the benefit of the City in accordance with the Funding Agreement. It shall be based upon actual billing (e.g.: contractor, consultant, supplier invoices) received by the County and submitted to the EFC. The County, upon request for payment from a contractor, consultant or supplier engaged to carry out any portion of the Third Street Project, shall submit a requisition for

payment to the EFC and provide a copy of said requisition with any supporting documentation to the City. The EFC will process the payment request and transfer funds to the County in order for the County to make timely payments.

7. **LIMITATION OF LIABILITY:** The parties acknowledge and agree that the County's role shall be limited to the procurement, coordination and administration of the Work and related equipment for the benefit of the City and its residents. The City recognizes and acknowledges that the obligations of the County under this Agreement are subject to the County's receipt of Project Funds from the EFC, and that no liability shall be incurred by the County beyond the Project Funds made available from the EFC for this Agreement. The City agrees that the County shall not be liable for any of the payments to any contractors, consultants or suppliers engaged by the County in accordance herewith unless and until the County has received the funds from the EFC or the funds have been made available to the County by the EFC. Without limiting the foregoing, the City acknowledges and agrees that in the event the County makes any payment(s) to any consultant, contractor or supplier in advance of receiving all or part of the Project Funds from the EFC, and if the Funds for such payment(s) are not subsequently received by the County from the EFC, the City shall repay to the County such payment(s) made by the County to any consultant, contractor or supplier, within five (5) days of receipt of notice from the County to the City.

8. **TERMINATION:** (a) In the event that the City defaults in the performance of any term, condition or covenant herein contained, the County, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this Agreement upon thirty (30) days written notice to the City; provided, however, that the City may defeat such notice by curing the default complained of within such notice period, or, if any such default is not curable within such notice period by promptly commencing to cure the default and diligently pursuing all necessary and appropriate action to effect such cure. Upon subsequent defaults by the City, the County, at its option and in addition to any other remedy it may have to seek damage, judicial enforcement or any other lawful remedy, may terminate this Agreement upon ten (10) days written notice to the City, provided, however, that the City may defeat such notice by curing the default complained of within such notice period, or, if any such default is not curable within such notice period by promptly commencing to cure the default and diligently pursuing all necessary and appropriate action to effect

such cure.

(b) Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall the County be expected or required to incur any costs of any kind whatsoever or be under any other obligation or liability hereunder in connection with the Project. It is acknowledged and agreed by the County and City that in no event shall the County have any obligations to make any payments to a contractor, consultant or supplier in connection with the Project unless and until the EFC and/or City has previously paid the County for the same.

9. **MAINTENANCE OF RECORDS:** The County and City shall, at their sole cost and expense, keep, maintain, and preserve at its principal offices throughout the term of this Agreement, full and detailed books, accounts, and records pertaining to its performance pursuant to this Agreement. Such books, accounts and records will include, without limitation, all bills, invoices, payrolls and other data evidencing, or in any material way relating to, the direct and indirect costs and expenses incurred in connection with the Project. The City, County and EFC shall have the right to inspect and audit, at reasonable times and upon reasonable notice, any and all such books, accounts and records at the office or offices where they are then being kept, maintained and preserved. All of the provisions of this Section "9" will survive the expiration or other termination of this Agreement.

10. **COOPERATION AND ACCESS:** The City shall fully cooperate with the County, its contractors and consultants in connection with all aspects of the design and construction of the Third Avenue Project including without limitation, granting the County, its contractors and consultants full access to all real property, infrastructure, documents, records and any data within City's custody and control related the Third Avenue Project. The City shall further provide, at its sole expense, sufficient personnel and services required to support the design and construction of the Third Avenue Project, including but not limited to traffic and pedestrian control, police and engineering services.

The City shall further fully cooperate with the County its contractors and consultants in connection with compliance of all applicable federal, state and local laws, ordinances and regulations, including but not limited to the State Environmental Quality Review Act and the State Historic Preservation Act.

11. **REPRESENTATIONS, WARRANTIES AND GUARANTEES:** (a) The City and

County expressly represent, warrant and guarantee to the other that:

(i) the execution and performance of this Agreement by the City and County has been duly authorized by their respective governing boards; and

(ii) this Agreement, and any other documents required in connection herewith, when so delivered, will constitute legal, valid and binding obligations of the City and County enforceable against the other in accordance with their respective terms; and

(iii) the City and County will deliver to the other at the time of execution of this Agreement an act or resolution, as appropriate, adopted by their respective governing boards authorizing the execution of this Agreement, and any other documents required to be delivered by the City and the County; and

(iv) the persons signing this Agreement on behalf of the City and County has full Authority to bind the City and County to all of the terms and conditions of this Agreement.

(b) The County represents and warrants that it will use all funds transferred to it from the EFC in accordance with the terms set forth in this Agreement and the Funding Agreement and shall be responsible for payment of said funds to the appropriate third parties after receipt of said funds from the EFC.

12. INSURANCE: The City agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "C," entitled "Standard Insurance Provisions," which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "C," the City agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the City shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the City or third parties under the direction or control of the City; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

(c) This Section "12" shall survive the termination or expiration of this Agreement.

13. **ASSIGNMENT OF RIGHTS:** Neither party may assign any rights under this Agreement without the prior express written consent of the other party.

14. **ENTIRE AGREEMENT; AMENDMENT:** This Agreement, including without limitation, all schedules and attachments, constitute the entire Agreement between the parties and will supersede all previous negotiations, commitments and writings. It will not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties, subject to any necessary legal approvals.

15. **COMPLIANCE WITH LAW:** The County and the City will comply, each at their sole cost and expense, with all applicable federal, state and local laws, rules and regulations, ordinances and requirements affecting the conduct of their activities in connection with the performance of this Agreement herewith and, as applicable to the parties, as an employer.

16. **NOTICES:** All notices of any nature, requests, approvals and other communications which may be given by either party to the other under this Agreement will be in writing and sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier or sent by facsimile (with acknowledgement received and a copy of the notice sent by overnight courier) to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice will be effective upon receipt:

To the County: Commissioner
 Department of Environmental Facilities
 County of Westchester
 270 North Avenue, 6th Floor
 New Rochelle, NY 10801

with a copy to: County Attorney
 Michaelian Office Building, Room 600
 148 Martine Avenue
 White Plains, New York 10601

To the City: Mayor
City of Mount Vernon
One Roosevelt Square
Mount Vernon, New York 10550

with a copy to: Office of Corporation Counsel
City of Mount Vernon
One Roosevelt Square
Mount Vernon, New York 10550

with a copy to: NYS Environmental Facilities Corporation
625 Broadway
Albany, New York 12207

with a copy to: General Counsel
NYS Environmental Facilities Corporation
625 Broadway
Albany, New York 12207

17. **VALIDITY**: If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement will in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision will be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision will be interpreted and enforced to give effect to the original written intent of the parties prior to determination of such invalidity or unenforceability.

18. **APPROVALS**: It is hereby acknowledged that any request for any modification of the terms hereof which requires the consent of the parties will be subject to the receipt of any and all necessary legal approvals.

19. **EXECUTION**: This Agreement may be executed simultaneously in several identical copies, each of which will be an original and all of which will constitute but one and the same agreement.

20. **GOVERNING LAW**: This Agreement will be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement will be brought in the County of Westchester.

21. **NO WAIVER**: Failure of the County or the City to insist, in any one or more instances,

upon strict performance of any term or condition herein contained will not be deemed a waiver or relinquishment for the future of such term or condition, but the same will remain in full force and effect.

22. **THIRD PARTIES:** Nothing herein is intended or will be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third-party rights are expressly granted herein.

23. **ENFORCEMENT:** This Agreement shall not be enforceable until signed by all parties and approved by the Office of the County Attorney and the Office of the City's Corporation Counsel.

24. **CAPTIONS:** The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision thereof.

[NO FURTHER TEXT ON THIS PAGE. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the County of Westchester and the City of Mount Vernon have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

By: _____
Vincent F. Kopicki, P.E.
Commissioner
Department of Environmental Facilities

CITY OF MOUNT VERNON

By: _____
Name:
Title:

Approved by the Westchester County Board of Legislators by Act No. _____ at a meeting duly held on _____, 2023.

Approved by the Mount Vernon City Council by Resolution No. _____ on _____, 2023.

Approved:

Approved:

Sr. Assistant County Attorney
County of Westchester

Corporation Counsel
City of Mount Vernon

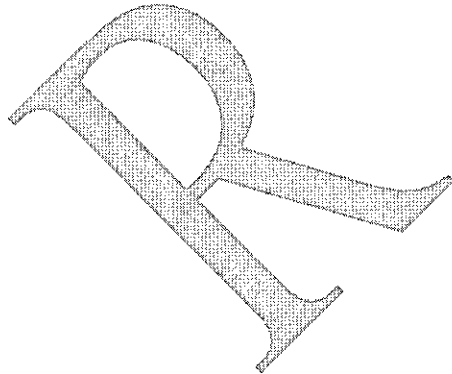
s: C/JPI/DXF/Mt. Vernon.Sewer.Grant.IMA.3.8.23

CITY ACKNOWLEDGMENT

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

On the ___ day of _____ in the year 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

Signature and Office of individual
taking acknowledgment



CITY CERTIFICATE OF AUTHORITY

I, _____, certify that I am
(Officer other than officer signing contract)

the _____ of the _____
(Title) *(the "Municipality")*

a municipal corporation duly organized and in good standing under the _____
(Law under which organized, e.g., the New York Business Corporate Law)

named in the foregoing agreement; that _____
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution,

(Title of such person)

of the Municipality and that said agreement was duly signed for and on behalf of said Municipality
by authority of its Board of _____, thereunto duly authorized and that
such authority is in full force and effect at the date hereof.

(Signature)

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

On this _____ day of _____, 20 __, before me personally came
_____, whose signature appears above, to me known,
and known to me to be the _____ of _____
_____, the Municipality described in and which
executed the above certificate, who being by me duly sworn did depose and say that he/she, the said
_____ of said Municipality resides at _____
_____, and that he/she signed his/her name
hereto by order of the Board of _____ of said Municipality.

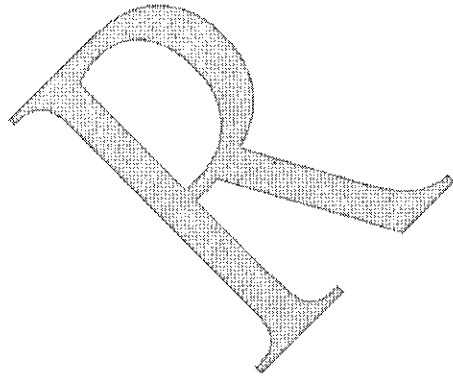
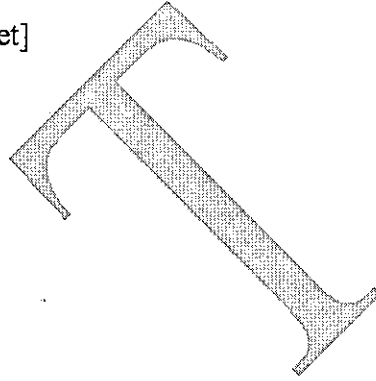
Signature and Office of individual
taking acknowledgment

SCHEDULE "A"

Scope of Work and Budget

I. **Third Street Project:**

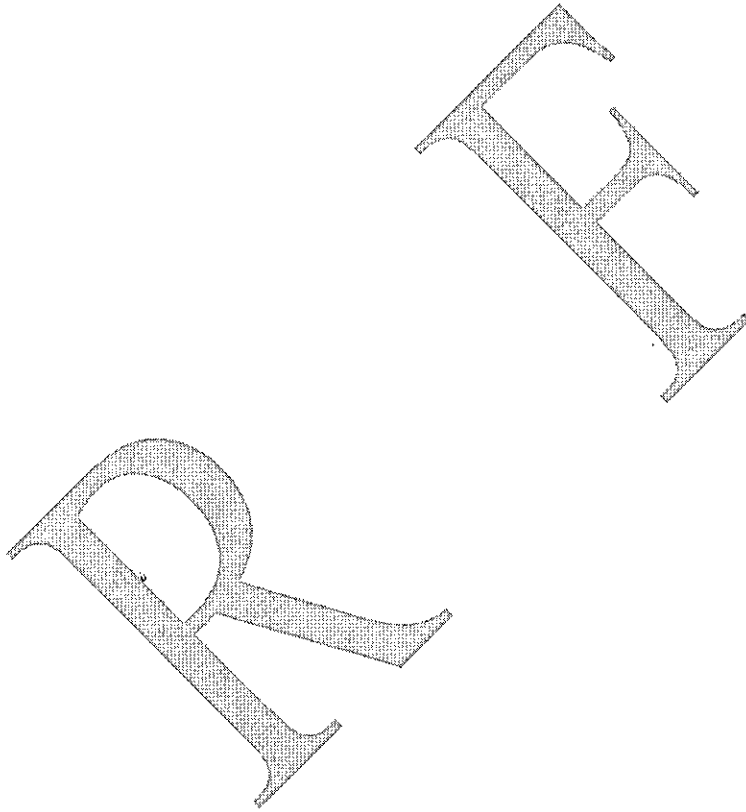
[Insert Scope and Budget]



SCHEDULE "B"

City of Mount Vernon Emergency Declaration

[Insert Emergency Declaration.]



SCHEDULE "C"

STANDARD INSURANCE PROVISIONS

(Municipality)

1. Prior to commencing work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2. The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- i. Premises - Operations.
- ii. Broad Form Contractual.
- iii. Independent Contractor and Sub-Contractor.
- iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

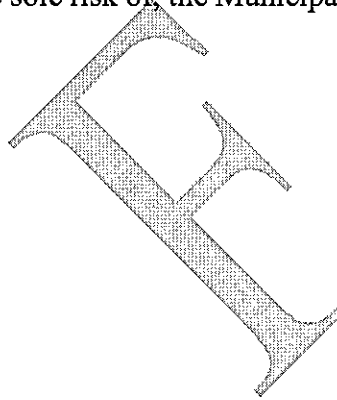
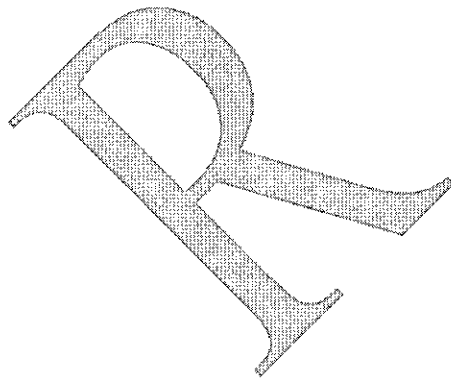
3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

A large, stylized, serif letter 'F' watermark, rendered in a light gray, textured font, positioned diagonally in the upper right quadrant of the page.A large, stylized, serif letter 'R' watermark, rendered in a light gray, textured font, positioned diagonally in the lower left quadrant of the page.

ACT NO. 2023 - _____

An Act authorizing the County of Westchester to enter into an enter into an intermunicipal agreement with the New York State Environmental Facilities Corporation and the City of Mount Vernon to fully fund the design and construction of the West Third Street Pump Station and Sanitary Sewer Project.

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

Section 1. The County of Westchester is hereby authorized to enter into an intermunicipal agreement (“IMA”) with the New York State Environmental Facilities Corporation and the City of Mount Vernon to fully fund the design and construction of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County’s Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues.

§2. The term of the IMA shall commence upon full execution and expire on March 31, 2027, and shall be at no cost to the County.

§3. The County Executive or his authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to effectuate the purposes hereof.

§4. This Act shall take effect immediately.

FUNDING AGREEMENT

Among

CITY OF MOUNT VERNON

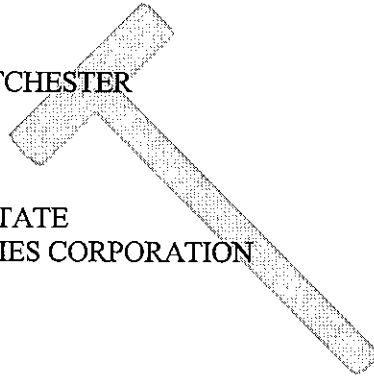
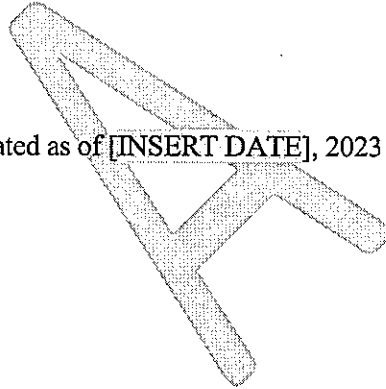
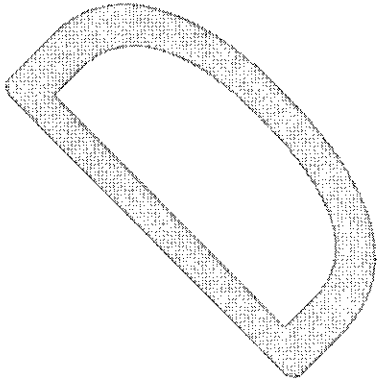
and

COUNTY OF WESTCHESTER

and

NEW YORK STATE
ENVIRONMENTAL FACILITIES CORPORATION

Dated as of [INSERT DATE], 2023



This **FUNDING AGREEMENT**, dated as of the date set forth on the cover page, is between the County of Westchester (the “County”), the City of Mount Vernon (the “Recipient”) and the New York State Environmental Facilities Corporation (the “Corporation”).

WITNESSETH:

WHEREAS, on or about May 10, 2022 the County, Recipient and the New York State Department of Environmental Conservation (the “Department”) on behalf of the State of New York (the “State”) entered into a Memorandum of Understanding (the “MOU”) which describes a Recipient-County-State proposed partnership and path forward to comprehensively improve sanitary sewer and storm sewer systems within the Recipient, and undertake related efforts to increase the flood resilience of these systems in the face of increasing storm intensity resulting from climate change. That MOU outlines the financial, oversight and construction activities designed to achieve substantial progress and ultimately full compliance by the Recipient with Federal and State laws and regulations associated with sanitary sewer and storm sewer systems; and

WHEREAS, the Corporation is empowered under the NYSEFC Act to provide financial assistance to eligible recipients for the planning, design, and construction of projects that provide a water quality benefit; and

WHEREAS, in furtherance of the MOU, the State has made funding available to the Corporation to support municipal water quality infrastructure programs; and

WHEREAS, pursuant to Article 5-G of the New York General Municipal Law, the Recipient has simultaneously entered into an inter-municipal agreement with the County (the “IMA”) whereby the County has agreed to assist the Recipient to procure, coordinate and administer all required services for the design and construction of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County’s Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues, as more fully described in **Exhibit A** (the “Project”) for the benefit of the Recipient; and

WHEREAS, on the basis of Recipient’s approved Municipal Water Quality Infrastructure Program Funding Form, and the representations, warranties and covenants set forth in this agreement, the Corporation proposes to make funding available to the County for the benefit of the Recipient in accordance with Article III of this agreement, to fund costs incurred by the County for the benefit of the Recipient in connection with the Project, and the Recipient and the County desire to have such funding be used in accordance with and upon the terms and conditions set forth in this agreement;

NOW THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

**ARTICLE I
GENERAL PROVISIONS**

Section 1.1 Definitions.

Unless stated otherwise, each capitalized term used in this Agreement has the meaning specified for it in **Exhibit B**.

Section 1.2 Effective Date and Term.

This Agreement is effective and enforceable as of the date on the cover page following its execution by the Recipient, the County, and the Corporation, and it will remain in full force and effect until March 31, 2027, unless terminated early in accordance with the provisions herein or extended by written agreement of the

parties.

Section 1.3 Exhibits and Appendices Incorporated.

All exhibits and appendices to this Agreement are incorporated into, and made a part of, this Agreement.

Section 1.4 Amendments.

This Agreement may not be amended except by an instrument in writing signed by each of the parties.. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The exchange of copies of signature pages by scanned portable document format (“pdf”) e-mail attachment shall constitute effective execution of this Agreement. Scanned .pdf copies of this Agreement shall have the same force and effect as an original.

Section 1.5 Applicable Law.

This Agreement is governed by and construed in accordance with the laws of the State.

Section 1.6 Consent to Jurisdiction.

To the fullest extent permitted by law, the parties consent to the initiation of any proceedings to enforce the terms of this Agreement in any court of competent jurisdiction and, if applicable, agrees not to assert the defense of sovereign immunity in any such proceedings.

Section 1.7 No Warranty Regarding Condition, Suitability or Cost of Project.

The Corporation and County make no warranty, express or implied, as to the work required by the Project or that it will be suitable for the Recipient’s purposes or needs, or that the funding provided under this Agreement will be sufficient to pay the costs of the Project. The Recipient is solely responsible, with the County’s assistance, to plan, design, and build the Project properly, and upon completion of the Project the Recipient shall be solely responsible to operate and maintain the Project’s improvements effectively, as required by laws, regulations, permits and good management practices.

The Recipient acknowledges and agrees that neither the Corporation nor the County are responsible for increased costs resulting from defects in the plans, design drawings and specifications, or other Project documents.

Section 1.8 Notices.

All notices or other communications under this Agreement must be sufficiently given, and will be deemed given, when delivered in writing to the address of the identified party or parties set forth on the signature page of this Agreement, or to such other address, facsimile number, or e-mail as the appropriate party may hereafter designate by notice in writing given to the others.

Section 1.9 Severability.

If any provision of this Agreement is held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**ARTICLE II
REPRESENTATIONS AND WARRANTIES**

Section 2.1 Representations and Warranties of the Recipient.

As of the date set forth on the cover page, the Recipient represents and warrants as follows:

- (a) The Project description stated in **Exhibit A** is a general overview of the scope of activities to be funded, in whole or in part, with the funding provided under this Agreement.
- (b) The Estimated Project Costs as shown in **Exhibit C** represent a reasonable estimate of the costs actually incurred or expected to be incurred for the Project.
- (c) All documentation and information provided to the Corporation and County in connection with this Agreement is accurate in all respects and the Recipient acknowledges that the Corporation is executing this Agreement and providing funding in reliance upon the accuracy of such documentation and information.
- (d) The Recipient has obtained all necessary approvals required to undertake the Project. The Recipient further represents that to the extent required it has complied with the State Environmental Quality Review Act, Section 14.09 of the State Historic Preservation Act, and all other applicable federal, state and local laws, ordinances and regulations.
- (e) The Recipient shall not amend or terminate this Agreement without first having secured the Corporation's and County's consent.
- (f) The Recipient shall fully cooperate with the Corporation and the County, its contractors and consultants in connection with all aspects of the design and construction of the Project.
- (g) The Recipient shall not be liable for the actions of the County.

Section 2.2 Representations and Warranties of the County.

As of the date set forth on the cover page, the County represents and warrants as follows:

- (a) The Project description stated in **Exhibit A** is a general overview of the scope of activities to be funded, in whole or in part, with the funding provided under this Agreement.
- (b) The Estimated Project Costs as shown in **Exhibit C** represent a reasonable estimate of the costs actually incurred or expected to be incurred for the Project.
- (c) All documentation and information provided to the Corporation and Recipient in connection with this Agreement is accurate in all respects and the County acknowledges that the Corporation is executing this Agreement and providing funding in reliance upon the accuracy of such documentation and information.
- (d) The County further represents that to the extent required it shall comply with the State Environmental Quality Review Act, Section 14.09 of the State Historic Preservation Act, and all other applicable federal, state and local laws, ordinances and regulations.

**ARTICLE III
AGREEMENT TO PROVIDE FUNDING**

Section 3.1 Project Consultant.

The parties acknowledge and agree that the County has already procured the services of and entered into an agreement with Henningson, Durham & Richardson Architecture and Engineering, P.C. (hereinafter referred to as "HDR") for the provision of hydraulic study, design, preparation of construction contract documents, assistance with bidding and negotiation, design services during construction, construction management, project close-out, related services and to serve as a general consultant in connection with the Project. The parties acknowledge that HDR is currently providing consulting services in connection with the Project and that all work already performed and to be performed by HDR in connection with the Project shall be funded through payments made by the Corporation to the County pursuant to this Agreement, whether or not the County has paid HDR in whole or part for these services. Pursuant to the agreement with HDR, it is anticipated that the County will pay HDR Seven Hundred Thousand Dollars (\$700,000) .

Section 3.2 Agreement to Provide Funding for Project Costs.

Subject to the conditions and in accordance with the terms of this Agreement, the Corporation shall provide funding to the County for the benefit of the Recipient in an amount not to exceed \$9,000,000 for the design and construction of the Project, however, if determined to be necessary by the Corporation, this amount may be increased by the execution of an amendment to this Agreement.

Upon one hundred percent (100%) completion of the design of the Project, and again upon the bid opening for the Project, the parties will jointly review the plans and estimated cost of the Project. Should the estimated cost of the Project exceed the not to exceed amount of this Agreement (\$9,000,000 less the \$700,000 earmarked for the HDR design services agreement), and the Corporation is unwilling or unable to enter into an amendment to this Agreement to increase the not to exceed amount of this Agreement, then the County shall have no further obligation to proceed with the construction of the Project and shall have no further obligations or liability in connection with this Agreement.

If during construction of the Project, it appears that the cost of the Project shall exceed the not to exceed amount of this Agreement as a result of a change order request for any reason, and the Corporation is unwilling or unable to fund said change order, then the County shall have no further obligation to continue with the construction of the Project and shall have no further obligations or liability in connection with this Agreement.

The Corporation shall disburse funds by electronic funds transfer to an account administered by the County pursuant to a disbursement request submitted by the County to the Corporation in the form of **Exhibit D**, with a copy to be simultaneously provided to the Recipient. Each such disbursement request must include sufficient documentation to demonstrate that the work has been performed or supplies, materials or equipment have been purchased for which the disbursement is requested.

The Recipient shall have the opportunity to review each eligible disbursement request made by the County and will have up to four (4) business days to do so after the request is emailed to the Recipient at the email noted below, with an electronic copy to the Corporation and physical courtesy copy mailed via U.S. Mail to the Recipient. If the Recipient has not requested additional time (up to two (2) additional business days) to review such disbursement request, the disbursement request shall be deemed acceptable to the Recipient and the Corporation shall proceed with the requisition process. If the Recipient requests additional time to review such disbursement request in accordance herein, the disbursement request shall be deemed acceptable to the Recipient upon conclusion of that additional time period (up to two (2) additional business days) and the Corporation shall proceed with the requisition process. Notwithstanding anything to the contrary contained herein, for purposes of this paragraph, notice shall be deemed given upon transmission of email.

Should the Corporation require additional information from the County, it shall specify in writing the information that is necessary to process the disbursement request. The Corporation shall use its best efforts to notify the County via email at the email address noted below whether it requires additional information from the County within four (4) business days of the Corporation's receipt of a completed disbursement request. Upon submission by the County of this additional information, as long as no further supporting information is

requested by the Corporation, the Corporation agrees to promptly process each disbursement request and shall endeavor to disburse funds to the County within seven (7) business days thereafter.

If after submission of a disbursement request where no additional information is requested by the Corporation, then the Corporation shall endeavor to disburse funds to the County within ten (10) business days of receipt of such disbursement request.

The Corporation shall have no obligation to make disbursements more frequently than twice (2x) per month.

Section 3.3 Direct Purchases.

The parties acknowledge and agree that the County, in its sole discretion, may directly purchase certain materials and equipment in connection with the Project and, assuming such purchases are deemed eligible Project expenses by the Corporation, these purchases shall be entirely funded through payments made by the Corporation to the County pursuant to this Agreement, whether or not the County has previously paid its vendors and/or materialmen in whole or part for said materials and equipment.

Section 3.4 Source of Funding; Nature of Obligation.

(a) The Corporation shall provide funding pursuant to this Agreement solely from appropriated moneys made available to it for such purpose. The Corporation has no obligation to make any disbursements and no obligation shall be incurred by the State or the Corporation in excess of the moneys made available for that purpose. The Corporation will retain custody and control over the appropriated funds which will only be made available upon submission to the Corporation of documentation of incurred Project costs and approval thereof by the Corporation.

**ARTICLE IV
COVENANTS**

Section 4.1 Project Compliance.

The Recipient and the County shall complete the Project in compliance with all applicable federal, State and local laws and regulations and this Agreement to ensure the availability of the Project for its intended purposes, protect water quality and ensure the safety of the public and public health. The Recipient and the County shall obtain all necessary approvals required to undertake the Project.

Section 4.2 Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises (“MWBE”) and Equal Employment Opportunities (“EEO”) for Minority Group Members and Women.

The Corporation, the County, and the Recipient acknowledge the importance of providing business participation opportunities for New York State certified minority- and women-owned business enterprises (“MWBEs”) and equal employment opportunities (“EEO”) for minority group members and women in the performance of contracts and subcontracts for the Project (hereinafter referred to as “Contracts” and “Subcontracts”). Accordingly, the Corporation encourages the Recipient and the County, and the Recipient and the County agree to encourage contractors and subcontractors, to comply with the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 for Contracts and Subcontracts with a value (1) in excess of \$25,000 for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, or (2) in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon.

(a) *Equal Employment Opportunities.* The Corporation encourages the Recipient and the County, and the Recipient and the County will encourage contractors and subcontractors performing work pursuant to Contracts or Subcontracts, to undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO refers to the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) *Business Participation Opportunities for MWBEs.* The Corporation encourages the Recipient and the County, and the Recipient and the County will encourage contractors and subcontractors performing work pursuant to Contracts or Subcontracts, to make good faith efforts to promote and assist the participation of MWBEs on Contracts and Subcontracts. The directory of New York State Certified MWBEs can be found at: <https://ny.newnycontracts.com>. The Recipient and the County will provide information on any MWBE participation on Contracts and Subcontracts to the Corporation on an MWBE Utilization Plan prior to or at the time of final disbursement under this Agreement. The Recipient and the County will also provide information on any payments made to MWBEs for work performed on Contracts and Subcontracts to the Corporation prior to or at the time of final disbursement under this Agreement.

Section 4.3 Business Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses ("SDVOB").

The Corporation, the County, and the Recipient acknowledge the importance of providing business participation opportunities for New York State certified Service-Disabled Veteran-Owned Businesses ("SDVOBs") in the performance of Contracts and Subcontracts. Accordingly, the Corporation encourages the Recipient and the County, and the Recipient and the County agrees to encourage contractors and subcontractors, to comply with the provisions of New York State Executive Law Article 17-B and 9 NYCRR Part 252 for Contracts and Subcontracts with a value (1) in excess of \$25,000 for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, or (2) in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. The Corporation encourages the County, and the County will encourage contractors and subcontractors performing work pursuant to Contracts or Subcontracts, to make good faith efforts to promote and assist the participation of SDVOBs on Contracts and Subcontracts. The directory of New York State Certified SDVOBs can be found at: <https://ogs.ny.gov/Veterans/>. The Recipient and the County will provide information on any SDVOB participation on Contracts and Subcontracts to the Corporation on a SDVOB Utilization Plan prior to or at the time of final disbursement under this Agreement. The Recipient and the County will also provide information on any payments made to SDVOBs for work performed on Contracts and Subcontracts to the Corporation prior to or at the time of final disbursement under this Agreement.

Section 4.4 Use of Funding.

The Recipient and the County shall use the funding provided pursuant to this Agreement solely for Project costs in accordance with this Agreement and shall reimburse the Corporation if either fails to do so. The Recipient and the County shall not use materials, equipment, or personnel paid for with funding pursuant to this Agreement for any activity other than those provided for under this Agreement.

Section 4.5 Prevailing Wage Requirements.

The Recipient and the County shall comply, in all applicable respects, with the prevailing wage requirements under Article 8 of the Labor Law.

Section 4.6 Procurement.

The Recipient and the County shall comply with all federal, State and local laws and regulations pertaining to any procurement for contracts whose payment obligations are to be satisfied with funding provided pursuant to this Agreement. The Recipient and the County shall not enter into a contract or subcontract with any party deemed to be ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b. In addition, the Recipient and the County shall not enter into a contract or subcontract with any party deemed to be ineligible to submit a bid under Executive Law § 316.

Section 4.7 Project Approvals.

The Recipient and the County, as appropriate, shall obtain all necessary approvals from all governmental agencies requisite to the completion of the Project and shall comply with any requirements and/or conditions included in such approvals.

Section 4.8 Payment of Additional Project Costs.

In the event the costs for the Project exceed the amount of funding identified in Section 3.2 above, and the Corporation is unwilling or unable to fund such additional costs, the Recipient shall be solely responsible to pay such costs in excess of the Project funding and shall make payment to the County within (5) business days of a disbursement request submitted by the County after the request is emailed to the Recipient at the email noted below. The Recipient shall not be entitled to any reimbursement or funding for such excess costs from the Corporation.

Notwithstanding the above, should the Recipient fail to immediately pay any Project costs in excess of the funding provided pursuant to this Agreement, the County shall have no further obligation to continue with the construction of the Project and shall have no further obligations or liability in connection with this Agreement; provided that the County shall cooperate with the Recipient to promptly assign any contracts related to the Project over to the Recipient.

Section 4.9 Non-Discrimination Requirements.

Pursuant to Article 15 of the Executive Law (also known as the New York State Human Rights Law), and all other State and federal statutory and constitutional non-discrimination provisions, the County, the Recipient, and any contractors/subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction or prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if the Project involves the construction, alteration, or repair of any public building or public work, the Recipient and the County agree that neither they nor their contractors/subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. The Recipient and the County shall be subject to fines of \$50.00 per person per day for any violation of Labor Law § 220-e or § 239.

Section 4.10 Indemnification.

To the fullest extent permitted by law, the Recipient and the County agree to indemnify, defend and hold harmless the Corporation against any loss or liability arising out of any claim or action brought against the Corporation for death, injury or damage to persons or property occurring in connection with the planning, design, construction, operation or maintenance of the Project. In each case, such obligation of the Recipient

and County shall be conditioned upon (i) prompt written notice, by the Corporation to the Recipient and/or County, of the institution of any such claim or action and (ii) the assignment, by the Corporation to the Recipient and/or County, of the right to conduct the defense of any such claim or action, provided that such defense shall be undertaken by counsel reasonably satisfactory to the Corporation, and provided further that, absent the Corporation's prior written consent, no settlement, compromise or other voluntary resolution shall be entered into which would impose any liability or obligation on the Corporation. To the fullest extent permitted by law, the Recipient and County agree to pay and discharge any judgment or award entered or made against the Corporation with respect to any such claim or action and any settlement, compromise or other voluntary resolution thereof.

Section 4.11 Accounting and Records.

(a) *Establishment of Project Accounts.* The Recipient and the County shall maintain Project accounts in accordance with generally accepted government accounting standards and any instructions of the Corporation.

(b) *Access to Records.* Upon five (5) business days' notice, the Recipient and the County shall: (i) permit the Corporation, the Department, and the State Comptroller, or their authorized representatives to review or audit all records relative to this Project; (ii) produce or cause to be produced all records relating to any work performed under the terms of this Agreement for examination at such times as may be designated by any of the foregoing entities or their authorized representatives; (iii) permit extracts and copies of Project records to be made by any of the foregoing entities or their authorized representatives; and (iv) promptly fulfill information requests by any of the foregoing entities or their authorized representatives.

(c) *Access to Project and Work.* The Recipient and the County shall permit agents, consultants and representatives of the State Comptroller, the Department, and the Corporation to have access to the Project and its components upon two (2) business days' notice and at all reasonable times. All contracts of the Recipient and/or County for all or any portion of the Project must contain provisions that permit such access to the Project, and require the contractor to provide reasonable access and inspection, and shall permit extracts and copies of Project records to be made by the foregoing agents, consultants, and representatives.

(d) *Record Retention.* The Recipient and the County shall retain Project files and records for the term of this Agreement plus six (6) years.

**ARTICLE V
BREACH OF THIS AGREEMENT; REMEDIES**

Section 5.1 Events of Breach.

The occurrence of any of the following shall be a breach of this Agreement:

(a) *Misrepresentation.* Any warranty, representation or other statement made by or on behalf of any party pursuant to or in connection with this Agreement, is false or misleading.

(b) *Other Failure to Perform.* Any party fails to perform and/or comply with any covenant or condition under this Agreement, including but not limited to failure to make timely payments or to use the funding provided under this Agreement solely for Project costs.

Section 5.2 Remedies.

Upon the occurrence of a breach of this Agreement, any party may take whatever action at law or in

equity may appear necessary or desirable to remedy the breach, in addition to the remedies below. Failure by any party to exercise, or delay in exercising, any right or remedy under this Article V does not operate as a waiver of the right or remedy.

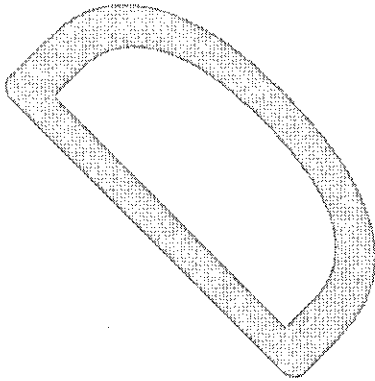
(a) *Reimbursement of Funding.* Notwithstanding anything herein to the contrary, upon the occurrence of a breach by the Recipient and/or the County, the Corporation may upon written notice to the defaulting party, require the defaulting party to reimburse the Corporation all funding paid pursuant to this Agreement from legally available funds appropriated for this purpose, less any amounts paid pursuant to the terms of this Agreement where such amounts were previously approved by the Corporation.

(b) *Nonexclusive Remedy.* If the Corporation determines that the Recipient and/or the County or any Authorized Person is not complying with federal or State laws, regulations or requirements of the Corporation relating to the Project or terms of this Agreement, the Corporation may, in addition to exercising any or all of the remedies described herein, exercise any or all of the remedies otherwise provided by federal or State law or regulations, at law or in equity, including but not limited to rights to seek injunctive relief or specific performance.

(c) *Right to Remedial Action.* Nothing in this Agreement affects the right of any party to take remedial action including but not limited to administrative enforcement action and actions for breach of contract if any party fails to carry out its obligations under this Agreement.

(d) *Breach of IMA or this Agreement.* Notwithstanding anything to the contrary contained herein or the IMA, should any party breach this Agreement or the IMA, the non-breaching parties shall confer and jointly decide whether to continue or whether to terminate this Agreement and/or how to proceed with the completion of the Project.

[Space Intentionally Left Blank/Signature Page Follows]



IN WITNESS WHEREOF, the parties have each caused this Agreement to be executed and delivered as of the date first written above.

THE COUNTY OF WESTCHESTER

I certify that I am authorized to sign this Agreement and that I have been duly and formally delegated or designated as the authorized signatory and have the authority to agree to all of the terms and conditions of this Agreement.

By: _____
[]
[]

APPROVED

Sr. Assistant County Attorney
County of Westchester

Notice Address:

Westchester County
Attn: Commissioner of the Department of Environmental Facilities
Michaelian Office Building
270 North Avenue, 6th Floor
New Rochelle, NY 10801
E-mail:

with a copy to:
County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

CITY OF MOUNT VERNON

I certify that I am authorized to sign this Agreement and that I have been duly and formally delegated or designated as the authorized signatory and have the authority to agree to all of the terms and conditions of this Agreement.

By: _____
Shawyn Patterson-Howard
Mayor

Notice Address:

City of Mount Vernon
Attn: Mayor
Mt. Vernon City Hall
1 Roosevelt Square N
Mount Vernon, New York 10550
E-mail:

NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION

By: _____
Maureen A. Coleman
President and CEO

Notice Address:

New York State Environmental Facilities Corporation
Attn: President
625 Broadway
Albany, New York 12207-2997
E-mail: Maureen.coleman@efc.ny.gov (with a copy to Henrik.westin@efc.ny.gov)

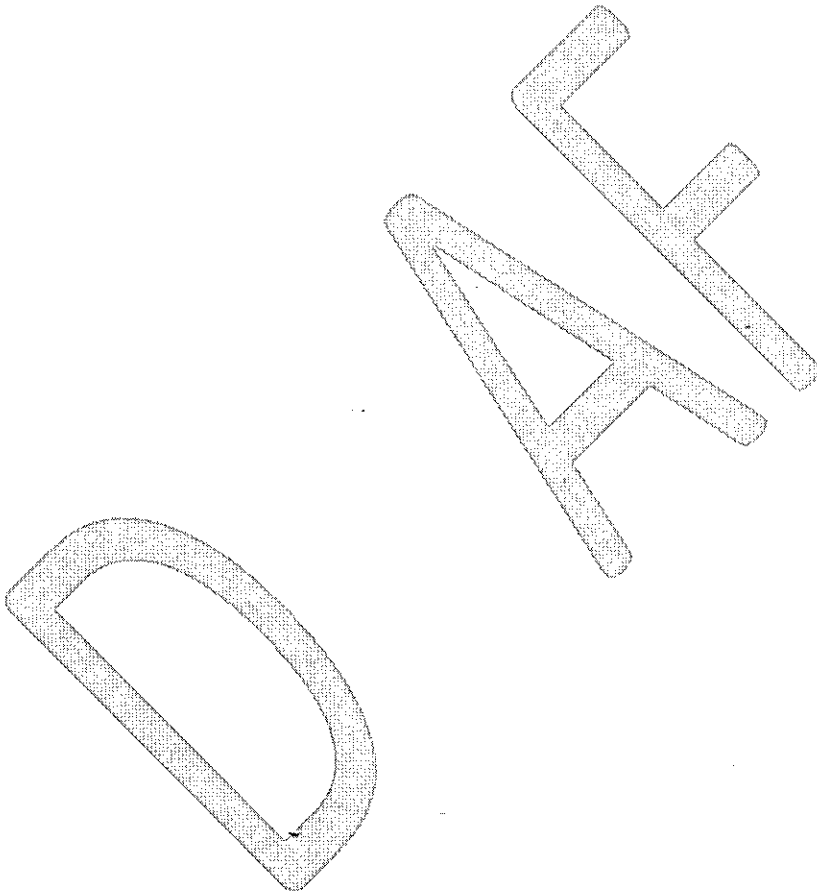


EXHIBIT A

PROJECT DESCRIPTION

The Project consists of design and construction of a below-grade sewer pumping station and sewer line replacement and rehabilitation in the vicinity of the connection to the County's Hutchinson Valley High Level Interceptor on West Third Street between South Ninth and Tenth Avenues.

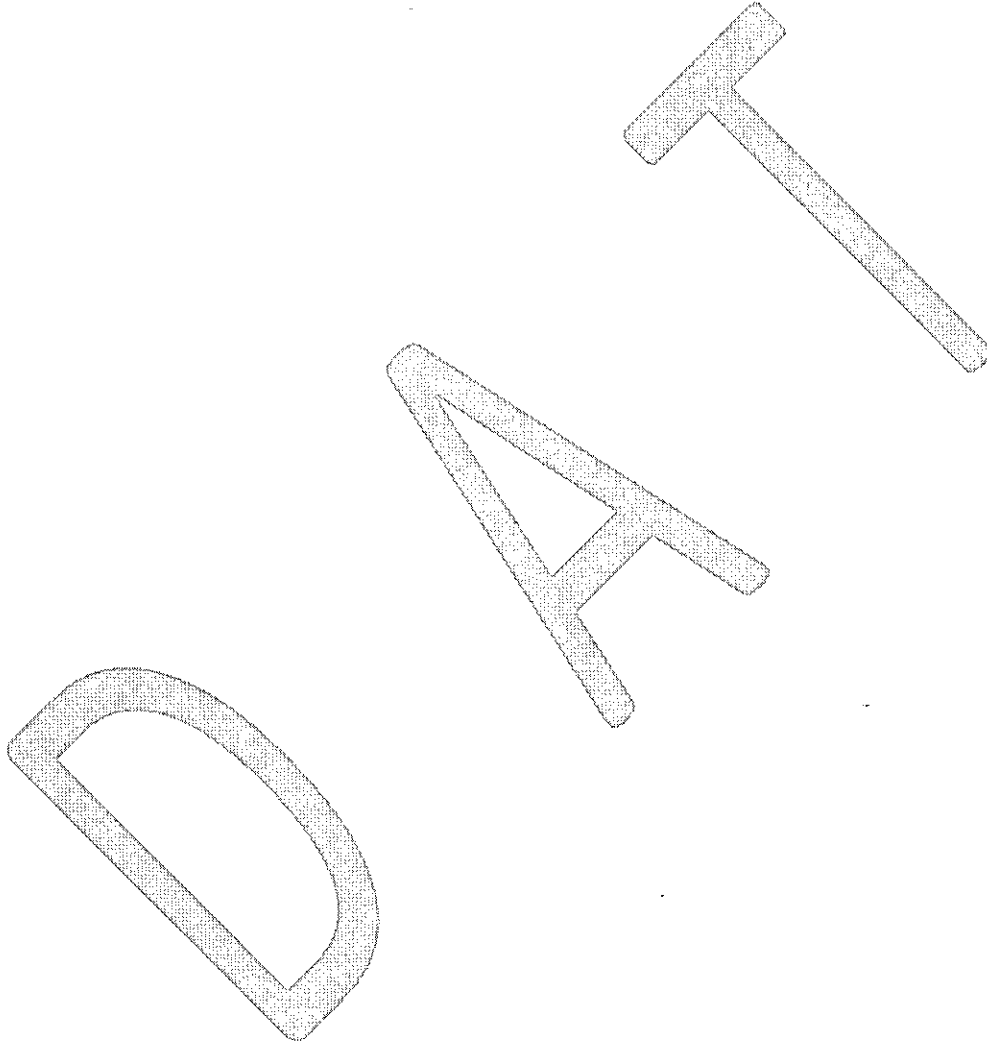


EXHIBIT B

DEFINITIONS

Capitalized terms used in this Agreement, unless otherwise defined herein, have the meanings set forth in this **Exhibit B**.

“Agreement” means this Funding Agreement, dated as of the date set forth on the cover page between the County, the Recipient, and the Corporation.

“Authorized Person” means a person so authorized to act on behalf of the Recipient or the County in connection with execution of this Agreement and the submittal of disbursement requests.

“City” means the City of Mount Vernon.

“Corporation” means the New York State Environmental Facilities Corporation established under the New York State Environmental Facilities Corporation Act, constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated Laws of the State of New York, as from time to time amended and supplemented., and any entity which may succeed to its rights and duties.

“County” means the County of Westchester.

“Department” means the New York State Department of Environmental Conservation.

“Estimated Project Costs” means the projected costs of the Project that are eligible for funding, as set forth in **Exhibit C**.

“Intermunicipal Agreement” means the agreement entered into on [] by the County and the City.

“NYSEFC Act” means the New York State Environmental Facilities Corporation Act, constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated Laws of the State of New York, as from time to time amended and supplemented.

“Project” means the project described in **Exhibit A**.

“Recipient” means the City of Mount Vernon.

“State” means the State of New York.

EXHIBIT C

ESTIMATED PROJECT COSTS

[INSERT ESTIMATED PROJECT COSTS/BUDGET]

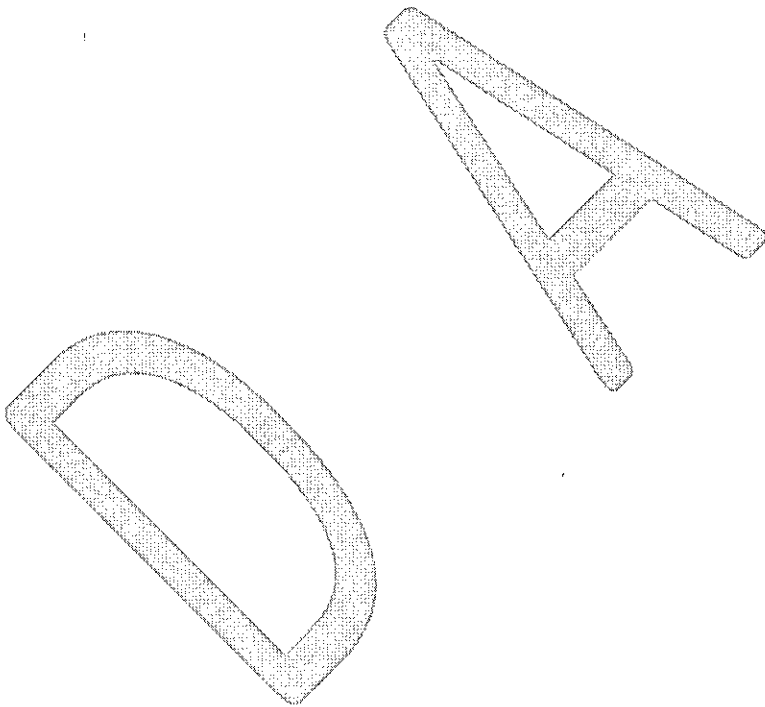


EXHIBIT D

DISBURSEMENT REQUEST FORM

REQUEST NO. _____

Dated as of _____, 202__

All capitalized terms used but not defined herein have the respective meanings set forth in the Funding Agreement, dated as of [INSERT DATE] between the County, the Recipient, and the Corporation.

I, the undersigned and Authorized Person of the County, hereby certify and agree as follows:

1. All representations and warranties of the County as set forth in Article II of the Agreement are still valid and effective as of today's date.
2. This request is being delivered pursuant to the Agreement.
3. The Corporation is hereby requested to make a disbursement under the Agreement in the amount of \$ _____ for Project costs.
4. The County has determined that such Project costs are reasonable, necessary, and allocable to the Project under generally accepted governmental accounting standards.
5. This disbursement, if made, together with any prior disbursements made under the Agreement, will not exceed the total amount of funding available pursuant to the Agreement.
6. The County hereby represents and warrants that it is not in breach of the Agreement, that it has performed all of the covenants and agreements that it is required to perform under the Agreement, that the making of the payment requested has been duly authorized by the County, and that no change in circumstances has occurred, or will occur upon the making of the payment hereby requested, which would constitute a breach under the Agreement.
7. All amounts requested hereunder are for eligible Project costs which have not been included in any previous disbursement, and have not been previously paid using the proceeds of any other third-party source of funding.
8. If disbursement is requested for payment for costs of construction, the County has obtained all licenses, permits or other approvals required as of the date hereof to undertake the Project, or to cause the Project to be undertaken.
9. The County has complied with all applicable public bidding requirements in connection with the Project including, but not limited to, the requirements of General Municipal Law Section § 101.
10. The County has encouraged the participation of MWBEs and SDVOBs on contracts and subcontracts for the Project. The County has provided the Corporation with information on any MWBE and SDVOB participation, by submission of an MWBE and/or SDVOB Utilization Plan as applicable, and any payments made to MWBEs and SDVOBs.
11. The County agrees that payment made pursuant to this disbursement request shall be transmitted by the Corporation in accordance with the following wire instructions:

Wire Instructions:

WESTCHESTER COUNTY

By: _____
Name:
Title:

DEPARTMENT USE ONLY

The Department has reviewed this Disbursement Request and any accompanying invoices or documentation of costs incurred, and approves the request in the amount of:

\$ _____.

(Signature of Authorized Representative)

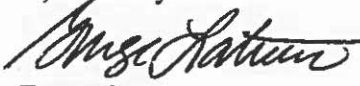
(Date)

Name: _____

Title: _____

March 3, 2023

TO: Hon. Catherine Borgia, Chair
Hon. Nancy Barr, Vice Chair
Hon. Christopher Johnson, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer 
Westchester County Executive

RE: Message Requesting Immediate Consideration: **Bond Act-BPL1A and
IMDA Act w/White Plains & Mount Hope Community Development
Corporation Re: 65 Lake Street, White Plains.**

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 6, 2023 Agenda.

Transmitted herewith for your review and approval is a Bond Act and an Agreement to provide funds to assist in the construction of infrastructure improvements.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 6, 2023 "blue sheet" calendar.

Thank you for your prompt attention to this matter.

George Latimer
County Executive

March 3, 2023

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

Dear Honorable Members of the Board of Legislators:

As your Honorable Board is aware, to encourage the development of affordable housing that will affirmatively further fair housing (“AFFH”) in Westchester County (the “County”), the County has established Housing Implementation Fund II (“HIF” or “Capital Project BPL1A”) to provide funds to assist in the construction of infrastructure improvements.

The Department of Planning (“Planning”) has advised that Mount Hope Community Development Corporation, its successors or assigns, (the “Developer”) proposes to construct a building containing fifty-five (55) rental units and one employee unit on the approximately +/- 0.8 acre site at 65 Lake Street in the City of White Plains (the “Property”). All fifty-five (55) of the rental units will be available to eligible senior households where all members are over the age of 62 that earn at or below 50% and up to 60% of the Westchester County area median income (“AMI”) and will all remain affordable for a period of not less than 50 years (the “Affordable AFFH Units”). The Affordable AFFH Units are expected to include 48 one-bedroom, and 7 two-bedroom units. There will also be one two-bedroom unit for an employee. The building will also include a community room lounge, management office and laundry facilities. Also included will be the construction of 25 on-grade parking spaces for residents. Together, the building and the parking comprise the “Development.” The Developer is requesting an amount not to exceed \$2,750,000 to be used for infrastructure improvements that include, but will not be limited to, on-site and street paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and county administrative costs.

Planning has advised that the Property at 65 Lake Street is currently owned by the Developer. In 2020, the County purchased the property for \$2,100,000 from the prior owner and conveyed it to the developer for \$1 through the New Homes Land Acquisition Program (“NHLA”). Since that time, increasing construction and financing costs have created a financing gap and the Development is seeking HIF funding to fill the gap and to begin construction.

Office of the County Executive

Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Telephone: (914)995-2900 E-mail: ceo@westchestergov.com



Transmitted herewith for your review and approval, please find the following two Acts:

Inter-Municipal Developer Agreement. An Act (the “IMDA Act”) which will authorize the County to enter into an Inter-Municipal Developer Agreement (the “IMDA”) with the City of White Plains (the “City”) and the Developer, its successors or assigns, to finance the infrastructure improvements including, but not limited to, on-site and street paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs (the “Infrastructure Improvements”) in support of the Affordable AFFH Units as part of the County’s program to ensure the development of new affordable housing. The term of the IMDA will be fifteen years (commensurate with the period of probable usefulness of the HIF bonds as described herein). The IMDA will provide that the City and/or the Developer, its successors or assigns, will be responsible for all costs of operation and maintenance of the Infrastructure Improvements. The IMDA will require the Developer, as a condition of the County’s financing of the Infrastructure Improvements, to record a declaration of restrictive covenants approved by, and enforceable by, the County which will run with the land and bind the property and any successor(s) in interest and will require that the Affordable AFFH Units be maintained and marketed in accordance thereto for a period of not less than fifty years.

Construction Financing. A Bond Act (the “HIF Bond Act”) prepared by the firm of Hawkins, Delafield and Wood, LLP, to authorize the issuance of bonds of the County in an amount not-to-exceed \$2,750,000 as a part of Capital Project BPL1A to finance the Infrastructure Improvements for the Development. Planning has advised that subject to the approval of your Honorable Board, the HIF Bond Act will authorize a total amount not to exceed \$2,750,000 (the “County Funds”) for the Infrastructure Improvements, which includes costs to cover the County’s legal fees and staff costs.

Planning has advised that the authorization of your Honorable Board is required to accept all necessary property rights required to construct the Infrastructure Improvements. The County will have an ownership interest in the Infrastructure Improvements through an easement until the expiration of the term of the HIF bonds, as described herein. However, the County will not be responsible for any other costs related to the operation and maintenance of the Infrastructure Improvements.

Planning has further advised that additional funding for the Property is anticipated to be provided from Low Income Housing Tax Credits allocated by New York State Homes and Community Renewal (“HCR”), NYS Housing Trust Fund Corporation (“HTFC”) Subsidy, Westchester County New Homes Land Acquisition, City of White Plains Subsidy, New York State Energy Research Development Authority (“NYSERDA”) funding, Mount Hope AME Zion Church funding (to pay for replacement church parking) and a conventional bank loan, for an estimated total development cost of approximately \$37.62 Million.

On December 6, 2022, the Westchester County Planning Board (the “Planning Board”) adopted Resolution No. 22-20 to recommend funding to finance the Infrastructure Improvements on the Property. The Planning Board Resolution has been annexed hereto.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act (“SEQRA”) have been met. The City’s Common Council served as Lead Agency and in accordance with the City’s Zoning Ordinance classified this Development as a Type I Action under the SEQRA regulations. On March 5, 2018, the City’s Common Council adopted an Environmental Findings Resolution, which determined that the Development would not have a significant effect on the environment. However, since the City did not include the County as an involved agency in its SEQRA review, the County must make its own determination of significance to fulfill the requirements of SEQRA. As such, the Westchester County Board of Legislators conducted its own review and, issued a Negative Declaration for the Development on June 4, 2018 (Resolution 83-2018). Planning has advised that since the current request is for additional funding needed to offset increases in cost with no substantial change to the scope of the Development, the original Negative Declaration remains valid and no further environmental review is required.

Based on the importance of increasing the number of Affordable AFFH Units in the County, your favorable action on the annexed Acts is respectfully requested.

Sincerely,



George Latimer
County Executive

Attachments
GL/NAD/DI

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

Your Committee is in receipt of a communication from the County Executive recommending the adoption of two Acts in connection with “Capital Project BPL1A – Housing Implementation Fund II.”

As your Honorable Board is aware, to encourage the development of affordable housing that will affirmatively further fair housing (“AFFH”) in Westchester County (the “County”), the County has established a Housing Implementation Fund II (“HIF” or “Capital Project BPL1A”) to provide funds to assist in the construction of infrastructure improvements.

The Department of Planning (“Planning”) has advised your Committee that Mount Hope Community Development Corporation, its successors or assigns (the “Developer”) proposes to construct a building with 55 rental units and one employee unit on the approximately +/- 0.80-acre site at 65 Lake Street, in the City of White Plains (the “Property”). All fifty-five (55) Affordable AFFH Units will be available to eligible senior households where all members are over the age of sixty-two (62) that earn at or below 50% and up to 60% of the Westchester County area median income (“AMI”), and will all remain affordable for a period of not less than 50 years (the “Affordable AFFH Units”). The Affordable AFFH Units are expected to include 48 one-bedroom, and 7 two-bedroom units. One two-bedroom unit will be for an employee. The building will also include a community room, lounges, and laundry facilities. Also included will be the construction of 25 on-grade parking spaces. Together, the building and the parking comprise the “Development.” The Developer is requesting an amount not to exceed \$2,750,000 to be used for infrastructure improvements that include, but will not be limited to, on-site and street paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs.

Planning has advised your Committee that the Property is currently owned by the Mount Hope Community Development Corporation. In 2020, the County purchased the property from

the prior owner and conveyed it to the developer for \$1 through the New Homes Land Acquisition Program (“NHLA”). Since that time, increasing construction and financing costs have created a financing gap and the Development is seeking HIF funding to fill the gap and to begin construction.

Transmitted herewith for your review and approval, please find the following two Acts:

Inter-Municipal Developer Agreement Act. An Act (the “IMDA Act”) which will authorize the County to enter into an Inter-Municipal Developer Agreement (the “IMDA”) with the City of White Plains (the “City”) and the Developer, its successors or assigns, to finance the construction of the infrastructure improvements including, but not limited to, construction of the on-site and street paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs (the “Infrastructure Improvements”) in support of the Affordable AFFH as part of the County’s program to ensure the development of new affordable housing. The term of the IMDA will be fifteen years (commensurate with the period of probable usefulness of the HIF bonds as described herein). The IMDA will provide that the City and/or the Developer, its successors, or assigns, will be responsible for all costs of operation and maintenance of the Infrastructure Improvements. The IMDA will require the Developer, as a condition of the County’s financing of the Infrastructure Improvements, to record a declaration of restrictive covenants approved by, and enforceable by, the County which will run with the land and bind the property and any successor(s) in interest and will require that the Affordable AFFH Units be maintained and marketed in accordance thereto for a period of not less than fifty years (the “Period of Affordability”).

Construction Financing. A Bond Act (the “HIF Bond Act”) prepared by the firm of Hawkins, Delafield and Wood, LLP, to authorize the issuance of bonds of the County in an amount not-to-exceed \$2,750,000 as a part of Capital Project BPL1A to finance the Infrastructure Improvements for the Development. Planning has advised that subject to the approval of your Honorable Board, the HIF Bond Act will authorize an amount not to exceed \$2,750,000 (the

“County Funds”) for the Infrastructure Improvements which includes costs to cover the County’s legal fees and staff costs.

Planning has advised your Committee that your Honorable Board’s authorization is required to accept all necessary property rights required to construct the Infrastructure Improvements. The County will have an ownership interest in the Infrastructure Improvements through easements until the expiration of the term of the HIF bonds, as described herein. However, the County will not be responsible for any other costs related to the operation and maintenance of the Infrastructure Improvements.

Planning has further advised that additional funding for the Property is anticipated to be provided from Low Income Housing Tax Credits allocated by New York State Homes and Community Renewal (“HCR”), NYS Housing Trust Fund Corporation (“HTFC”) Subsidy, Westchester County New Homes Land Acquisition, City of White Plains Subsidy, New York State Energy Research Development Authority (“NYSERDA”) funding, Mount Hope AME Zion Church funding (to pay for replacement church parking) and a conventional bank loan, for an estimated total development cost of approximately \$37.62 Million.

Your Committee has been advised that on December 6, 2022, the Westchester County Planning Board (the “Planning Board”) adopted Resolution No. 22-20 to recommend funding to finance the Infrastructure Improvements on the Property. The Planning Board Resolution has been annexed hereto.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act (“SEQRA”) have been met. The City’s Common Council served as Lead Agency and in accordance with the City’s Zoning Ordinance, classified this Development as a Type I Action under the SEQRA regulations. On March 5, 2018, the City’s Common Council adopted an Environmental Findings Resolution, which determined that the Development would not have a significant effect on the environment. However, since the City did not include the County as an involved agency in its

SEQRA review, the County must make its own determination of significance to fulfill the requirements of SEQRA. As such, the Westchester County Board of Legislators conducted its own review and, issued a Negative Declaration for the Development on June 4, 2018 (Resolution 83-2018). Planning has advised that since the current request is for additional funding needed to offset increases in cost with no substantial change to the scope of the Development, the original Negative Declaration remains valid and no further environmental review is required.

Based on the foregoing, your Committee believes that the Acts are in the best interest of the County and therefore recommends their adoption, noting that the IMDA Act requires no more than an affirmative vote of the majority of the Board, while the HIF Bond Act requires the affirmative vote of two-thirds of your Honorable Board.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON
C/I/2.22.23

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: BPL1A

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

65 Lake Street, City of White Plains

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 2,750,000 PPU 15 Anticipated Interest Rate 3.02%

Anticipated Annual Cost (Principal and Interest): \$ 230,420

Total Debt Service (Annual Cost x Term): \$ 3,456,300

Finance Department: Interest rates from March 1, 2023 Bond Buyer - ASBA

SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): \$ -

Potential Related Revenues (Annual): \$ -

Anticipated savings to County and/or impact of department operations

(describe in detail for current and next four years):

SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded: N/A

SECTION E - EXPECTED DESIGN WORK PROVIDER

County Staff

Consultant

Not Applicable

Prepared by: Norma V. Drummond

Title: Commissioner

Department: Planning


Date: 3/1/23

Reviewed By: 
DV 3/1/23

Budget Director

Date: 3/2/23

TO: Leonard Gruenfeld, Program Administrator
Division of Housing & Community Development

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

DATE: February 21, 2023

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR
BPL1A, HOUSING IMPLEMENTATION FUND II
65 LAKE STREET, WHITE PLAINS**

Pursuant to your request, Environmental Planning staff has reviewed the above referenced project with respect to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 (SEQR).

The action involves the provision of County funding under capital project BPL1A - Housing Implementation Fund (Fact Sheet Unique ID 2116) to facilitate the development of affordable senior rental housing at 65 Lake Street in the City of White Plains. The project includes the construction of a new 6-story building that will provide 56 dwelling units, which will be made available to seniors and affirmatively further fair housing, with the exception of one unit that will be reserved for the building superintendent. County funds under BPL1A will be applied towards the cost of certain infrastructure improvements, construction management and county administrative costs.

This housing project was previously reviewed in 2018 in connection with a request from the City for the County to assist in the acquisition of the property through its New Homes Land Acquisition Program (capital project BPL30). Although the City of White Plains Common Council classified the project as Type I and issued a Negative Declaration pursuant to SEQR, it did not include the County as an involved agency. As such, the Westchester County Board of Legislators conducted it's own review and, issued a Negative Declaration for the project on June 4, 2018 (Resolution 83-2018). Since the current request is for additional funding needed to offset increases in cost with no substantial change to the scope of the project, the original Negative Declaration remains valid and no further environmental review is required.

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

DSK/cnm

cc: Norma Drummond, Commissioner
Blanca Lopez, Deputy Commissioner
William Brady, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Associate Environmental Planner

RESOLUTION 22- 20

WESTCHESTER COUNTY PLANNING BOARD

**Housing Implementation Fund II
Capital Budget Amendment
65 Lake Street, City of White Plains**

WHEREAS, the County has established Capital Project BPLIA Housing Implementation Fund II (“HIF”) to assist municipalities with the cost of construction of public infrastructure improvements associated with the development of fair and affordable housing; and

WHEREAS, Mount Hope Community Development Corporation (the “Developer”), its successors or assigns, desires to develop the real property located at 65 Lake Street in the City of White Plains (the “City”), identified on the City tax maps as Section 126.45; Block 6; Lot 2.2 (the “Property”) to create 56 affordable residential rental units in one building, including a superintendent’s unit, which will affirmatively further fair housing (“AFFH”, collectively the “Affordable AFFH Units”);

WHEREAS, the Developer desires the County to fund infrastructure improvements to support the construction of 65 Lake Street, a 6-story building, with 56 affordable residential rental units and 25 parking spaces (the “Development”); and

WHEREAS, 55 rental units will be available to senior households aged 62 and over and one unit will be available for a superintendent, who earn at or below 50% and up to 60% of Westchester County’s Area Median Income (“AMI”); and

WHEREAS, the Affordable AFFH Units will be leased to eligible households pursuant to an approved Affirmative Fair Housing Marketing Plan and remain affordable for a minimum of 50 years; and

WHEREAS, a not to exceed amount of \$2,750,000 is requested from Capital Project BPLIA Housing Implementation Fund II to fund eligible expenses that will include, but will not be limited to, on-site and off-site paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and county administrative costs; and

WHEREAS, the Development is proposed to include green technology such as energy efficient appliances, lighting and heating systems and water conserving fixtures to maximize energy efficiency, reduce heating and cooling costs and conserve natural resources. A green roof will be installed and the roof area will be designed to accommodate solar panels should they be installed in the future. Four electric vehicle charging stations will be installed; and

WHEREAS, the Development is subject to approvals by the City of White Plains; and

WHEREAS, the funding to support the development of the Affordable AFFH Units is

consistent with and reinforces *Westchester 2025 – Policies to Guide County Planning*, the County Planning Board’s adopted long-range land use and development policies, by contributing to the development of “a range of housing types” “affordable to all income levels;” and

WHEREAS, the staff of the County Department of Planning have reviewed the proposal and recommend the requested funding associated with the construction of the infrastructure improvements; and

RESOLVED, that the Westchester County Planning Board after completing a review of the physical planning aspects of the Development, supports the request to provide a not to exceed amount of \$2,750,000 for infrastructure improvements for the Development under the terms of the HIF Program, which will support the creation of 56 Affordable AFFH Units of which 55 units will be available to senior households aged 62 and over, and one unit will be available for a superintendent, who earn at or below 50% and up to 60% of AMI and 25 parking spaces, located at 65 Lake Street in the City of White Plains.

RESOLVED, that the Westchester County Planning Board amends its report on the 2022 Capital Project Requests to include 65 Lake Street in the City of White Plains, as a new component project in Capital Project BPL1A under the heading of Buildings, Land and Miscellaneous.

Adopted this 6th day of December 2022.


Richard Hyman, Chair

ACT NO. -20__

BOND ACT AUTHORIZING THE ISSUANCE OF \$2,750,000 BONDS OF THE COUNTY OF WESTCHESTER, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS ON PROPERTY LOCATED AT 65 LAKE STREET, IN THE CITY OF WHITE PLAINS, IN ORDER TO AFFIRMATIVELY FURTHER FAIR HOUSING (“AFFH”) PURSUANT TO THE COUNTY’S HOUSING IMPLEMENTATION FUND II CAPITAL PROJECT; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,750,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$2,750,000 BONDS HEREIN AUTHORIZED; AND PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS (Adopted , 20__)

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. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the “Law”), the Westchester County Administrative Code, being Chapter 852 of the Laws of 1948, as amended, and other laws applicable thereto, bonds of the County in the aggregate amount of \$2,750,000, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of infrastructure improvements associated with the construction of affordable housing units on property located at 65

Lake Street, in the City of White Plains (the "AFFH Property") at a cost to the County of \$2,750,000, including related costs incurred by the County, in order to support the construction of affordable housing units that will affirmatively further fair housing ("AFFH"). The infrastructure improvements may include, but shall not be limited to, paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs. The funding requested herein, at the aggregate estimated maximum cost of \$2,750,000, is in support of the construction of 55 Affordable AFFH units. The County shall enter into an Inter-municipal/Developer Agreement ("IMDA") with the City of White Plains and the Mount Hope Community Development Corporation (the "Developer"), its successors or assigns, to finance eligible infrastructure improvements associated with the construction of said affordable AFFH units (the "Development"). A deed restriction will be filed against the AFFH Property to require that the AFFH units will be marketed and leased in accordance with an approved affirmative fair housing marketing plan to eligible households for a period of not less than 50 years. The cost of said infrastructure improvements for the AFFH Property is set forth in the County's Current Year Capital Budget, as amended. To the extent that the details set forth in this act are inconsistent with any details set forth in the Current Year Capital Budget of the County and the Statement of Need, such Budget and Statement of Need shall be deemed and are hereby amended. The estimated maximum cost of said object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,750,000. The plan of financing includes the issuance of \$2,750,000 bonds herein authorized, and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy and collection of a tax on taxable real property in the County to pay the principal of and interest on said

bonds and notes.

Section 2. The period of probable usefulness for which said \$2,750,000 bonds are authorized to be issued, within the limitations of Section 11.00 a. 91 of the Law, is fifteen (15) years.

Section 3. The County intends to finance, on an interim basis, the costs or a portion of the costs of said object or purpose for which bonds are herein authorized, which costs are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Bond Act, in the maximum amount of \$2,750,000. This Act is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The estimate of \$2,750,000 as the estimated maximum cost of the aforesaid object or purpose is hereby approved.

Section 5. Subject to the provisions of this Act and of the Law, and pursuant to the provisions of section 30.00 relative to the authorization of the issuance of bond anticipation notes and the renewals thereof, and of sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Board of Legislators relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, and the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds and the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Commissioner of Finance of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Act and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Westchester, payable as to both principal and interest by general tax upon all the taxable real property within the County. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The validity of the bonds authorized by this Act and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of this Act or a summary hereof, 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

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Act shall take effect in accordance with Section 107.71 of the Westchester County Charter.

* * *

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

I HEREBY CERTIFY that I have compared the foregoing Act No. -20__ with the original on file in my office, and that the same is a correct transcript therefrom and of the whole of the said original Act, which was duly adopted by the County Board of Legislators of the County of Westchester on , 20__ and approved by the County Executive on , 20__.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County Board of Legislators this day of , 20__.

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

(SEAL)

LEGAL NOTICE

A Bond Act, a summary of which is published herewith, has been adopted by the Board of Legislators on _____, 20__ and approved by the County Executive on _____, 20__ and the validity of the obligations authorized by such Bond Act may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Westchester, in the State of New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the Constitution. Complete copies of the Bond Act summarized herewith shall be available for public inspection during normal business hours at the Office of the Clerk of the Board of Legislators of the County of Westchester, New York, for a period of twenty days from the date of publication of this Notice.

ACT NO. _____-20__

BOND ACT AUTHORIZING THE ISSUANCE OF \$2,750,000 BONDS OF THE COUNTY OF WESTCHESTER, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS ON PROPERTY LOCATED AT 65 LAKE STREET, IN THE CITY OF WHITE PLAINS, IN ORDER TO AFFIRMATIVELY FURTHER FAIR HOUSING (“AFFH”) PURSUANT TO THE COUNTY’S HOUSING IMPLEMENTATION FUND II CAPITAL PROJECT; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,750,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$2,750,000 BONDS HEREIN AUTHORIZED; AND PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS (Adopted _____, 20__)

Object or purpose: to finance the cost of infrastructure improvements associated with the construction of affordable housing units on property located at 65 Lake Street, in the City of White Plains (the “AFFH Property”) at a cost to the County of \$2,750,000, including related costs incurred by the County, in order to support the construction of affordable housing units that will affirmatively further fair housing (“AFFH”). The infrastructure improvements may include, but shall not be limited to, paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, management and County administrative costs. The funding requested herein, at the aggregate estimated maximum cost of \$2,750,000, is in support of the construction of 55 Affordable AFFH units. The County shall enter into an Inter-municipal/Developer Agreement (“IMDA”) with the City of White Plains

and the Mount Hope Community Development Corporation (the “Developer”), its successors or assigns, to finance eligible infrastructure improvements associated with the construction of said affordable AFFH units (the “Development”). A deed restriction will be filed against the AFFH Property to require that the AFFH units will be marketed and leased in accordance with an approved affirmative fair housing marketing plan to eligible households for a period of not less than 50 years. The cost of said infrastructure improvements for the AFFH Property is set forth in the County’s Current Year Capital Budget, as amended.

Amount of obligations to be issued
and period of probable usefulness:

\$2,750,000 - fifteen (15) years

Dated: _____, 20____
White Plains, New York

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

Capital Project Fact Sheet Form

Project ID: *
BPL1A

CBA

Fact Sheet Date: *
01/10/2023

Fact Sheet Year *
2023

Project Title: *
HOUSING IMPLEMENTATION
FUND II

Legislative District ID:
5

Category *
BUILDINGS, LAND &
MISCELLANEOUS

Department *
PLANNING

Unique Identifier
2116

Overall Project Description

This project continues the funding for the Westchester County Housing Implementation Fund (HIF) previously funded under BPL01. HIF is a unique housing incentive program established to provide municipalities with funds for public infrastructure and improvements such as water, sanitary and storm sewer, road and site improvements needed to facilitate the construction or rehabilitation of fair and affordable housing. This is a general fund, specific projects are subject to a Capital Budget Amendment.

Best Management

Energy Efficiencies

Infrastructure

Life Safety

Project Labor Agreement

Revenue

Security

Other

Other Details

Five Year Capital Program (in Thousands)

	Estimate d Ultimate Total Cost	Prior Appropriation	2023	2024	2025	2026	2027	Under Review
Gross	86,060	71,060	15,000	0	0	0	0	0
Less Non- County Shares	0	0	0	0	0	0	0	0
Net	86,060	71,060	15,000	0	0	0	0	0

Expended Obligated Amount (in thousands)
28,784

Current Bond Request / Description:

Bonding is requested to provide funding for certain infrastructure improvements for a 56 unit apartment building with 55 AFFH apartments and one employee unit with a total of 25 parking spaces at 65 Lake Street in the City of White Plains (the "City").

The County will enter into an Inter-Municipal/Developer Agreement with the City of White Plains and the Mount Hope Community Development Corporation , its successors or assigns (the "Developer") to finance eligible infrastructure improvements associated with multi-family development to be constructed at 65 Lake Street in the City, identified on the tax maps as Section 126.45, Block 6, Lot 2.2 (the "Property"). The City will be responsible for operation and maintenance of the infrastructure and the county shall own the infrastructure improvements for the life of the County bonds. The developer will construct one six-story building with 56 apartments, 55 of which will affirmatively furthering fair housing (the "Affordable AFFH Units") which will be affordable to households who earn at or below 50% and up to 60% of Westchester County's Area Median Income ("AMI"). There will be one employee unit.

The building will have two elevators and residential amenities such as community room, management office and on-site laundry services. The building will have 48 one-bedroom and 8 two-bedroom apartments. 25 parking spaces will be constructed and will be for the use of the residents. An additional 47 parking spaces will be constructed for use by the church. The church will pay for the construction and maintenance of these spaces.

A total of \$2,750,000 will finance the construction of infrastructure improvements that may include but will not be limited to on-site and off-site paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and county administrative cost. In 2018, the Development received Board of Legislature approval for the use of New Homes Land Acquisition funding in the amount of \$2,100,000. In October 2022, the County purchased the Development site and conveyed it to the Developer for \$1.

A deed restriction will be filed against the Property to require that the Affordable AFFH Units be marketed and leased in accordance with an approved affirmative fair housing marketing plan to eligible households for a period of not less than 50 years.

Financing Plan for Current Request:

Bond/Notes:	2,750,000
Cash:	0
Non-county Shares:	0
Total:	2,750,000

SEQR Classification
TYPE I

Amount Requested
2,750,000

PPU		
Description	Amount	Years

Comments

Energy Efficiencies:

ENERGY EFFICIENT APPLIANCES, LIGHTING AND HEATING SYSTEMS AND WATER-CONSERVING FIXTURES. A GREEN ROOF WILL BE INSTALLED AND FOUR ELECTRIC CAR CHARGERS WILL BE PROVIDED.

Appropriation History		
Appropriation Year	Amount	Description
2014	5,000,000	PUBLIC INFRASTRUCTURE IMPROVEMENTS
2015	3,000,000	PUBLIC INFRASTRUCTURE IMPROVEMENTS
2016	2,500,000	PUBLIC INFRASTRUCTURE IMPROVEMENTS
2017	3,500,000	GREENBURGH MANHATTAN AVE REDEVELOPMENT SENIOR HOUSING - \$1,000,000; CONTINUATION OF THIS PROJECT -\$2,500,000
2018	4,150,000	CONTINUATION OF THIS PROJECT.
2019	5,910,000	CONTINUATION OF THIS PROJECT
2020	10,000,000	CONTINUATION OF THIS PROJECT
2021	12,000,000	CONTINUATION OF THIS PROJECT \$10,000,000 ; INFRASTRUCTURE BROADBAND \$2,000,000
2022	25,000,000	CONTINUATION OF THIS PROJECT
2023	15,000,000	CONTINUATION OF THIS PROJECT
Total Appropriation History		
86,060,000		

Financing History				
Year	Bond Act #	Amount	Issued Amount	Description
15	206	500,000	494,505	147, 165 AND 175 RAILROAD AVENUE, BEDFORD HILLS INFRASTRUCTURE IMPROVEMENTS
15	170	2,400,000	2,125,394	FAH DEVELOPMENT AT 150 NORTH STREET AND THEODORE FREMD AVE IN CITY OF RYE
15	164	0	0	INFRASTRUCTURE IMPROVEMENTS AT 16 ROUTE 6 IN TOWN OF SOMERS
17	174	2,250,000	1,938,596	CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS TO 1847 CROMPOND ROAD PEEKSKILL
17	210	0	0	CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS AT 501 BROADWAY IN VILLAGE OF BUCHANAN
18	188	1,300,000	896,265	INFRASTRUCTURE ASSOCIATED WITH CONSTRUCTION OF AFFORDABLE UNITS AT 25 SOUT REGENT ST IN PORT CHESTER
18	156	0	0	CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS FOR DEVELOPMENT OF AFFORDABLE HOUSING IN NEW ROCHELLE
18	84	2,400,000	1,962,013	CONSTRUCTION OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS IN SUPPORT OF HIDDEN MEADOWS DEVELOPMENT
18	183	4,400,000	1,765,005	INFRASTRUCTURE ASSOCIATED WITH AFFORDABLE HOUSING AT 135 S. LEXINGTON AVE IN WHITE PLAINS
19	72	0	0	RESCINDING ACT NO. 156-2018, INFRASTRUCTURE IMPROVEMENTS IN NEW ROCHELLE
19	152	5,760,000	2,419,573	CONSTRUCTION OF AFFORDABLE RENTAL UNITS AT 645 MAIN STREET IN PEEKSKILL
19	179	2,500,000	0	CONSTRUCTION OF AFFORDABLE RENTAL UNITS AT 11 GRADEN STREET, NEW ROCHELLE
19	180	0	0	RESCINDS BOND ACT 210-2017
20	51	5,000,000	148,675	COST OF INFRASTRUCTURE IMPROVEMENTS OF AFFORDABLE HOUSING UNITS IN NEW ROCHELLE
20	97	5,000,000	43,723	COST OF INFRASTRUCTURE IMPROVEMENTS OF AFFORDABLE HOUSING UNITS IN YONKERS

Financing History				
Year	Bond Act #	Amount	Issued Amount	Description
20	201	2,500,000	0	INFRASTRUCTURE IMPROVEMENTS FOR AFFORDABLE HOUSING UNIT AT 48 MANHATTAN AVE., GREENBURG
22	28	3,500,000	0	AFFH AND HIF 23 MULBERRY STREET, YONKERS 60 RENTAL UNITS

Cash History		
Year	Amount	Description

Financing History Total
37,510,000

Recommended By:

- | | |
|-------------------------------|-------------|
| Department of Planning | Date |
| WBB4 | 01/30/2023 |

- | | |
|-----------------------------------|-------------|
| Department of Public Works | Date |
| RJB4 | 02/01/2023 |

- | | |
|--------------------------|-------------|
| Budget Department | Date |
| DEV9 | 02/04/2023 |

- | | |
|------------------------------|-------------|
| Requesting Department | Date |
| WBB4 | 02/05/2023 |

HOUSING IMPLEMENTATION FUND II (BPL1A)

User Department : Planning

Managing Department(s) : Planning ;

Estimated Completion Date: TBD

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

FIVE YEAR CAPITAL PROGRAM (In thousands)

	Est Ult Cost	Appropriated	Exp / Obl	2023	2024	2025	2026	2027	Under Review
Gross	86,060	71,060	28,645	15,000					
Non County Share			72						
Total	86,060	71,060	28,717	15,000					

Project Description

This project continues the funding for the Westchester County Housing Implementation Fund (HIF) previously funded under BPL01. HIF is a unique housing incentive program established to provide municipalities with funds for public infrastructure and improvements such as water, sanitary and storm sewer, road and site improvements needed to facilitate the construction or rehabilitation of fair and affordable housing. This is a general fund, specific projects are subject to a Capital Budget Amendment.

Current Year Description

The current year requests fund the continuation of this project.

Current Year Financing Plan

Year	Bonds	Cash	Non County Shares	Total
2023	15,000,000			15,000,000

Impact on Operating Budget

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

HOUSING IMPLEMENTATION FUND II (BPL1A)

Appropriation History

Year	Amount	Description	Status
2014	5,000,000	Public infrastructure improvements	COMPLETE
2015	3,000,000	Public infrastructure improvements	COMPLETE
2016	2,500,000	Public infrastructure improvements	COMPLETE
2017	3,500,000	Greenburgh Manhattan Ave Redevelopment Senior Housing - \$1,000,000; continuation of this project -\$2,500,000	COMPLETE
2018	4,150,000	Continuation of this project.	COMPLETE
2019	5,910,000	Continuation of this project	COMPLETE
2020	10,000,000	Continuation of this project	PARTIALLY IN PROGRESS
2021	12,000,000	Continuation of this project \$10,000,000 ; Infrastructure Broadband \$2,000,000	AWAITING BOND AUTHORIZATION
2022	25,000,000	Continuation of this project	AWAITING BOND AUTHORIZATION
Total	71,060,000		

Prior Appropriations

	Appropriated	Collected	Uncollected
Bond Proceeds	71,060,000	22,665,886	48,394,114
Others		(71,958)	71,958
Total	71,060,000	22,593,927	48,466,073

**HOUSING IMPLEMENTATION FUND II
(BPL1A)**

Bonds Authorized

Bond Act	Amount	Date Sold	Amount Sold	Balance
164 15				
170 15	2,400,000	12/15/17	1,053,460	605
		12/15/17	193,426	
		12/15/17	1,634	
		12/10/18	551,309	
		12/10/19	271,876	
		12/10/19	53,689	
		12/01/22	249,231	
		12/01/22	24,769	
206 15	500,000	12/15/17	262,311	5,494
		12/15/17	48,163	
		12/15/17	407	
		12/10/18	183,625	
174 17	2,250,000	12/10/18	24,138	27,303
		12/10/19	127,644	
		12/10/19	25,207	
		04/30/20	192,926	
		10/28/20	985,486	
		10/28/20	138,079	
		10/28/20	38,077	
		10/28/20	(38,077)	
		12/01/21	445,116	
		12/01/22	258,419	
		12/01/22	25,682	
210 17				
84 18	2,400,000	12/10/19	270,781	437,986
		12/10/19	53,472	
		04/30/20	560,358	
		10/28/20	389,869	
		10/28/20	54,626	
		10/28/20	15,064	
		10/28/20	(15,064)	
		12/01/21	632,909	

**HOUSING IMPLEMENTATION FUND II
(BPL1A)**

156	18					
188	18	1,300,000	04/30/20	27,188	175,290	
			10/28/20	487,032		
			10/28/20	68,239		
			10/28/20	18,818		
			12/01/21	294,989		
			12/01/22	207,794		
			12/01/22	20,651		
183	18	4,400,000	12/01/21	1,765,006	1,225,102	
			12/01/22	1,282,442		
			12/01/22	127,450		
72	19					
152	19	5,760,000	12/01/21	2,419,574	288,000	
			12/01/22	2,776,495		
			12/01/22	275,931		
179	19	2,500,000			2,500,000	
180	19					
51	20	5,000,000	12/01/21	148,675	515,682	
			12/01/22	3,943,713		
			12/01/22	391,930		
97	20	5,000,000	12/01/21	43,723	3,721,792	
			12/01/22	1,122,890		
			12/01/22	111,594		
201	20	2,500,000			2,500,000	
28	22	3,500,000			3,500,000	
Total		37,510,000		22,612,745	14,897,255	

ACT NO. - 2023

AN ACT authorizing the County of Westchester (the "County") to enter into an inter-municipal developer agreement with the City of White Plains and Mount Hope Community Development Corporation, its successors or assigns, to fund certain infrastructure improvements as well as authorizing the County to grant and accept any property rights necessary in furtherance thereof, all for the purpose of constructing 55 senior affordable rental units and one employee unit at 65 Lake Street in the City of White Plains, that will affirmatively further fair housing and remain affordable for a period of not less than 50 years.

NOW, THEREFORE, BE IT ENACTED by the members of the Board of Legislators of the County of Westchester as follows:

SECTION 1. The County of Westchester (the "County") is hereby authorized to enter into an inter-municipal developer agreement (the "IMDA") with the City of White Plains (the "City") and Mount Hope Community Development Corporation, (the "Developer"), its successors or assigns, to finance the construction of certain infrastructure improvements including, but not limited to, construction of the on-site and street paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and county administrative costs (the "Infrastructure Improvements") in support of 55 senior rental units for households aged 62 and over which will affirmatively further fair housing ("AFFH") as set forth in 42 U.S.C. Section 5304(b)(2) (the "Affordable AFFH Units") at 65 Lake Street in the City as part of the County's program to ensure the development of new affordable housing. The term of the IMDA will be fifteen years (commensurate with the period of probable usefulness of the HIF bonds as described herein) in an amount not to exceed TWO MILLION SEVEN HUNDRED FIFTY THOUSAND (\$2,750,000) DOLLARS to finance the Infrastructure Improvements. The County will have an ownership interest in the Infrastructure Improvements through an easement for a term of fifteen

years. The IMDA will provide that the City, the Developer, its successors or assigns, will be responsible for any and all costs of operation and maintenance of the Infrastructure Improvements.

§2. The IMDA will require the Developer, as a condition of the County's financing of the Infrastructure Improvements, to record a declaration of restrictive covenants approved by, and enforceable by, the County which will run with the land and bind the property and any successor(s) in interest and will require that the Affordable AFFH Units be maintained and marketed in accordance thereto for a period of not less than fifty years.

§3. The County is hereby authorized to grant and accept any property rights necessary in furtherance of the IMDA and the Affordable AFFH Units.

§4. The period of affordability of the Affordable AFFH Units shall be a minimum of 50 years.

§5. The County Executive or his duly authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to effectuate the purposes hereof.

§6. This Act shall take effect immediately.