

ACT NO. \_\_\_\_\_ - 2021

AN ACT pursuant to Article 5-A of the New York State County Law to modify the District Report Plan for Refuse Disposal District No. 1 in the County of Westchester to authorize the reallocation of approved expenditures, noting that such reallocation of funds will not exceed the previously approved maximum expenditure of District funds.

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

**Section 1.** This Board finds, after holding a public hearing pursuant to §253-b and §254 of the New York State County Law, that modification (the “District Plan Modification”) of the District Plan (the “District Plan”) for Refuse Disposal District No. 1 (the “District”) in the County of Westchester (the “County”) to authorize reallocation of previously approved expenditures from capital project RD020 (Material Recovery Facility-Compressed Natural Gas Facilities) in the amount of \$1,800,000 and from capital project RD075 (Croton Landfill Station-Pump Station Rehabilitation Program) in the amount of \$2,000,000, for a total of \$3,800,000 to capital project RD021 (Haulage Vehicle and Solid Waste Equipment Phase VI) to fund necessary equipment replacement, all as more particularly set forth in the District Plan Modification dated August 17, 2021, which is attached hereto and incorporated herein, prepared by the Westchester County Department of Environmental Facilities, Division of Solid Waste, acting as the Westchester County Solid Waste Agency (“Agency”), is in the public interest.

**Section 2.** The District Plan for the District be and hereby is modified in accordance with Section 1 above.

**Section 3.** The modification of the District Plan described in Section 1 above does not authorize an increase in excess of the currently authorized maximum amount to be expended for District improvements of \$217,804,431.00 and is hereby declared to be in the public interest.

**Section 4.** The Agency is hereby authorized and directed to implement the amendment of the District Plan described in Section 1 above, as authorized herein pursuant to Article 5-A of the New York State County Law.

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

**Section 6.** This Act shall take effect immediately.

County of Westchester Refuse Disposal District No. 1

Solid Waste Agency Report

*District Plan Modification*

2021

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## **I. INTRODUCTION**

The Department of Environmental Facilities, acting in its capacity as the County of Westchester (“County”) Solid Waste Agency (“Agency”) on behalf of Refuse Disposal District No. 1 (“District”), submits this proposed District Modification Plan pursuant to the authorization found in New York State County Law (“NYSCL”) § 253-b, for the reallocation of District funds, as set forth more fully below.

The outstanding bonds for District related projects amounts to long-term bonded debt of \$4,476,136.88 as of August 31, 2021, and the total debt authorization from the time of District creation 1982 to present is \$217,804,431. The debt authorization was last increased by \$33,480,000 pursuant to Act 168-2017 adopted by the County Board of Legislators (“Board”) for the increase and improvement of District facilities. The increase was approved by an Order of the Comptroller of the State of New York (“State Comptroller”) dated January 26, 2018.

Pursuant to NYSCL § 253-b, the Agency, on behalf of the District, now seeks approval of the Board to reallocate previously approved funds. This request for modification approval does not increase the expenditure amount previously approved by the Board and the State Comptroller; it merely reallocates the funds between projects.

## **II. BACKGROUND**

Concerned with the need for facilities to dispose of solid waste within the County in an environmentally responsible manner and to promote the recovery of useful resources, this Honorable Board adopted a Solid Waste Management Plan (“District Plan”) establishing the District by Act No. 32-1982. On April 6, 1982, the State Comptroller granted permission to establish the District.

At the time of its establishment, the District was authorized to issue bonds, notes, certificates or other indebtedness of the County (hereinafter “Authorized District Improvement Debt”) up to \$45,000,000 for collection and transfer improvements. By report dated November 14, 1985, the Agency advised that the Authorized District Improvement Debt amount of \$45,000,000 was insufficient to complete all the capital improvements contemplated at the time of District creation. Pursuant to Resolution No. 300-1985, an application was submitted to the State Comptroller in accordance with NYSCL § 268 to increase the amount of Authorized District Improvement Debt from

\$45,000,000 to \$79,663,887 for the collection and transfer improvements originally approved in 1982. By Order of the State Comptroller, dated June 18, 1986, the proposed increase from \$45,000,000 to \$79,663,887 was approved. On July 17, 1987, the Agency submitted a Supplement to the Report and Recommendations of the Westchester County Solid Waste Agency dated November 14, 1985 (“Supplemental Report”). By Resolution No. 63-1988, the Board authorized the proposed increase in the Authorized District Improvement Debt.

a. Authorized District Improvement Debt Increases

On or about August 10, 1990, a Solid Waste Agency Report was submitted to the Board, recommending the submission of a petition to the State Comptroller pursuant to NYSCL § 268 in the amount of \$42,710,544 to purchase additional rolling stock, equipment to compost yard waste, and for the cost of closure of the Croton Landfill (“1990 Petition”). The Board found these additional District improvements to be in the public interest and approved the submission by Act No. 95-1990. The 1990 Petition was approved by Order of the State Comptroller dated July 31, 1991, increasing the total amount of Authorized District Improvement Debt from the time of District creation to \$122,374,431. Thereafter, the Board adopted Act No. 131-1991, which authorized the expenditure and directed the Solid Waste Agency to proceed with the improvements.

On or about February 1993, a Solid Waste Agency Report was submitted to the Board recommending the submission of a petition to the State Comptroller pursuant to NYSCL § 268 in the amount of \$17,000,000, specifically for additional improvements related to the closure of the Croton Landfill (“1993 Petition”). The Board found these additional District improvements to be in the public interest and approved the submission by Act No. 56-1993. The 1993 Petition was approved by Order of the State Comptroller dated September 14, 1993, increasing the total amount of Authorized District Improvement Debt from the time of District creation to \$139,374,431.

On or about January 1998, a Solid Waste Agency Report was submitted to the Board recommending the submission of a petition to the State Comptroller pursuant to NYSCL § 268 in the amount of \$44,950,000, for Phase 4 of the Sprout Brook Ash Disposal facility, closure of successive cells at the Sprout Brook facility, purchase and replacement of solid waste haulage vehicles, enhancement of the Materials Recovery Facility, Croton Point Landfill Gas Reuse Study, Croton Landfill Railroad I enhancements, and a study for the review of potential yard waste transfer stations (“1998 Petition”). The Board, by Act 78-1998, found these improvements to be in the public interest

and approved the submission. The 1998 Petition was approved by Order of the State Comptroller dated August 11, 1998, increasing the Authorized District Improvement Debt from the time of District creation to \$184,324,431.

On or about April 2017, a Solid Waste Agency Report was submitted to the Board recommending the submission of a petition to the State Comptroller pursuant to NYSCL § 268 in the amount of \$33,480,000, for the Material Recovery Facility and Transfer Station rehabilitation in the amount of \$27,480,000, including leachate containment and collection, and \$6,000,000 for a food waste recovery program (“2017 Petition”). The Board, by Act 168-2017, found these improvements to be in the public interest and approved the submission. These improvements were then approved by an Order of the State Comptroller dated January 26, 2018, increasing the Authorized District Improvement Debt from the time of District Creation to \$217,804,431.

b. Modification of District Plan

In addition, there have been seven (7) prior Solid Waste Management Plan (“Plan”) modifications made pursuant to NYSCL § 253-b that authorized improvements without the need for an increase in the total amount of Authorized District Improvement Debt.

The first modification, pursuant to Act No. 87-1989, was made to carry out the County’s Comprehensive Recycling Plan adopted by Resolution No. 155-1988. This modification authorized a reallocation of previously authorized expenditures for the permanent landfill, to recycling projects including construction of the Materials Recovery Facility (“MRF”) in Yonkers.

The second modification, pursuant to Act No. 2-1991, authorized reallocation of previously authorized funds from the Waste Shed 6 Transfer Station and the residual allocation for the backup landfill, to increase the Yonkers MRF allocation.

The third modification, pursuant to Act No. 136-1991, deleted certain projects and reallocated the funds earmarked for those projects to further increase funding of the Yonkers MRF.

The fourth modification, pursuant to Act No. 75-2004, authorized reallocation of previously approved expenditures among the following seven (7) projects: Sprout Brook Ash Disposal Phase 4; Sprout Brook Cell Closure; Solid Waste Haulage Vehicles (Phase IV); Yonkers Material Recovery Facility Enhancement; Croton Point Landfill Gas Reuse; Yard Waste Transfer Stations; and the North

County Material Recovery Facility, as more particularly set forth in the report dated March 17, 2004, prepared by the County, acting as the Agency.

The fifth modification, pursuant to Act No. 169-2012, authorized reallocation of previously approved expenditures from two (2) existing projects, Project RD012 (North County Materials Recovery Facility), which was deleted, and Project RD013 (Solid Waste Haulage Vehicles Phase IV), which had an infusion of *cash to capital* and did not require bonding, both of which provided an expenditure *credit* allowing the reallocation of the funds earmarked for those projects to two (2) new projects: Project RD016 (Croton Landfill Rehabilitation & Gas to Energy Program) and Project RD075 (Croton Landfill Pump Station Rehabilitation Program).

The sixth modification, pursuant to Act No. 57-2014, authorized reallocation of approved expenditures earmarked for Project RD016 to a new multi-phased capital project RD017 (Material Recovery Facility and Transfer Station Rehabilitation) required for the Yonkers MRF. Estimated project costs for Project RD016 were reduced from \$4,320,000 to \$2,000,000, thereby allowing \$2,320,000 in residual expenditures to be reallocated to RD017 to provide for a drainage collection system for leachate at the Yonkers MRF, mandated by the New York State Department of Environmental Conservation (“NYSDEC”), as well as the roof replacements and upgrading of the various mechanical systems at the Yonkers MRF/Transfer Station, and Mount Vernon and White Plains Transfer Stations.

In addition to Project RD017, Project RD018 (Haulage Vehicles and Solid Waste Equipment – Phase V), provided for the programmed replacement of haulage vehicles and equipment after the expiration of Project RD013 (Phase IV) in 2012. RD018 was also funded by a *cash to capital* transfer, which did not require bonding, and as such did not impact the approved total amount of Authorized District Improvement Debt. A seventh modification, approved by the Board pursuant to Act 31-2017, reallocated funds in Project RD017, originally added in 2014 for the design and construction of a leachate collection system at only at the Yonkers Transfer Station/MRF, to be used for the design of leachate collection systems at the Yonkers Transfer Station/MRF, the White Plains Transfer Station, and the Mount Vernon Transfer Station.

The aforementioned plan modifications were accomplished in accordance with New York County Law § 253-b solely by adoption of an act of the Board upon a determination made after a



public hearing, conducted in accordance with the procedures set forth in NYSCL § 254 that the proposed actions were in the public interest.

### **III. MODIFICATION OF PLAN**

In order to continue to meet its mandate to process all residential curbside recyclables and solid waste collected by District municipalities and deliver solid waste to a final disposal site, the County must replace vital MRF and Transfer Station equipment that has reached the end of its useful life, including, but not limited to, solid waste compactors, solid waste haulage vehicles, recyclables processing equipment, and solid waste containers. This will require a further modification of District Plan to allow for the reallocation of funds in Project RD020 (Material Recovery Facility-Compressed Natural Gas Facilities), and Project RD075 (Croton Landfill Stations-Pump Station Rehabilitation Program). The funds from Projects RD020 and RD075 will be reallocated to RD021 (Haulage Vehicle and Solid Waste Equipment (Phase VI)) to allow for the purchase and installation of equipment to replace equipment that has reached the end of its useful life.

The Agency, on behalf of the District, now seeks the approval of the Board for a modification of District Plan pursuant to NYSCL § 253-b authorizing reallocation of funds, noting that the below detailed project modification does not exceed the maximum expenditure previously approved by the Board of Legislators and the State Comptroller.

a. Project RD020 (Material Recovery Facility – Compressed Natural Gas Facilities)

This capital project was developed to provide funding for the design and construction of compressed natural gas (CNG) filling stations at the Yonkers Transfer Station/MRF. After comprehensive review and pilot testing of vehicles, it was determined that CNG vehicles for haulage of solid waste from County transfer stations to the Waste-to-Energy plant in Peekskill is not feasible. As a result, previously allocated funds of \$1,800,000 are no longer required for this project and are to be reallocated to RD021 (Haulage Vehicles and Solid Waste Equipment (Phase VI)) to fund necessary equipment replacement.

b. Project RD075 (Croton Landfill Station-Pump Stations Rehabilitation Program)

Rehabilitation of the Croton Landfill Pump Station has been substantially completed for less than previous cost estimates. As a result, \$2,000,000 of the remaining project funds of \$2,500,000 will be reallocated to RD021 (Haulage Vehicle and Solid Waste Equipment (Phase VI)) to fund needed

equipment replacement. The remaining \$500,000 will remain in Project RD075 to ensure appropriate completion of the project.

c. Project RD021 (Haulage Vehicle and Solid Waste Equipment (Phase VI))

This project is specifically designed to replace solid waste vehicles and equipment that are reaching the end of their useful life and to add equipment that will increase efficiency. Vehicles are replaced in a systematic rotation with the oldest, damaged, or lowest performing vehicles replaced first. The reallocation of a total of \$3,800,000 to this project (\$1,800,000 from Project RD020, plus \$2,000,000 from Project RD075) will allow the Agency to urgently address deficiencies by replacing MRF and Transfer Station equipment that has reached the end of its useful life, including, but not limited to, solid waste compactors, solid waste haulage vehicles, recyclables processing equipment, and solid waste containers.

#### **IV. FINDINGS AND RECOMMENDATIONS**

The Agency has carefully reviewed the District needs and seeks the approval of the Board pursuant to NYSCL § 253-b to reallocate funds in in Projects RD020 (Material Recovery Facility – Compressed Natural Gas Facilities) and RD075 (Croton Landfill Stations-Pump Station Rehabilitation Program) to Project RD021 (Haulage Vehicle and Solid Waste Equipment (Phase VI)), noting that this reallocation of funds does not exceed the Authorized District Improvement Debt of \$217,804,431 approved by the Board and the State Comptroller. The Agency has determined that the Modification of District Plan, as outlined, is in the best interest of the District residents in order to ensure that the District continue to meet its mandate to process all of the residential curbside recyclables and solid waste collected by the District municipalities, deliver solid waste to a final disposal site, and to ensure the continued efficient operation of the District in service of County residents.

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

**RESOLVED**, that this Resolution shall take effect immediately.

### **PUBLIC NOTICE**

NOTICE OF HEARING: THE WESTCHESTER COUNTY DEPARTMENT OF ENVIRONMENTAL FACILITIES, DIVISION OF SOLID WASTE, ACTING AS THE WESTCHESTER COUNTY SOLID WASTE AGENCY HAS DULY FILED A REPORT WITH THE COUNTY BOARD OF LEGISLATORS, DATED AUGUST 17, 2021, RECOMMENDING MODIFICATION OF THE DISTRICT PLAN TO AUTHORIZE REALLOCATION OF PREVIOUSLY APPROVED EXPENDITURES FROM CAPITAL PROJECT RD020 (COMPRESSED NATURAL GAS FACILITIES OF THE YONKERS MATERIALS RECOVERY FACILITY) AND FROM CAPITAL PROJECT RD075 (CROTON LANDFILL STATION-PUMP STATION REHABILITATION PROGRAM), TO CAPITAL PROJECT RD021 (HAULAGE VEHICLE AND SOLID WASTE EQUIPMENT PHASE VI), IN ORDER TO ENSURE THE CONTINUED SAFE AND EFFICIENT OPERATION OF THE DISTRICT IN SERVICE OF COUNTY RESIDENTS, NOTING THAT SUCH REALLOCATION OF FUNDS WILL NOT EXCEED THE PREVIOUSLY APPROVED MAXIMUM EXPENDITURE OF DISTRICT FUNDS OF \$217,804,431.00 AND THAT A COPY OF THE AUGUST 17, 2021, REPORT IS ON FILE WITH THE CLERK AND CHIEF ADMINISTRATIVE OFFICER OF THE BOARD AND CAN BE OBTAINED ONLINE AT \_\_\_\_\_; NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD BY THE BOARD OF LEGISLATORS OF WESTCHESTER COUNTY ON THE \_\_\_ DAY OF \_\_\_\_\_, 2021 AT \_\_\_ : \_\_\_\_ .M. IN THE CHAMBERS OF THE WESTCHESTER COUNTY BOARD OF LEGISLATORS, 8TH FLOOR, 148 MARTINE AVENUE, WHITE PLAINS, NEW YORK FOR THE PURPOSE OF HEARING PERSONS OR PARTIES INTERESTED IN THE AMENDMENT OF THE DISTRICT PLAN.

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CLERK AND CHIEF ADMINISTRATIVE OFFICER OF THE  
COUNTY BOARD OF LEGISLATORS WESTCHESTER  
COUNTY, NEW YORK

Dated: \_\_\_\_\_, 2021  
White Plains, New York