

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

Your Committee is in receipt of a report dated June 4, 2024 (the “2024 District Report”) submitted by the Westchester County Department of Environmental Facilities, Division of Solid Waste Management, acting as the County Solid Waste Agency (the “Agency”) on behalf of Refuse Disposal District No. 1 (the “District”). Your Committee is informed that the 2024 District Report recommends increases and improvements of District facilities to carry out necessary District capital improvements that will be paid for by the issuance of bonds in excess of the total amount of debt that may be issued for District improvements. The last time the New York State Comptroller, in accordance with New York State County Law Article 5-A, (“Article 5-A”) Section 268, consented to an increase in the financing of expenditures for the District was 2018.

Since the District’s creation in 1982, \$217,804,431 of expenditures have been authorized to be expended. Most of the debt chargeable to the District has been retired. As of March 1, 2024, the District has long-term bonded debt in the amount of \$11,995,950.66.

The Agency, on behalf of the District, now seeks the approval of your Honorable Board, and the New York State Comptroller (“State Comptroller”), for the expenditure of an additional \$74,500,000, which is the amount required to pay the cost of the proposed increase and improvement in facilities.

The 2024 District Report recommends approval of increases and improvements of District facilities in order to provide required modifications to three existing capital projects: (i) RD017 - Material Recovery Facility (“MRF”) and Transfer Station (“TS”) Rehabilitation (“RD017”); (ii) RD019 - Food Waste Recovery Program (“RD019”), and (iii) RD021 – Haulage Vehicle and Solid Waste Equipment (Phase VI) (“RD021”). As well as two new capital projects: (i) RD022 – Solid Waste Facilities Stormwater Management Systems (“RD022”), and (ii) RD023 – Refuse Disposal District Closed Landfill Rehabilitation (“RD023”), (collectively the “Projects”).

The 2024 District Report also recommends that the increase and improvement of facilities be funded by the issuance of debt in the following amounts: \$26,000,000 for RD017, \$16,000,000 for RD019, \$15,500,000 for RD021, \$12,000,000 for RD022 and \$5,000,000 for

RD023 (the “Bond Acts”), which, when added together, equals the \$74,500,000 which is the amount requested for the proposed increase (“\$74,500,000 Total Requested Increase”).

Following approval from the State Comptroller, legislation to authorize the Bond Acts in the above amounts will be submitted to your Honorable Board under separate cover as appropriate for the management of the Projects.

#### **RD017**

Financing approved by Act No. 57-2014, for RD017 provided for required stormwater improvements to the District Transfer Stations and MRF. This project, included design and construction of a leachate collection system at the Yonkers TS/MRF in connection with the New York State Pollutant Discharge Elimination System (“SPDES”) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, Permit No. GP-0-17-004 requirements. See, 6 NYCRR Part 750, and 6 NYCRR § 360-1.14(b)(2).

In addition to the Yonkers TS/MRF, RD017 also included construction and implementation of a best management system for stormwater/leachate at the White Plains TS (“WPTS”) pursuant to a United States Department of Environmental Protection (“EPA”) Administrative Order. Further, RD017 is established to provide solutions at the request of the New York State Department of Environmental Conservations (“NYSDEC”), for stormwater/leachate controls at the Mt. Vernon TS (“MVTTS”).

Repair of structural deficiencies and rehabilitation or replacement of various operational systems at the Yonkers TS/ MRF, including HVAC, electrical, mechanical, and plumbing, as well as purchase and installation of material handling systems, such as optical sorters and various other MRF upgrades, have and are contemplated in RD017.

As of March 1, 2024, \$15,380,000 remains available in RD017. These funds are earmarked to be used for:

- Design and construction of roof replacement, misting system, HVAC, and electrical upgrades for the Yonkers YS/MRF, including the
  - o MRF Recycling Building;

- o Transfer Station;
- o Shipping House; and
- o Paper House.
- Purchase, installation, and inspection services for the replacement of two (2) solid waste compactors at the Yonkers TS and necessary related electrical upgrades; and
- Functional modifications to the Van Dyk 660 OCC Screen.

As the amount remaining in RD017 is not sufficient to cover the required work, the District is seeking approval to expand the scope of RD017 to include an additional \$26,000,000 (which is part of the \$74,500,000 Total Requested Increase) for expenditures at the District facilities, including, but not limited to:

- MVTS
  - o Roof replacement and related mechanical upgrades (design, construction, and construction administration);
  - o Replacement of solid waste compactors (procurement, installation, and inspection services);
  - o Refurbishment of facility scale;
  - o Refurbishment of the Scale House and related mechanical upgrades (design, procurement and installation, and construction and construction administration); and
  - o Electrical system upgrades.
- WPTS
  - o Roof replacement and related mechanical upgrades (design, construction, and construction administration);
  - o Replacement of solid waste compactors (procurement, installation, and inspection services);
  - o Refurbishment of the facility scale;
  - o Refurbishment of the Scale House and related mechanical upgrades (design, procurement and installation, and construction and construction administration); and
  - o Electrical system upgrades.

- Yonkers TS/MRF
  - o Addition of a bale storage area (design, construction, and construction administration);
  - o Addition of a conveyor and compactor for the collection of recycling rejects (design, procurement and installation, and construction and construction administration);
  - o Addition of glass processing equipment (design, procurement and installation, and/or construction and construction administration);
  - o Addition of robotic sorting equipment;
  - o Replacement and upgrade to the conveyors and belts on processing equipment;
  - o Fire System upgrades and replacements;
  - o Refurbishment and replacement of tipping floors;
  - o Refurbishment of facility scale;
  - o Rehabilitation of MRF paper bunkers;
  - o Refurbishment of the Scale House and related mechanical upgrades (design, procurement and installation, and construction and construction administration);
  - o Replacement of solid waste compactors (design, construction, and construction administration); and
  - o Electrical system upgrades.

#### **RD019**

Under capital project RD019 and as part of its continued commitment to waste reduction, the District is seeking an additional \$16,000,000 (which is part of the \$74,500,000 Total Requested Increase) for expenditures to provide for the evaluation of real property, design, engineering, layout, and structure(s) to be used in establishing a food scrap processing facility designed to manage District food scraps through composting, or another appropriate method. RD019 will also fund land acquisition, design, construction, construction management, procurement and installation of equipment, and other related items necessary for the establishment of a processing site.

### **RD021**

RD021 provides for the orderly and systematic purchase and replacement of various haulage and other vehicles, containers, and miscellaneous equipment for use by the District.

### **RD022**

RD022 will provide for the study, design, construction, construction management, procurement, installation, upgrades, additions, and/or modifications to the stormwater/leachate management systems at District facilities.

### **RD023**

RD023 will provide for upgrades and rehabilitation at the District's closed ash and refuse landfills. Work will include, but not be limited to liner modifications, the installation of new roofs at the maintenance garage and office, rehabilitation or replacement of petroleum storage tanks at the Sprout Brook Ash Fill, and the rehabilitation or replacement of the gas flare at the Croton Railroad One Landfill.

It should be noted that Article 5-A imposes certain legal requirements on the County before the Projects can move forward. The first such requirement is that your Honorable Board must conclude, after holding a public hearing, that the proposed action is in the public interest. Therefore, I have annexed a proposed resolution to hold a public hearing ("Public Hearing Resolution"). If your Honorable Board finds this proposed action to be in the public interest, a proposed Act authorizing the action is annexed for your consideration.

Further, your Honorable Board is advised that, pursuant to Article 5-A, approval of the State Comptroller's Office is required in certain instances for the issuance of bonds to finance an increase and improvement of refuse disposal facilities. In particular, Article 5-A, Section 268.3 provides, in pertinent part, that:

Whenever it is proposed or required that the county in which a district is located shall finance an expenditure or contract for the purposes authorized in this section by the issuance of the bonds...and the cost to the typical property or, if different, the typical one or two family home...is above the average estimated cost to the typical properties or

or homes for similar types of expenditures as may be annually computed by the state comptroller, no such expenditure shall be made or contract let, unless the state comptroller, on behalf of the state, shall consent to such expenditure.

In accordance with Article 5-A, Section 268.3 above, the State Comptroller issues annual guidelines setting forth average estimated costs with respect to county water and sewer districts. The guidelines designate cost thresholds for such special districts at or below which approval by the State Comptroller's Office is determined to be unnecessary. However, unlike water and sewer districts, the State Comptroller issues no such guidelines for refuse disposal districts.

Instead, State Comptroller approval is required whenever a refuse disposal district seeks to issue bonds in excess of the total amount of debt that may be issued for refuse disposal district improvements, as set forth by order of the State Comptroller. Since the proposed bonding request requires additional District expenditures to be authorized in the amount of \$74,500,000, approval of the issuance of bonds should be preceded by the consent of the State Comptroller authorizing such expenditures.

In addition, in order to obtain the approval of the State Comptroller, State regulations require that the County submit a verified application (the "Application") in the form prescribed by 2 NYCRR Part 85 (the "State Regulations"), to the State Comptroller. The State Regulations further require that your Honorable Board adopt a resolution (the "State Regulations Resolution") stating that it believes the following: the contents of the Application are accurate; that the proposed improvements are in the public interest; that said improvements will not constitute an undue burden on the property that will bear the cost thereof; and if the cost of the proposed improvements are to be assessed in whole or in part against benefited property, that all real property to be so assessed will be benefited by the proposed improvements and that no benefited property will be excluded.

The Planning Department has advised your Committee that based on its review, the above-referenced application to the Comptroller for changes to capital projects may be classified as a Type "II" action pursuant to the State Environmental Quality Review Act ("SEQR") and its implementing regulations, 6 NYCRR Part 617. Therefore, no environmental review is required.

Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

In order to proceed with the proposed Projects, approval of your Honorable Board is needed as follows:

1. Public Hearing Resolution - authorizing the public hearing to determine whether the proposed action is in the public interest.
2. Act – determining the proposed Projects are in the public interest and authorizing the County to proceed with the Projects, for the benefit of the District, to implement improvements necessary for and to accept any and all grants of property rights necessary in furtherance thereof;
3. Act - authorizing that a verified application be submitted to the State Comptroller seeking approval of the Projects;
4. State Regulations Resolution – as required by the State Regulations (2 NYCRR Part 85) in order to submit the verified application to the State Comptroller.

Please note that a majority vote of the members of your Honorable Board is required in order to adopt the Resolution and the Acts.

Your Committee has carefully considered the proposed Projects and based on their importance it is recommended that your Honorable Board adopt the legislative package in its entirety.

Dated: September 4<sup>th</sup>, 2024

White Plains, New York

*James J. Zeller Johnson*  
*[Signature]*  
*[Signature]*  
*[Signature]*  
*Maureen E. Barr*  
*Doreen L. Tubiolo*  
*[Signature]*

*[Signature]*  
*James J. Zeller Johnson*  
*[Signature]*  
*Maureen E. Barr*  
*[Signature]*

COMMITTEE ON:

C:MG/6-7-24

Budget & Appropriations

Public Works & Transportation



# FISCAL IMPACT STATEMENT

CAPITAL PROJECT: RD017, 19, 21, 22, 23     NO FISCAL IMPACT PROJECTED

## CAPITAL BUDGET IMPACT

(To be completed by Finance Department and Budget Department)

A)    GENERAL FUND             AIRPORT             SPECIAL REVENUE FUND (Districts)

### EXPENSES AND REVENUES

Source of County Funds (check one):     Current Appropriations  
    Capital Budget Amendment

### B) BONDING AUTHORIZATIONS

Total Principal	PPU:	Anticipated Interest Rate
Anticipated Annual Cost (Principal and Interest)		
Total Debt Service (Annual Cost X Term)		

Finance Department:

### C) IMPACT ON OPERATING BUDGET (exclusive of debt service)

(To be completed by Operating Department and reviewed by Budget Department)

Potential Related Expenses: Annual \$ \_\_\_\_\_

Potential Related Revenues: Annual \$ \_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations  
(Describe in detail for current and next four years.):

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### D) Employment: As per Federal Guidelines each \$92,000 of appropriation funds one FTE job

Number of jobs funded: FTE

Prepared by: M. Rotini

Title: Assistant Commissioner

Department: DEF

Date: 7/25/2024

Reviewed By: 

Budget Department

*007/26/24*

Date: 7/26/24

If you need more space, please attach additional sheets.

TO: Melissa-Jean Rotini, Assistant Commissioner  
Department of Environmental Facilities

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



DATE: July 24, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR APPLICATION TO  
NEW YORK STATE COMPTROLLER FOR REFUSE DISPOSAL DISTRICT  
NO. 1 INCREASE AND IMPROVEMENTS (RD017, RD019, RD021, RD022  
AND RD023)**

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In response to your request, the Department of Planning has reviewed the above referenced action with respect to the State Environmental Quality Review Act and its implementing regulations 6NYCRR Part 617 (SEQR).

Legislation is proposed to undertake steps required under Section 268 of Article 5-A of the New York County Law to increase the amount of debt that may be issued by Refuse Disposal District No. 1 (the District) in order to carry out improvements to district facilities as recommended in its 2024 District Report. The proposed improvements involve the following five capital projects:

RD017 – Material Recovery Facility (MRF) and Transfer Station Rehabilitation – This existing/ongoing project provides for various improvements to District transfer stations. The current increase request will provide for the following improvements at the Mount Vernon and White Plains transfer stations: replacement of roofs and solid waste compactors; refurbishment of facility scales and Scale House; electrical system upgrades; and related mechanical upgrades. The increase will also provide for the following improvements at the Yonkers Transfer Station/MRF: addition of a bale storage area, a conveyor and compactor for recycling rejects, glass processing equipment and robotic sorting equipment; replacement of processing equipment conveyors and belts and solid waste compactors; refurbishment of facility scale and Scale House; refurbishment and replacement of tipping floors; rehabilitation of MRF paper bunkers; fire and electrical system upgrades; and related mechanical upgrades.

RD019 – Food Waste Recovery Program – This existing/ongoing project provides for the diversion of food waste from the waste stream through recycling efforts. The current increase request will provide for evaluation of real property, design, engineering, layout, and structure(s) to be used in establishing a food scrap processing facility designed to manage District food scraps through composting, or another appropriate method. RD019 may also fund land acquisition, as well as construction, construction management, procurement and installation of equipment, and other related items necessary for the establishment of a processing site.

RD021 – Haulage Vehicle and Solid Waste Equipment (Phase VI) – This existing/ongoing project provides for the orderly and systematic purchase and replacement of various haulage and other vehicles, containers, and miscellaneous equipment for use by the District. Type II

RD022 – Solid Waste Facilities Stormwater Management Systems – This new project will provide for the study, design, construction, construction management, procurement, installation, upgrades, additions, and/or modifications to the stormwater/leachate management systems at District facilities.

RD023 – Refuse Disposal District Closed Landfill Rehabilitation – This new project will provide for upgrades and rehabilitation at the District’s closed ash and refuse landfills. Scope of work will include liner modifications, replacement of roofs at the maintenance garage and office, rehabilitation or replacement of petroleum storage tanks at the Sprout Brook Ash Fill, and the rehabilitation or replacement of the gas flare at the Croton Railroad One Landfill.

Required steps at this time include: (1) a resolution to hold a public hearing; (2) an act to authorize the County/District to pursue the aforementioned projects as recommended in the District Report; (3) an act authorizing the submission of a verified application to the New York State Comptroller for permission to increase the maximum amount to be expended by the District for these projects; and (4) a resolution with the verification statements required by the State.

No action may be undertaken until the State Comptroller has approved the increase and the County approves the bonds to fund the project. While capital projects RD021 and RD023 may be classified as Type II actions under SEQR, the SEQR classification for capital projects RD017, RD019 and RD022 will be dependent upon the specifics of the proposed improvements. Design cannot occur until the NYS Comptroller approves the District expenditure. Once designed, the proposed improvements will be reviewed in accordance with SEQR, prior to receiving funding authorization for construction.

Since bonding approval is not a part of the current legislation, the proposed legislation may be classified as a Type II action, pursuant to section 617.5(c)(27), “conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action.” No environmental review is required at this time.

Please contact me if you require any additional information regarding this classification.

DSK/cnm

Att.

cc: Lou Vetrone, First Deputy Commissioner, Department of Environmental Facilities  
Michelle Greenbaum, Senior Assistant County Attorney  
Claudia Maxwell, Principal Environmental Planner

**RESOLUTION NO. \_\_\_\_ – 2024**

**WHEREAS**, the Westchester County Department of Environmental Facilities (the “Department”), acting as the County Solid Waste Agency has prepared and submitted to this Honorable Board a report dated June 4, 2024, as may be amended from time to time (the “District Report”), which recommends approval of an increases and improvements of Refuse Disposal District No. 1 (“District”) facilities in the District in order to provide required modifications to three existing capital projects: (i) RD017 - Material Recovery Facility (“MRF”) and Transfer Station (“TS”) Rehabilitation (“RD017”); (ii) RD019 - Food Waste Recovery Program (“RD019”), and (iii) RD021 – Haulage Vehicle and Solid Waste Equipment (Phase VI) (“RD021”). As well as two new capital projects: (i) RD022 – Solid Waste Facilities Stormwater Management Systems (“RD022”), and (ii) RD023 – Refuse Disposal District Closed Landfill Rehabilitation (“RD023”), (collectively the “Projects”). The District Report also recommends that the increases and improvements of District facilities be funded by the issuance of debt in the following amounts: \$26,000,000 for RD017, \$16,000,000 for RD019, \$15,500,000 for RD021, \$12,000,000 for RD022 and \$5,000,000 for RD023 (the “Bond Acts”), which, when added together, equals the \$74,500,000; and

**WHEREAS**, the Projects will finance certain improvements to solid waste disposal facilities in the District as described in the District Report; and

**WHEREAS**, the County is currently seeking authorization from the State Comptroller for the expenditure of an additional \$74,500,000, which amount is required to pay the cost of the proposed increase and improvement of District facilities of \$74,500,000 (“\$74,500,000 Total Requested Increase”) and will be financed by the issuance of bonds; and

**WHEREAS**, the Department has advised that the cost resulting from the proposed increase and improvement of district facilities to the typical District one or two family home is approximately \$20.47, as more fully set forth in the District Report; and

**WHEREAS**, in accordance with Article 5-A, this Board is required to schedule a public hearing to determine whether the increase and improvement is in the public interest.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that a public hearing shall be held upon the proposed increase and improvement of facilities for the District, as more fully set forth in the District Report dated June 4, 2024, as may be amended from time to time; said hearing to be held in the Board of Legislators Chambers, Room 800, Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_ .m.; and be it further

**RESOLVED**, that the Clerk of the Board is hereby authorized and empowered take all necessary steps in furtherance hereof; and be it further

**RESOLVED**, that the Clerk of the Board is hereby directed to cause notice of such 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

NOTICE OF PUBLIC HEARING

Property owners in Westchester County Refuse Disposal District No. 1, comprised of the territorial limits of: the Cities of Mount Vernon, New Rochelle, Peekskill, Rye, White Plains, Yonkers; and the Towns of Cortlandt, Eastchester, Greenburgh, Harrison, Mamaroneck, Mount Kisco, Mount Pleasant, Ossining, Pelham, Rye, Scarsdale, Yorktown ("District") are hereby notified that legislation is currently before the Westchester County Board of Legislators (the "Board") to carry out the following proposed capital projects: RD017 - Material Recovery Facility and Transfer Station Rehabilitation ("RD017"), RD019 - Food Waste Recovery Program ("RD019"), RD021 - Haulage Vehicle and Solid Waste Equipment (Phase VI) ("RD021"), RD022 - Solid Waste Facilities Stormwater Management Systems ("RD022"), and RD023 - Refuse Disposal District Closed Landfill Rehabilitation ("RD023") (the "Capital Projects"), as more fully set forth herein and in the District Report dated June 4, 2024, as may be amended from time to time (the "District Report"). The District Report is available for review from the Office of the Commissioner of the Westchester County Department of Environmental Facilities ("DEF").

The issuance of bonds would finance required modifications to three existing capital projects, RD017 - Material Recovery Facility and Transfer Station Rehabilitation ("RD017"), RD019 - Food Waste Recovery Program ("RD019"), RD021 - Haulage Vehicle and Solid Waste Equipment (Phase VI) ("RD021"), as well as two new capital projects, RD022 - Solid Waste Facilities Stormwater Management Systems ("RD022"), and RD023 - Refuse Disposal District Closed Landfill Rehabilitation ("RD023"), in order to ensure the continued safe and efficient operation of the District in service of County residents (the "Projects").

The County is currently seeking authorization from the State Comptroller for the expenditure of an additional \$74,500,000, which amount is required to pay the cost of the proposed increase and improvement of District facilities of \$74,500,000, and will be financed by the issuance of bonds. The cost of the proposed improvements will be assessed against all District properties benefiting from the Projects, noting that no benefited property subject to special assessment will be excluded.

The cost in the first year to the typical one or two family District property resulting from the proposed increase and improvement of district facilities is approximately \$20.47, as more fully set forth in the District Report.

Notice is hereby given that a public hearing will be held by the Board of Legislators of Westchester County on the \_\_\_ day of \_\_\_\_\_, 2024 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 aforementioned increase and improvement of facilities for the District.

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

Dated: \_\_\_\_\_, 2024  
White Plains, New York



George Latimer, County Executive  
Vincent F. Kopicki, P.E., Commissioner,  
Department of Environmental Facilities

County of Westchester Refuse Disposal District No. 1  
2024 Solid Waste Agency Report  
Dated: June 4, 2024

*New York State County Law § 268:  
Increases & Improvements of Facilities*

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## I. INTRODUCTION

The Department of Environmental Facilities (“DEF”), 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 Solid Waste Agency Report outlining proposed increases and improvements of facilities for the District, as set forth more fully below.

The outstanding bonds for District related projects amounts to long-term bonded debt of \$11,995,950.66 as of March 1, 2024, 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 (“Comptroller”) dated January 26, 2018.

Pursuant to NYSCL § 268(3), the Agency, on behalf of the District, now seeks consent of the Comptroller for an increase in expenditures of \$74,500,000, for a total approved aggregated



debt of \$292,301,431 to improve, rehabilitate, increase, construct, and/or acquire land for District improvements, including those as described below.

## **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, the County of Westchester Board of Legislators (the “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 Daniel P. Thomas Materials Recovery Facility (“Yonkers MRF”), 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 Yonkers Transfer Station and Daniel P. Thomas Material Recovery Facility 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 eight (8) 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 Daniel P. Thomas Materials Recovery Facility (“MRF”) in Yonkers (“Yonkers MRF”).

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) that was deleted, and Project RD013 (Solid Waste Haulage Vehicles Phase IV) that used cash to capital transfer that did not require bonding. The modifications to those Projects resulted in an expenditure credit and allowed the reallocation of

the funds earmarked for those projects into 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 into a new multi-phased capital project RD017 (Material Recovery Facility and Transfer Station Rehabilitation) required for the Yonkers Transfer Station/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 Transfer Station/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 Transfer Station/MRF, 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 that 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 (“NYSCL”) § 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. RECOMMENDED PROJECTS**

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 District must make vital upgrades, repairs, and improvements to its facilities. This Report

recommends the approval of the following facility increase and improvement projects, which require consent of the Comptroller to finance the projects and issue indebtedness in accordance with NYSCL § 268(3), in the amount of \$74,500,000.

a. RD017- Material Recovery Facility & Transfer Station Rehabilitation

This capital project, RD017, was approved by the Board pursuant to Act No. 57-2014, and provides for required improvements to the Yonkers TS/MRF, the Columbus Avenue Transfer Station in Mt. Vernon (“MVT”), and the Brockway Place Transfer Station in White Plains (“WPTS”).

i. *Leachate Management*

RD017 provided for the design and construction of a leachate collection system at the Yonkers TS/MRF to address leachate concerns on the site, and meet New York State Pollutant Discharge Elimination System (“SPDES”) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, Permit No. GP-0-17-004 requirements. *See*, 6 NYCRR Part 750, and 6 NYCRR § 360-1.14(b)(2).

In addition to the Yonkers TS/MRF, the New York State Department of Environmental Conservation (“NYSDEC”) indicated that leachate control systems are necessary at both the WPTS and MVT. On December 28, 2016, the United States Department of Environmental Protection (“EPA”) issued an Information Request and Administrative Order directing the District to identify and implement additional best management practices for the facility, and to determine a long-term solution for eliminating leachate discharges at the WPTS. The Administrative Order was modified in June 2022, to direct construction and implementation of the selected long-term leachate management solution.

ii. *Rehabilitation and Replacement of Facilities*

This Project also included authorization for the repair of structural deficiencies and the rehabilitation or replacement of systems at the Yonkers TS and MRF. These upgrades include work on the HVAC, electrical, mechanical, and plumbing systems at the Yonkers TS/MRF.

Funding for the material handling systems, such as the purchase and installation of optical sorters and various other upgrades at the MRF have also come from RD017.

*iii. Funding Breakdown*

As of March 1, 2024, funds of \$15,380,000 remains available in RD017. These remaining funds are earmarked to be used for:

- Design and construction of roof replacement, HVAC, and electrical upgrades for the Yonkers YS/MRF, including the
  - MRF Recycling Building;
  - Transfer Station;
  - Shipping House; and
  - Paper House;
- Purchase, installation, and inspection services for the replacement of two (2) solid waste compactors at the Yonkers TS and necessary related electrical upgrades;
- Functional modifications to the Van Dyk 660 OCC Screen; and

The District is seeking approval to expand the scope of this Project to include funding in the amount of \$26,000,000 for additional and continued improvements at the District Facilities, including, but not limited to:

- MVTS
  - Roof replacement and related mechanical upgrades (design, construction, and construction administration);
  - Replacement of solid waste compactors (procurement, installation, and inspection services);
  - Refurbishment of facility scale;
  - Refurbishment of the Scale House and related mechanical upgrades (design, procurement and installation, and construction and construction administration); and
  - Electrical system upgrades.

- WPTS
  - Roof replacement and related mechanical upgrades (design, construction, and construction administration);
  - Replacement of solid waste compactors (procurement, installation, and inspection services);
  - Refurbishment of the facility scale;
  - Refurbishment of the Scale House and related mechanical upgrades (design, procurement and installation, and construction and construction administration); and
  - Electrical system upgrades.
- Yonkers TS/MRF
  - Addition of a bale storage area (design, construction, and construction administration);
  - Addition of a conveyor and compactor for the collection of recycling rejects (design, procurement and installation, and construction and construction administration);
  - Addition of glass processing equipment (design, procurement and installation, and/or construction and construction administration);
  - Addition of robotic sorting equipment;
  - Replacement and upgrade to the conveyors and belts on processing equipment;
  - Fire System upgrades and replacements;
  - Refurbishment and replacement of tipping floors;
  - Refurbishment of facility scale;
  - Rehabilitation of MRF paper bunkers;
  - Refurbishment of the Scale House and related mechanical upgrades (design, procurement and installation, and construction and construction administration);
  - Replacement of solid waste compactors (design, construction, and construction administration); and
  - Electrical system upgrades.

b. RD019 – Food Scrap Recovery Program

As part of its continued commitment to waste reduction, the District is seeking \$16,000,000 to provide for the evaluation of real property, design, engineering, layout, and structure(s) to be used in establishing a food scrap processing facility designed to manage District food scraps through composting, or another appropriate method. The Project will also fund land acquisition, design, construction, construction management, procurement and installation of equipment, and other related items necessary for the establishment of a processing site. The estimated cost of this project is \$16,000,000.

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

This capital project provides for the orderly and systematic purchase and replacement of various haulage and other vehicles, containers, and miscellaneous equipment for use by the District. The estimated total cost of Phase VI is \$15,500,000.

d. RD022 – Solid Waste Facilities Stormwater Management Systems

This new capital project will provide for the study, design, construction, construction management, procurement, installation, upgrades, additions, and/or modifications to the stormwater/leachate management systems at District facilities. The estimated total cost of this project is \$12,000,000.

e. RD023 – Refuse Disposal District Closed Landfill Rehabilitation

This new capital project will provide for upgrades and rehabilitation at the District's closed ash and refuse landfills. Work will include, but not be limited to, liner modifications, the installation of new roofs at the maintenance garage and office, rehabilitation or replacement of petroleum storage tanks at the Sprout Brook Ash Fill, and the rehabilitation or replacement of the gas flare at the Croton Railroad One Landfill. The estimated cost of this project is \$5,000,000.

#### **IV. FINANCIAL IMPACT**

In order to better manage the debt services and provide the maximum value to District taxpayers, while accomplishing the necessary increases and improvements for District



operations, the District will pursue several rounds of bonding authorization from the Board for the additional authorized funds as the projects are able to be scheduled. The following are the assessed values that approximate the assessed value of a majority of the one or two-family homes in the municipalities forming the District:

<b>Typical Residential Assessed Value (\$):</b>	
City of Mount Vernon	9,854
City of New Rochelle	15,363
City of Peekskill	9,672
City of Rye	30,458
City of White Plains	14,554
City of Yonkers	11,266
Town of Cortlandt	7,111
Town of Eastchester	10,884
Town of Greenburgh	863,704
Town of Harrison	17,232
Town of Mamaroneck	1,554,606
Town of Mount Kisco	80,149
Town of Mount Pleasant	9,338
Town of Ossining	644,334
Town of Pelham	1,169,800
Town of Rye	829,632
Town of Scarsdale	1,606,457
Town of Yorktown	10,361

DEF calculated the average cost increase for the typical property in the District based upon the Typical Residential Assessed Value of each municipality. The weighted average of those increases, based on the percentage of the District represented by each municipality, yields an average cost increase for the District of \$20.47.

<b>District Municipalities:</b>	<b>Average Increase to Typical Property by Municipality:</b>	<b>% of District:</b>
Town of Cortlandt	\$11.90	4.59%
Town of Eastchester	\$23.65	5.39%
Town of Greenburgh	\$17.64	12.21%
Town of Harrison	\$30.08	5.44%
Town of Mamaroneck	\$31.75	5.79%
Town of Mount Kisco	\$10.86	0.96%
Town of Mount Pleasant	\$15.76	6.02%
City of Mount Vernon	\$11.77	4.46%

City of New Rochelle	\$16.17	7.50%
Town of Ossining	\$13.16	3.15%
City of Peekskill	\$ 8.27	1.46%
Town of Pelham	\$23.89	2.07%
City of Rye	\$48.23	5.68%
Town of Rye	\$16.94	4.72%
Town of Scarsdale	\$42.92	5.93%
City of White Plains	\$12.44	5.95%
City of Yonkers	\$12.85	14.85%
Town of Yorktown	\$12.30	3.84%
<b>Weighted Average Cost For Entire District: \$20.47</b>		

A review of the financial impact of the proposed increase and improvements of District facilities is set forth in the proposed Verified Affirmation to the Comptroller, which has been submitted separately to the Board.

#### V. FINDINGS AND RECOMMENDATIONS

DEF, in its capacity as the County Solid Waste Agency, has prepared this 2024 Solid Waste Agency Report after careful review of the proposed increases and improvement of its Facilities, and recommends approval. For the purposes of this application, it is recommended that the increases and improvements be funded by the issuance of debt in the amount of \$74,500,000, and that the Comptroller issue a letter of consent.

Further, the Agency recommends the assessment of the costs for the increases and improvements detailed herein be applied to all properties in the Refuse Disposal District No. 1 subject to the special district *ad valorem* tax. It is the determination of the Agency that all the properties in the District will benefit from the increases and improvements identified in this Report, and that such work will benefit the health, safety, and environment of the District and its residents.

The Agency has determined that the 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, establish new recycling and waste reduction facilities, and to ensure the continued efficient operation of the District in service of its residents.

-----X  
In the Matter of the Application of the COUNTY OF WESTCHESTER on behalf of REFUSE DISPOSAL DISTRICT NO. 1 to the State of New York State Comptroller pursuant to the Laws of the State of New York, County Law Article 5-A, Section 268, Subsection 3, for an increase and improvement of facilities to proceed with certain capital projects necessary for the proper maintenance and development of District facilities, and to ensure the continued effective operation of the District by issuing an additional amount not-to-exceed \$74,500,000 in bonds, notes or other evidences of indebtedness of the County.  
-----X

**VERIFIED  
APPLICATION**

Vedat Gashi, being duly sworn, hereby deposes and says:

1. I am the Chairman of the County of Westchester Board of Legislators (“BOL”). The following statements are made upon information and belief, and I believe them to be true. The bases of these beliefs are information provided by individuals acting in their official capacity as officials and employees of the County of Westchester, including members of the County departments of Environmental Facilities, Planning, Budget, and Finance, as well as the documents annexed hereto and made part hereof.

2. I make this application in accordance with the New York Code of Rules and Regulations (“NYCRR”) Title 2, Part 85, to the Comptroller of the State of New York (“State Comptroller”) for the County of Westchester (“County”) on behalf of Refuse Disposal District No. 1 (“District”), for an increase and improvement of District facilities pursuant to the Laws of the State of New York, County Law (“NYSCL”) § 268(3) in order to proceed with capital projects:

- a. RD017 - Material Recovery Facility and Transfer Station Rehabilitation;
- b. RD019 - Food Waste Recovery Program;
- c. RD021 – Haulage Vehicle and Solid Waste Equipment (Phase VI);
- d. RD022 – Solid Waste Facilities Stormwater Management Systems; and
- e. RD023 – Refuse Disposal District Closed Landfill Rehabilitation (“Capital Projects”),

as more fully set forth in the in accordance with the District Report dated June 2024, (“District Report”)<sup>1</sup> submitted by the County of Westchester Department of Environmental Facilities (“DEF”), as the entity that manages the District. *See* 2 NYCRR 85.4(b).

3. These Capital Projects are necessary for the proper maintenance and development of District facilities, and to ensure the continued effective operation of the District at a total additional cost not-to-exceed \$74,500,000 through funding mechanisms including bonds, notes, certificates, or other evidences of indebtedness of the County. *See* NYSCL § 268(3); and 2 NYCRR § 85.4(a).

4. It has been determined by the BOL, following a public hearing in accordance with NYSCL § 268(3)<sup>2</sup>, and review of factors more particularly described in the Committee Report and the District Report, that the proposed increase and improvement of facilities is in the public interest and promotes the health and safety of District and County residents by helping to ensure the continued safe and efficient operation of District and provision of services. The BOL review also included a determination, following the recommendation of the County of Westchester Department of Planning, that the submission of this application is a Type II action under 6 NYCRR 617, the State Environmental Quality Review Act (SEQRA). Further, the BOL determined that: the increase and improvements will not constitute an undue burden on the properties that will bear the cost thereof; the cost of the proposed improvements will be assessed against all benefited properties in the District; and that no benefited property will be excluded.<sup>3</sup> Therefore, the BOL authorized the Chair, or his designee, to execute all instruments and take all actions reasonable, necessary, and appropriate to submit this Petition the State Comptroller.<sup>4</sup> *See* 2 NYCRR §§ 85.4(a) and (d).

5. In connection with this Verified Application, a legal opinion, upon which the State Comptroller may rely, as to completeness of the attachments hereto and as to the

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<sup>1</sup> Exhibit A: District Report dated June 2024.

<sup>2</sup> Exhibit B: Resolution No.: \_\_\_\_\_, setting a public hearing for \_\_\_\_\_, 2024, at 7:00 p.m., and proof of publication.

<sup>3</sup> Exhibit C: Act No.: \_\_\_\_\_, adopted \_\_\_\_\_, 2024, along with the Committee Report, making determinations on the increase and improvements.

<sup>4</sup> Exhibit D: Act No.: \_\_\_\_\_, adopted \_\_\_\_\_, 2024, authorizing the submission of a Petition to the Comptroller.

sufficiency of this Verified Application as required by law, was requested and has been obtained from the Hon. John M. Nonna, Westchester County Attorney.<sup>5</sup> *See* 2 NYCRR §§ 85.3(b)(2), and 85.5.

6. Following the preparation of this Verified Application, the BOL reaffirmed its prior findings with regard to the increase and improvements, and determined that the contents of this Verified Application are accurate.<sup>6</sup> *See* 2 NYCRR §§ 85.3(b)(1).

7. The County of Westchester Department of Finance has reviewed the increase and improvement request and have advised that the manner of financing shall be through General Obligation Bonds. They have further advised Your Affirmant that it is anticipated such bonding by the County, with a thirty (30) year period of probable usefulness, would have a Net Interest cost of 3.673%, based upon current market conditions. No use of a state or federal loan program is anticipated. *See* 2 NYCRR §85.4(e)(1). No State or Federal aid has been committed for any of the increase or improvements contemplated in the District Report. *See* 2 NYCRR § 85.4(e)(2).

8. The estimated cost for operating and maintaining each increase and improvement contemplated, together with a basis or source for such estimate, is set forth in the District Report. *See* 2 NYCRR §85.4(f).

9. In accordance with the enabling legislation forming the District, the costs related to debt service and operation and maintenance shall be generated through ad valorem tax revenue to District members, who will benefit from the increase and improvements. *See* 2 NYCRR § 85.4(g).

10. The Five-Year Average Full Valuation of the taxable real property within Westchester County has been provided by the County Department of Finance, and calculated pursuant to the Laws of the State of New York, Local Finance Law (“NYSLFL”), §2.00(7-a), at \$190,754,159,328. *See* 2 NYCRR § 85.4(k).

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<sup>5</sup> Exhibit E: Legal Opinion.

<sup>6</sup> Exhibit F: A certified copy of Resolution No.: \_\_\_\_\_, reaffirming the BOL’s prior determinations on this matter following review of the instant Application, and determining accuracy of the Verified Application.

11. The County and its consultant has prepared, in the manner set forth in NYSLFL, Article 2, Title 10, its most recent Constitutional Debt Statement as of November 16, 2023.<sup>7</sup> *See* 2 NYCRR §§ 85.4(l), (m), and (n).

12. The current tax rates and assessments applicable to the taxable real property that will bear the cost of the increase and improvements, including itemization by county, local, school, fire, and other purposes, has been provided by the County Tax Commission.<sup>8</sup> *See* 2 NYCRR §85.4(o).

13. A statement of the assessed value of a typical property within the District is provided in the District Report, broken down by District municipality. *See* 2 NYCRR §85.4(p).

14. Should this Application be approved, once all approved funding is utilized, the calculated average cost increase for a typical property within the District as calculated by DEF, would be \$20.47, with variations by location. A full breakdown by District municipality is found in the District Report. These estimates are based upon the proposed increases, debt services, and other costs, calculated as a percentage of the total using the assessed values of the average real property located in each municipality. *See* 2 NYCRR §85.4(q).

15. Based upon the final 2023 tax rolls, Con Edison of New York, Inc. has been identified as the property owner with the largest the increase with a maximum amount of \$179,426.81 based on its ownership of various lands constituting 4.31% of District property. *See* 2 NYCRR §85.4(r).

16. Although State lands exist geographically within the District, those lands are not believed to be part of the District. Moreover, pursuant to New York State Real Property Tax Law (“NYSRPTL”) § 490, State lands are exempt from special *ad valorem* taxes and special assessments related to refuse and recycling collection and disposal. Therefore, there are no costs related to this Verified Application attributable to the State. *See* 2 NYCRR §85.4(s).

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<sup>7</sup> Exhibit G: Constitutional Debt Statement.

<sup>8</sup> Exhibit H: Current Tax Rates

17. The County of Westchester Agricultural District #1 (“AgDistrict”) includes seven (7) local municipalities, four (4) of which are located within the District: Cortlandt, Mt. Pleasant, North Salem, and Yorktown (“AgDistrict Municipalities”). It is not believed that the increase and improvements requested in this application constitutes any violation of Article 25-AA provisions related to the passage of laws restricting farm operations. The average value of non-residential properties in the AgDistrict is included in the District Report. *See* 2 NYCRR §85.4(t).

18. The total estimated population for the District is 912,286, based upon 2020 census data. Annexed hereto is a listing of the population estimates by District municipality, together with the number of one- and two- family homes in each municipality, the assessed value of the typical one- and two-family home, and the assessed value of all non-residential areas in District municipalities, as identified using assessment roll tax class codes other than Residential (200).<sup>9</sup> *See* 2 NYCRR §85.4(u).

19. The District collects refuse and manages recycling programs, none of which can provide any benefit to vacant land, other than the general environmental benefit of reducing the likelihood of illegal dumping upon those lands. The status of any proposals or potential for development of in-District vacant land was not a factor considered in the determination that the cost of the proposed increase and improvements will not constitute an undue burden. Any future development would reduce the cost of the proposed improvements by increasing the tax base for the District and spreading the costs to reduce the average estimated costs to District residents. *See* 2 NYCRR §85.4(v).

20. As outlined in the District Report, leachate management activities are part of the increase and improvements to be made, should this Application be approved. Leachate management improvements are required under Federal and State Law and directives, including, but not limited to, a United States Environmental Protection Agency Administrative Order, and a New York State Department of Environmental Conservation Consent Order.<sup>10</sup> *See* 2 NYCRR §85.4(x).

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<sup>9</sup> Exhibit I: Population and Housing Breakdown.

<sup>10</sup> Exhibit J: USEPA Administrative Order; and Exhibit K: NYSDEC Consent Order.



21. Other than the public hearing as identified in NYSCL § 268(1), and the public meetings held by the BOL for the review and passage of the Resolution and Acts for this Verified Application, no other actions have been taken to apprise District property owners of the estimated first year costs. *See* 2 NYCRR §85.4(y).

22. Upon information and belief, neither the County, nor the District has received any objections to the request for increase and improvements from any District resident. *See* 2 NYCRR §85.4(z).

VERIFICATION

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

Vedat Gashi, being duly sworn, deposes and says that he is the Chairman of the County Board of Legislators of the County of Westchester, the applicant named in the above caption; and that he has read the foregoing application and knows the contents thereof; and that the same is true to his own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

\_\_\_\_\_  
Vedat Gashi, Chairman  
Westchester County Board of Legislators

Sworn to before me this  
\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

Exhibit G:  
Constitutional Debt Statement

The following table sets forth the debt limit of the County and its debt contracting margin under such constitutional standard.

**TABLE 5**

Summary of Constitutional Debt Statement Prepared as of November 16, 2023

Five-year average full valuation of taxable real property .....	\$190,754,159,328
Debt limit (7% thereof).....	<u>13,352,791,153</u>
Outstanding indebtedness:	
Bonds.....	\$ 1,330,629,455
Bond Anticipation Notes .....	-
Less Exclusions:	
Current year Debt Service Appropriation (principal only)	
General Fund and Special Revenue Fund Airport.....	23,515,000
District Funds .....	1,145,435
Certain Sewer District Debt.....	244,215,511
Water District Debt .....	<u>18,482,475</u>
Total Exclusions .....	<u>287,358,421</u>
Total Net Indebtedness .....	\$ <u>1,043,271,034</u>
Net Debt — contracting margin .....	<u>\$12,309,520,119</u>
Percentage of Debt Contracting Power Exhausted as of November 16, 2023	<u>7.81%</u>

There is no constitutional limitation on the amount that may be raised by the County by tax on real estate in any fiscal year to pay interest and principal on all indebtedness. However, the Tax Levy Limitation Law imposes a statutory limit on the amount of taxes the County may levy. See "FINANCIAL FACTORS - Tax Levy Limitation Law" herein.

In prior years, the County has advance refunded various County bonds by placing the proceeds of the refunding bonds in irrevocable trusts to provide for all future debt service payments. These bonds continued to be general obligations of the County. However, inasmuch as moneys held in an escrow fund will be sufficient to meet all debt service requirements for such bonds, it is not anticipated that any other source of payment will be required. As of November 16, 2023 there is no remaining future debt service for advance refunded bonds.

*General.* The County is further subject to constitutional limitation by the general constitutionally imposed duty on the State Legislature to restrict the power of taxation, assessment, borrowing money, contracting indebtedness and loaning the credit of the County so as to prevent abuses in taxation and assessments and in contracting indebtedness; however, the State Legislature is prohibited by a specific constitutional provision from restricting the power of the County to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. However, the Tax Levy Limitation Law imposes a statutory limit on the power of the County to increase its annual tax levy. (See "FINANCIAL FACTORS - Tax Levy Limitation Law" herein).

*Statutory Procedure*

In general, the State Legislature has authorized the power and procedure for the County to borrow and incur indebtedness by the enactment of the Local Finance Law, subject to the constitutional provisions set forth above. The power to spend money, however, generally derives from other law, including County Law and General Municipal Law of New York State and the County Charter.

Exhibit H:  
Current Tax Rates

Refuse District Data	2020 CENSUS TOTAL POPULATION	SINGLE FAMILY HOMES (2017-2021 ACS 5-YEAR ESTIMATE)	Typical Assessed Value	TWO UNIT HOMES (2017-2021 ACS 5- YEAR ESTIMATE)	Typical Assessed Value	Total Assessed Value of Non-Residential (200) Properties
ARDSLEY	5,079	1,346	\$746,100.00	48	\$863,100.00	\$354,939,100.00
BRIARCLIFF MANOR	7,569	2,420	\$982,785.00	0	\$532,942.00	\$617,403,000.00
BRONXVILLE	6,656	1,029	\$21,600.00	50	\$10,840.00	Unavailable (part of the Town of Eastchester)
BUCHANAN	2,302	673	\$6,060.00	69	\$5,648.00	Unavailable (part of the Town of Cortlandt)
CORTLANDT	31,916	9,156	\$7,121.73	440	\$6,058.00	\$79,864,710.00
CROTON	8,327	2,516	\$7,624.00	230	\$5,873.00	Unavailable (part of the Town of Cortlandt)
DOBBS FERRY	11,541	1,964	\$775,100.00	472	\$808,500.00	\$1,353,601,600.00
EASTCHESTER	20,901	4,480	\$8,950.00	368	\$7,720.00	\$50,266,007.00
ELMSFORD	4,550	1,040	\$501,950.00	154	\$549,900.00	\$827,837,400.00
GREENBURGH	47,113	10,301	\$691,600.00	309	\$600,400.00	\$6,634,875,000.00
HARRISON	28,218	5,122	\$18,800.00	2,145	\$10,400.00	\$77,085,072.00
HASTINGS	8,590	1,915	\$916,800.00	149	\$817,500.00	\$684,539,500.00
IRVINGTON	6,652	1,468	\$1,176,100.00	198	\$884,800.00	\$695,405,300.00
LARCHMONT	6,630	1,561	\$1,972,000	0	\$1,328,000	\$496,463,598.00
MAMARONECK-T	12,850	2,936	\$1,501,000	59	\$780,000	\$763,326,126.00
MAMARONECK-V	20,151	2,925	\$1,348,000	1,320	\$727,000	\$1,325,743,249.00
MAMARONECK-V			\$854,550.00		\$796,700.00	\$381,492,224.00
MT. KISCO	10,959	1,633	\$79,000.00	452	\$72,000.00	\$214,351,500.00
MT. PLEASANT	26,653	7,267	\$9,731.00	499	\$8,019.00	\$100,572,694.00
MT. VERNON	73,893	8,261	\$9,768.62	3,396	\$9,483.54	\$114,244,468.00
NEW ROCHELLE	79,726	13,245	\$16,057.00	1,650	\$11,303.00	\$179,162,232.00
OSSINING-T	5,626	2,003	\$587,417.00	49	\$513,874.00	\$585,925,400.00
OSSINING-V	27,551	4,156	\$476,147.00	1,682	\$577,407.00	\$1,597,939,500.00
PEEKSKILL	25,431	5,745	\$8,686.00	1,478	\$9,656.00	\$85,724,555.00
PELHAM VILLAGE	7,326	1,483	\$1,065,075.00	345	\$765,034.00	\$787,592,862.00
PELHAM MANOR	5,752	1,421	\$1,314,998.00	8	\$950,223.00	Unavailable (part of the Town of Pelham)
PLEASANTVILLE	7,513	1,689		360		Unavailable (part of the Town of Mount Pleasant)
PORT CHESTER	31,860	3,345	\$582,100.00	2,007	\$601,100.00	\$2,102,639,638.00
RYE BROOK	9,880	2,960	\$960,900.00	217	\$668,650.00	\$832,676,510.00
RYE CITY	16,592	4,414	\$31,134.00	277	\$15,629.00	\$50,546,991.00
SCARSDALE	18,253	5,472	\$1,608,085.00	0	\$918,750.00	\$1,450,508,056.00
SLEEPY HOLLOW	9,585	1,316	\$9,658.00	717	\$6,376.00	Unavailable (part of the Town of Mount Pleasant)
TARRYTOWN	11,860	2,128	\$800,050.00	407	\$722,950.00	\$1,569,184,200.00
TUCKAHOE	7,084	1,046	\$7,300.00	573	\$7,290.00	Unavailable (part of the Town of Eastchester)
WHITE PLAINS	59,559	8,211	\$14,736.00	1,245	\$11,936.00	\$288,556,348.00
YONKERS	211,569	23,917	\$11,225.00	8,743	\$11,257.00	\$444,557,991.00
YORKTOWN	36,569	11,091	\$10,246.82	466	\$9,769.62	\$52,508,097.00
<b>TOTALS</b>	<b>912,286</b>	<b>161,655</b>		<b>30,582</b>		

Exhibit I:  
Population and Housing Breakdown

**Incorporated into Exhibit H**

Exhibit J:  
USEPA Administrative Order



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

**June 21, 2022**

**VIA ELECTRONIC MAIL TO: [ljv3@westchestergov.com](mailto:ljv3@westchestergov.com)**

Louis J. Vetrone, Deputy Commissioner  
Westchester County Department of Environmental Facilities  
270 North Avenue  
New Rochelle, New York 10801

**Re: Brockway Place Transfer Station – 75 Brockway Place, White Plains, New York  
Administrative Compliance Order  
Docket No. CWA-02-2022-3030  
SPDES Tracking No. NYR00C354**

Dear Mr. Vetrone:

As you are aware, on May 12, 2017, the United States Environmental Protection Agency (“EPA”) issued an amended Information Request and Administrative Compliance Order, Docket No. CWA-02-2017-3050 (the “Order”), to the Westchester County Department of Environmental Facilities (“WCDEF” or “Respondent”). EPA issued the Order to address violations of the Clean Water Act (“CWA”) and the New York State Department of Environmental Conservation (“NYSDEC”) State Pollutant Discharge Elimination System (“SPDES”) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (GP-0-17-004) (“MSGP” or the “Permit”) at WCDEF’s Brockway Place Transfer Station located in White Plains, New York (the “Facility”).

Among other things, the Order required Respondent to (1) comply with the MSGP; (2) implement short-term measures for preventing unauthorized leachate discharges from the Facility; and (3) implement a long-term solution for eliminating unauthorized leachate discharges from the Facility in accordance with a compliance schedule that included deadlines for an investigative review, design phase, and a construction phase.

Between May and December 2017, Respondent implemented short-term measures in accordance with the Order and has continued to implement these measures to date. On October 27, 2017, Respondent submitted the investigative review for the long-term management of leachate at the Facility, in accordance with the Order. However, the alternatives presented in the investigative review all involved sending a considerable amount of stormwater to the sanitary sewer system and discharging stormwater runoff in excess of the 10-year, 1-hour storm event to the East Branch of the Mamaroneck River. In response to the investigative review, EPA issued a comments letter and held an in-person meeting with Respondent on February 2, 2018 and March 20, 2018, respectively.



During the in-person meeting, the parties agreed that before proceeding further with the design phase for the long-term project, Respondent would investigate the impact of implementing a more robust program of Best Management Practices (“BMPs”) at the Facility and would perform additional stormwater sampling.

On May 1, 2018, Respondent commenced a street sweeping pilot program, which involved twice-daily street sweeping, Monday through Friday. On June 20, 2018, Respondent enhanced the program to incorporate the use of an organic cleaning solution during sweeping. Respondent converted the twice-daily street sweeping/cleaning program from a pilot into a permanent program, which has continued through present.

Despite continued implementation of “short-term” measures to prevent non-stormwater leachate discharges from the Facility, and implementation of increased street sweeping and cleaning, stormwater sampling results from the Facility continue to be consistently above the benchmark cut-off concentrations specified in the MSGP, requiring Respondent to take further corrective actions. The attached Order establishes a new compliance schedule for implementing such actions.

Please acknowledge receipt of the Order by signing the acknowledgment page and returning the acknowledgment page electronically. Failure to comply with the enclosed Order may subject Respondent to civil/criminal penalties pursuant to Section 309 of the CWA and may subject Respondent to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding the Order please contact Ms. Justine Modigliani, P.E., Chief, Compliance Section, Water Compliance Branch, at (212) 637-4268 or [Modigliani.Justine@epa.gov](mailto:Modigliani.Justine@epa.gov).

Sincerely,

**Anderson, Kate**

Digitally signed by  
Anderson, Kate  
Date: 2022.06.21 09:28:14  
-04'00'

**For** Dore LaPosta, Director  
Enforcement and Compliance Assurance Division

Enclosures

cc: Edward Hampston, P.E., Director, Bureau of Water Compliance Programs, NYSDEC  
Meena George, P.E., Regional Water Manager, NYSDEC Region 3  
Natalie Browne, NYSDEC Region 3  
Melissa Rotini, WCDEF

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Westchester County Department of  
Environmental Facilities  
Brockway Place Transfer Station  
75 Brockway Place  
White Plains, NY 10601

Proceeding pursuant to Sections 308(a) and  
309(a)(3) of the Clean Water Act, 33 U.S.C.  
§§ 1318(a) and 1319(a)(3)

**INFORMATION REQUEST AND  
ADMINISTRATIVE COMPLIANCE  
ORDER**

CWA-02-2022-3030

The following Information Request and Administrative Compliance Order (together the “Order”) are issued pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. §§ 1318(a) and 1319(a)(3). This authority has been delegated by the Administrator of the United States Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Enforcement and Compliance Assurance Division, Region 2, EPA.

**A. LEGAL AUTHORITY**

1. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation (“NYSDEC”) is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). Under this authority, a State Pollutant Discharge Elimination System (“SPDES”) permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from a point source to a navigable water of the United States. EPA maintains concurrent enforcement authority with authorized States for violations of the CWA and permits issued by authorized States thereunder.
3. “Person” is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to include an individual, corporation, partnership, association or municipality.
4. “Discharge of a pollutant” is defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12), to include any addition of any pollutant to navigable waters from any point source.

5. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged to water.
6. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
7. "Navigable waters" are defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), as "waters of the United States, including the territorial seas." "Waters of the United States" have been further defined to include, inter alia, waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce (hereinafter "traditional navigable waters") and tributaries of such waters. 40 C.F.R. § 122.2.
8. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: establish and maintain such records; make such reports; install, use and maintain such monitoring equipment; sample such effluents; and provide such other information as may reasonably be required to carry out the objective of the CWA.
9. Section 309(a) of the CWA, 33 U.S.C. § 1319(a) authorizes the Administrator to issue and order requiring compliance or commence a civil action when any person is found to be in violation of Section 301 of the CWA, 33 U.S.C. § 1311, or in violation of any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
10. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth the requirements for municipal and industrial stormwater discharges.
11. The Administrator of EPA has promulgated regulations, 40 C.F.R. § 122.26(a)(1)(ii) and § 122.26(b)(14), which require operators to obtain a NPDES permit for stormwater discharges associated with industrial activity.
12. The NYSDEC issued the Multi-Sector General Permit ("MSGP" or "Permit"), as defined by the present general permit number, GP-0-17-004. The MSGP became effective on March 1, 2018 and expires on February 28, 2023. The previous MSGP became effective on May 1, 2015, and was set to expire on April 30, 2017, but was administratively extended until the issuance of the current permit.

## **B. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Westchester County Department of Environmental Facilities ("Respondent") is a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
2. Respondent owns the municipal solid waste ("MSW") and cardboard recycling transfer station located at 75 Brockway Place in White Plains, New York (the "Site" or "Facility").

3. Respondent conducts industrial activity at the Facility under Standard Industrial Classification (“SIC”) codes 4212 (Local Trucking Without Storage) and 5093 (Scrap and Waste Materials) and therefore is regulated under 40 C.F.R. § 122.26(b)(14) and Sectors P (Land Transportation and Warehousing) and N-2 (Mixed Waste Stream of Non-Recyclable & Recyclable Wastes) of the MSGP.
4. Stormwater runoff discharges from the Facility to the East Branch of the Mamaroneck River via the City of White Plains Municipal Separate Storm Sewer System (“MS4”).
5. The East Branch of the Mamaroneck River is tributary to Mamaroneck Harbor, a traditional navigable water of the United States, and therefore is a water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
6. Respondent discharges stormwater associated with industrial activity, a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), via the City of White Plains MS4, a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to a water of the United States, and as such, discharges pollutants pursuant to Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
7. Respondent has authorization to discharge stormwater from the Facility under Sectors N-2 and P of the MSGP under permit identification number NYR00354.
8. On September 28, 2016, EPA conducted a Compliance Evaluation Inspection (“CEI”) at the Facility. At the time of the CEI, EPA observed violations of the MSGP, as well as evidence of the discharge of transfer trailer leachate to the East Branch of the Mamaroneck River. Respondent does not have SPDES permit coverage for leachate discharges to the river. Leachate, as well as stormwater mixed with leachate, are ineligible for coverage under the MSGP, pursuant to Part I.C.1 of the Permit.
9. On December 28, 2016, EPA issued Information Request and Administrative Compliance Order, CWA-02-2017-3022, to Respondent to address the MSGP violations and unauthorized leachate discharges. Thereafter, on May 12, 2017, EPA issued an amended Information Request and Administrative Compliance Order, CWA-02-2017-3050 (the “Order”), to establish revised compliance items and deadlines pursuant to information provided by Respondent.
10. Among other things, the Order required Respondent to (1) comply with the MSGP; (2) implement short-term measures for preventing unauthorized leachate discharges from the Facility; and (3) implement a long-term solution for eliminating unauthorized leachate discharges from the Facility in accordance with a compliance schedule that included deadlines for an investigative review, design phase, and a construction phase.
11. Between May and December 2017, Respondent implemented short-term measures for preventing unauthorized leachate discharges, including installing polypropylene geotextile catch basin covers for use in dry weather, containment socks at catch basins for use in dry weather, a containment berm for the tipping floor, and cleaning leachate from the pavement at the Facility. Respondent also installed catch basin filters as a Best Management Practice (“BMP”) and continued to implement several existing BMPs at the Facility, such as retrofitting County-owned trailers with a steel plate to catch leachate and prevent leaking; visually inspecting trailers and vacuuming out

collected leachate at the close of business; cleaning vehicles used to move recyclables and MSW on the tipping floor using a cleaning solution (the tipping floor is graded to a drain connected to an oil/water separator and sanitary sewer system); and securing extended delivery hours at the Charles Point Resource Recovery Facility to eliminate the need to regularly store loaded trailers overnight or on weekends at the Facility. Respondent has continued to implement these measures to date.

12. On October 27, 2017, Respondent submitted the investigative review for the long-term management of leachate at the Facility, in accordance with the Order. However, the alternatives presented in the investigative review all involved sending a considerable amount of stormwater to the sanitary sewer system and discharging stormwater runoff in excess of the 10-year, 1-hour storm event to the East Branch of the Mamaroneck River.
13. Following receipt of the investigative review, EPA issued a comments letter and held an in-person meeting with Respondent on February 2, 2018 and March 20, 2018, respectively. During the in-person meeting, the parties agreed that before proceeding further with the design phase for the long-term project, Respondent would investigate the impact of implementing a more robust program of BMPs at the Facility and would perform additional stormwater sampling.
14. Based on information provided by Respondent to EPA and NYSDEC in quarterly reports, on May 1, 2018, Respondent commenced a street sweeping pilot program, which involved twice-daily street sweeping, Monday through Friday. On June 20, 2018, Respondent enhanced the program to incorporate the use of an organic cleaning solution during sweeping. Respondent converted the twice-daily street sweeping/cleaning program from a pilot into a permanent program, which has continued through present.
15. Despite continued implementation of “short-term” measures to prevent non-stormwater leachate discharges from the Facility, and implementation of increased street sweeping and cleaning, stormwater sampling results from the Facility continue to be consistently above the benchmark cut-off concentrations specified in the MSGP. Specifically, based on data obtained from EPA’s Enforcement and Compliance History Online (“ECHO”) database and as documented in Exhibit 1, between January 2018 and March 2022, Respondent has experienced recurring exceedances of the benchmark cut-off concentrations for Aluminum, Chemical Oxygen Demand, Copper, Iron, Total Suspended Solids, and Zinc.
16. In accordance with Part IV.F.3.c.1 of the MSGP, benchmark exceedance(s) require the owner/operator to evaluate potential sources of stormwater contaminants and perform corrective actions in accordance with Part V of the Permit. Specifically, Part V.A.5 of the Permit states, “...when the benchmark or numeric effluent limit sample results indicate exceedances of the pollutants, the owner or operator must implement additional non-structural and/or structural BMPs to address any sources of contamination that are identified to prevent recurrence within the following timeframes: (a) The implementation must be completed before the next anticipated storm event, if practicable, but not more than 12 weeks after discovery; or (b) If implementation will take longer than 12 weeks, the owner or operator must submit a proposed schedule for completion of the project and obtain a written approval from the [NYSDEC] Regional Water Engineer.” Respondent has failed to take necessary corrective actions following benchmark exceedances within the required timeframes, in violation of Part IV.F.3.c.1 and Part V of the MSGP.

17. During a video conference on January 25, 2022 between Respondent, EPA and NYSDEC, Respondent proposed a new, two-step BMP at the Facility involving barrier separation for removal of trash, sediment and debris, followed by a filtration vault to capture fine particulates and adsorb soluble pollutants in stormwater runoff. On April 25, 2022, Respondent submitted a written proposal for the new BMP to EPA and NYSDEC (see Exhibit 2), which was conceptionally approved by the agencies; however, Respondent has not implemented the proposed BMP at the Facility to date. This Order seeks to provide formal approval of the proposed project and set forth a compliance schedule for implementation.
18. Based upon Paragraphs 1-17 above, EPA finds that Respondent is in violation of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and applicable implementing regulations.

### C. ORDERED PROVISIONS

Based upon the foregoing and pursuant to the authority of Section 309(a)(3) of the Act, it is hereby ORDERED that:

1. **Immediately** upon receipt of the original copy of this Order, a responsible official of WCDEF shall complete and sign the **Acknowledgment of Receipt of the Information Request and Administrative Compliance Order** and return the acknowledgment page electronically to the Chief, Water Compliance Branch, at the email address listed in paragraph E.1, below.
2. **On or before March 31, 2023**: Respondent shall complete construction of the BMP outlined in Exhibit 2. Should Respondent experience additional benchmark exceedances following installation of the BMP, Respondent shall take additional corrective actions in accordance with Part V of the MSGP.

### D. REQUEST FOR INFORMATION

Based upon the foregoing and pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), Respondent is required to submit the following information to EPA and NYSDEC:

1. **Beginning in July 2022 and continuing through January 2024** – Quarterly reports describing progress towards completion of the BMP, a summary of the most recent benchmark monitoring results, and any additional corrective actions taken at the Facility to address benchmark exceedances (if applicable). Quarterly reports shall be due **thirty (30) calendar days following the end of each calendar quarter ending on June 30, September 30, December 31, and March 31.**
2. **On or before April 30, 2023** – An updated copy of Respondent’s Stormwater Pollution Prevention Plan (“SWPPP”) that reflects all BMPs implemented at the Facility.

### E. GENERAL PROVISIONS

1. All information or documents required to be submitted by Respondent as part of this Order shall be sent by email to the following addresses:

Douglas McKenna, Chief  
Water Compliance Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, New York 10007-1866  
[mckenna.douglas@epa.gov](mailto:mckenna.douglas@epa.gov)  
with copy to  
[green.katherine@epa.gov](mailto:green.katherine@epa.gov)

Edward Hampston, P.E., Director  
Bureau of Water Compliance Programs  
Division of Water, NYSDEC  
625 Broadway  
Albany, New York 12233-3506  
[edward.hampston@dec.ny.gov](mailto:edward.hampston@dec.ny.gov)

Natalie Browne, NYSDEC Region 3  
100 Hillside Avenue, Suite 1W  
White Plains, New York 10603  
[natalie.browne@dec.ny.gov](mailto:natalie.browne@dec.ny.gov)

2. Pursuant to 40 C.F.R. § 122.22, all information or documents required to be submitted by Respondent shall be signed by an authorized representative of Respondent, and shall include the following certification:

**“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”**

3. Respondent shall have the opportunity, for a period of **twenty (20) days** from the date of receipt of this Order, to confer, regarding the Ordered Provisions, with the following designated Agency representative:

Douglas McKenna, Chief  
Water Compliance Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 21<sup>st</sup> Floor  
New York, New York 10007-1866  
[mckenna.douglas@epa.gov](mailto:mckenna.douglas@epa.gov)  
(212) 637-4244

4. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706. Section 706 of the APA provides the grounds for such review.
5. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
6. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in your liability for civil penalties for each violation of up to \$59,973 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R., Part 19. Upon suit by EPA, the United States District Court may impose such penalties if, after notice and opportunity for hearing, the Court determines that you have violated the CWA as described above and failed to comply with the terms of the Compliance Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of the Compliance Order.
7. Notice is hereby given that failure to comply with the requirements of the CWA Section 308 Information Request may result in your liability for civil penalties for each violation of up to \$59,973 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if, after notice and opportunity for a hearing, the Court determines that you have failed to comply with the terms of the Information Request. You may also be subject to administrative remedies for a failure to comply with the Information Request as provided by Section 309 of the CWA.
8. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
9. This Order shall become effective upon the date of execution by the Director, Enforcement and Compliance Assurance Division.

**Anderson, K** Digitally signed by  
 Anderson, Kate  
 Date: 2022.06.21  
 09:28:37 -04'00'

Dated: 6/21/2022 Signed: ate  
 For Dore LaPosta, Director  
 Enforcement and Compliance Assurance Division



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Westchester County Department of  
Environmental Facilities  
Brockway Place Transfer Station  
75 Brockway Place  
White Plains, NY 10601

Proceeding pursuant to Sections 308(a) and  
309(a)(3) of the Clean Water Act, 33 U.S.C.  
§§ 1318(a) and 1319(a)(3)

**RESPONDENT**

**INFORMATION REQUEST AND  
ADMINISTRATIVE COMPLIANCE  
ORDER**

**CWA-02-2022-3030**

**ACKNOWLEDGMENT OF RECEIPT OF  
INFORMATION REQUEST AND ADMINISTRATIVE COMPLIANCE ORDER**

I, \_\_\_\_\_, an authorized representative of Westchester County  
Department of Environmental Facilities, with the title of, \_\_\_\_\_, do hereby  
acknowledge the receipt of copy of the INFORMATION REQUEST AND  
ADMINISTRATIVE COMPLIANCE ORDER, CWA-02-2022-3030.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Exhibit 1: Benchmark Monitoring Results for the WCDEF Brockway Place Transfer Station (NYROOC354) from January 2018 to March 2022. Exceedances of Benchmark Cut-Off concentrations are identified in gold highlight.

Parameter	Monitoring Period End Date	Benchmark Cut-Off Concentration	DMR Result	Units	Percent Exceedance of Benchmark Cutoff Concentration
Aluminum, total recoverable	12/31/2021	750	757	ug/L	1%
Aluminum, total recoverable	6/30/2021	750	63.8	ug/L	
Aluminum, total recoverable	12/31/2020	750	6850	ug/L	813%
Aluminum, total recoverable	6/30/2020	750	1280	ug/L	71%
Aluminum, total recoverable	12/31/2019	750	996	ug/L	33%
Aluminum, total recoverable	6/30/2019	750	2470	ug/L	229%
Aluminum, total recoverable	12/31/2018	750	2780	ug/L	271%
Benzene	12/31/2021	50	0.5	ug/L	
Benzene	6/30/2021	50	0.5	ug/L	
Benzene	12/31/2020	50	0.5	ug/L	
Benzene	6/30/2020	50	0.5	ug/L	
Benzene	12/31/2019	50	50	ug/L	
Benzene	6/30/2019	50	0.5	ug/L	
Benzene	12/31/2018	50	0.5	ug/L	
Cadmium, total recoverable	12/31/2021	1.8	0.41	ug/L	
Cadmium, total recoverable	6/30/2021	1.8	0.4	ug/L	
Cadmium, total recoverable	12/31/2020	1.8	5	ug/L	178%
Cadmium, total recoverable	6/30/2020	1.8	0.62	ug/L	
Cadmium, total recoverable	12/31/2019	1.8			
Cadmium, total recoverable	6/30/2019	1.8	0.4	ug/L	
Cadmium, total recoverable	12/31/2018	1.8	1	ug/L	
Chemical Oxygen Demand [COD]	3/31/2022	120	480	mg/L	300%
Chemical Oxygen Demand [COD]	12/31/2021	120	450	mg/L	275%
Chemical Oxygen Demand [COD]	12/31/2021	120	370	mg/L	208%
Chemical Oxygen Demand [COD]	9/30/2021	120	1340	mg/L	1017%
Chemical Oxygen Demand [COD]	6/30/2021	120	250	mg/L	108%
Chemical Oxygen Demand [COD]	6/30/2021	120	440	mg/L	267%
Chemical Oxygen Demand [COD]	6/30/2021	120	250	mg/L	108%
Chemical Oxygen Demand [COD]	3/31/2021	120	340	mg/L	183%
Chemical Oxygen Demand [COD]	12/31/2020	120	1	mg/L	
Chemical Oxygen Demand [COD]	12/31/2020	120	250	mg/L	108%
Chemical Oxygen Demand [COD]	12/31/2020	120	290	mg/L	142%
Chemical Oxygen Demand [COD]	9/30/2020	120	1500	mg/L	1150%
Chemical Oxygen Demand [COD]	6/30/2020	120	70	mg/L	
Chemical Oxygen Demand [COD]	6/30/2020	120	1160	mg/L	867%
Chemical Oxygen Demand [COD]	3/31/2020	120	110	mg/L	
Chemical Oxygen Demand [COD]	12/31/2019	120	160	mg/L	33%
Chemical Oxygen Demand [COD]	12/31/2019	120	135	mg/L	13%
Chemical Oxygen Demand [COD]	9/30/2019	120	1740	mg/L	1350%
Chemical Oxygen Demand [COD]	6/30/2019	120	150	mg/L	25%
Chemical Oxygen Demand [COD]	6/30/2019	120	480	mg/L	300%

Exhibit 1: Benchmark Monitoring Results for the WCDEF Brockway Place Transfer Station (NYR00C354) from January 2018 to March 2022. Exceedances of Benchmark Cut-Off concentrations are identified in gold highlight.

Chemical Oxygen Demand [COD]	6/30/2019	120	150	mg/L	25%
Chemical Oxygen Demand [COD]	3/31/2019	120	370	mg/L	208%
Chemical Oxygen Demand [COD]	12/31/2018	120	125	mg/L	4%
Chemical Oxygen Demand [COD]	12/31/2018	120	11.8	mg/L	
Chemical Oxygen Demand [COD]	12/31/2018	120	125	mg/L	4%
Chemical Oxygen Demand [COD]	9/30/2018	120	270	mg/L	125%
Chemical Oxygen Demand [COD]	6/30/2018	120	460	mg/L	283%
Chemical Oxygen Demand [COD]	3/31/2018	120	300	mg/L	150%
Chromium, total recoverable	12/31/2021	1.8	0.0086	mg/L	
Chromium, total recoverable	6/30/2021	1.8	0.0205	mg/L	
Chromium, total recoverable	12/31/2020	1.8	0.0264	mg/L	
Chromium, total recoverable	6/30/2020	1.8	0.0225	mg/L	
Chromium, total recoverable	12/31/2019	1.8			
Chromium, total recoverable	6/30/2019	1.8	0.011	mg/L	
Chromium, total recoverable	12/31/2018	1.8	0.0138	mg/L	
Copper, total recoverable	12/31/2021	12	84.4	ug/L	603%
Copper, total recoverable	6/30/2021	12	25	ug/L	108%
Copper, total recoverable	12/31/2020	12	126	ug/L	950%
Copper, total recoverable	6/30/2020	12	121	ug/L	908%
Copper, total recoverable	12/31/2019	12	0.01	ug/L	
Copper, total recoverable	6/30/2019	12	51.4	ug/L	328%
Copper, total recoverable	12/31/2018	12	57.8	ug/L	382%
Ethylbenzene	12/31/2021	50	0.5	ug/L	
Ethylbenzene	6/30/2021	50	0.5	ug/L	
Ethylbenzene	12/31/2020	50	0.5	ug/L	
Ethylbenzene	6/30/2020	50	0.5	ug/L	
Ethylbenzene	12/31/2019	50	50	ug/L	
Ethylbenzene	6/30/2019	50	0.5	ug/L	
Ethylbenzene	12/31/2018	50	0.5	ug/L	
Iron, total recoverable	12/31/2021	1	2.78	mg/L	178%
Iron, total recoverable	6/30/2021	1	0.943	mg/L	
Iron, total recoverable	12/31/2020	1	13.2	mg/L	1220%
Iron, total recoverable	6/30/2020	1	16.8	mg/L	1580%
Iron, total recoverable	12/31/2019	1	3.92	mg/L	292%
Iron, total recoverable	6/30/2019	1	6.31	mg/L	531%
Iron, total recoverable	12/31/2018	1	9.04	mg/L	804%
Lead, total recoverable	12/31/2021	69	16.5	ug/L	
Lead, total recoverable	6/30/2021	69	5	ug/L	
Lead, total recoverable	12/31/2020	69	84.5	ug/L	22%
Lead, total recoverable	6/30/2020	69	38.2	ug/L	
Lead, total recoverable	12/31/2019	69	1.8	ug/L	
Lead, total recoverable	6/30/2019	69	33.8	ug/L	
Lead, total recoverable	12/31/2018	69	61.5	ug/L	
Oil & Grease	12/31/2021	15	5	mg/L	

Exhibit 1: Benchmark Monitoring Results for the WCDEF Brockway Place Transfer Station (NYR00C354) from January 2018 to March 2022. Exceedances of Benchmark Cut-Off concentrations are identified in gold highlight.

Oil & Grease	12/31/2021	15	5	mg/L	
Oil & Grease	6/30/2021	15	5	mg/L	
Oil & Grease	6/30/2021	15	5	mg/L	
Oil & Grease	12/31/2020	15	11.8	mg/L	
Oil & Grease	12/31/2020	15	11.8	mg/L	
Oil & Grease	6/30/2020	15	5	mg/L	
Oil & Grease	6/30/2020	15	5	mg/L	
Oil & Grease	12/31/2019	15	5	mg/L	
Oil & Grease	12/31/2019	15	5	mg/L	
Oil & Grease	6/30/2019	15	5	mg/L	
Oil & Grease	6/30/2019	15	5	mg/L	
Oil & Grease	12/31/2018	15	7.74	mg/L	
Oil & Grease	12/31/2018	15	7.74	mg/L	
Solids, total suspended	3/31/2022	100	1260	mg/L	1160%
Solids, total suspended	12/31/2021	100	112	mg/L	12%
Solids, total suspended	12/31/2021	100	157	mg/L	57%
Solids, total suspended	9/30/2021	100	4071340	mg/L	4071240%
Solids, total suspended	6/30/2021	100	150	mg/L	50%
Solids, total suspended	6/30/2021	100	383	mg/L	283%
Solids, total suspended	3/31/2021	100	415	mg/L	315%
Solids, total suspended	12/31/2020	100	2866	mg/L	2766%
Solids, total suspended	12/31/2020	100	270	mg/L	170%
Solids, total suspended	9/30/2020	100	200	mg/L	100%
Solids, total suspended	6/30/2020	100	122	mg/L	22%
Solids, total suspended	6/30/2020	100	840	mg/L	740%
Solids, total suspended	3/31/2020	100	120	mg/L	20%
Solids, total suspended	12/31/2019	100	195	mg/L	95%
Solids, total suspended	12/31/2019	100	110	mg/L	10%
Solids, total suspended	9/30/2019	100	940	mg/L	840%
Solids, total suspended	6/30/2019	100	58.3	mg/L	
Solids, total suspended	6/30/2019	100	870	mg/L	770%
Solids, total suspended	3/31/2019	100	960	mg/L	860%
Solids, total suspended	12/31/2018	100	100	mg/L	0%
Solids, total suspended	12/31/2018	100	1220	mg/L	1120%
Solids, total suspended	9/30/2018	100	144	mg/L	44%
Toluene	12/31/2021	50	0.5	ug/L	
Toluene	6/30/2021	50	0.5	ug/L	
Toluene	12/31/2020	50	0.5	ug/L	
Toluene	6/30/2020	50	0.5	ug/L	
Toluene	12/31/2019	50	50	ug/L	
Toluene	6/30/2019	50	0.5	ug/L	
Toluene	12/31/2018	50	1.1	ug/L	
Xylene [mix of m+o+p]	12/31/2021	50	1	ug/L	
Xylene [mix of m+o+p]	6/30/2021	50	1	ug/L	

Exhibit 1: Benchmark Monitoring Results for the WCDEF Brockway Place Transfer Station (NYR00C354) from January 2018 to March 2022. Exceedances of Benchmark Cut-Off concentrations are identified in gold highlight.

Xylene [mix of m+o+p]	12/31/2020	50	290	ug/L	480%
Xylene [mix of m+o+p]	6/30/2020	50	1	ug/L	
Xylene [mix of m+o+p]	12/31/2019	50	1	ug/L	
Xylene [mix of m+o+p]	6/30/2019	50	1	ug/L	
Xylene [mix of m+o+p]	12/31/2018	50	1	ug/L	
Zinc, total recoverable	12/31/2021	110	237	ug/L	115%
Zinc, total recoverable	6/30/2021	110	47.1	ug/L	
Zinc, total recoverable	12/31/2020	110	723	ug/L	557%
Zinc, total recoverable	6/30/2020	110	1280	ug/L	1064%
Zinc, total recoverable	12/31/2019	110	282	ug/L	156%
Zinc, total recoverable	6/30/2019	110	235	ug/L	114%
Zinc, total recoverable	12/31/2018	110	310	ug/L	182%



April 22 , 2022

Melissa-Jean Rotini, Esq.  
Assistant Commissioner – Environmental Projects  
Westchester County Department of Environmental Facilities

To whom it may concern,

Following is a general description of the proposed installation, commission, and maintenance of a BMP solution to address constituents of concern prior to discharge of stormwater runoff from the Westchester County White Plains Transfer Station.

Previous conducted feasibility studies identified COD and metals in exceedance of permitted levels indicating a further reduction of trash, sediment, and debris, in combination with filtration is warranted to achieve levels acceptable for discharge of site stormwater runoff during operational conditions. Due to limited site footprint constraints, the existing hydraulic profile, to minimize impact of site operations, to maximize operational and maintenance efficiency of the proposed BMP, a system utilizing a two-step BMP process is envisioned. First a barrier separation step for removal of trash, sediment, and debris, followed by filtration vault utilization AbTech's Smart Sponge Variants to capture fine particulate and adsorb soluble constituent's concern. The vault will include a inline extreme storm event bypass to avoid site flooding potential.

The following, project and program phases will be applied:

**90 Days – Site Reveiw (Including, Drainage, Erosion & Sedimentation Control, Utility Indentification)** Note: During this phase an onsite pilot will be conducted to validate parameters, including but not limited to removal efficiencies, kinetics, and capacities.

**6-8 Weeks Fabrication & Delivery**

**3-4 weeks Installation, Commissioning and Final Paving (includes time for compaction prior to final paving)**

**Maintenance (cleanout and media replacement) and Monitoring (Quarterly)**

The estimated +/-20% total installed, fully operational cost (Fabrication, Delivery, Installation and Commissioning), based on current know site limitations and basis of sizing (for example 2 yr. storm event) is \$500,000.

A handwritten signature in black ink, appearing to read "Robert C. Backman".

**Robert C. Backman**  
Chief Technology Officer  
AbTech Industries



Model	Width (ft)	Height (ft)	Length (ft)	Treated Water Flow Rate (cfs)	Peak Flow Rate (cfs)	Inlet/Outlet Pipe Size (Max)	Minimum Number of Mainways	Smart Sponge® Media (cu-ft)	Trash Debris Storage Capacity (cu-ft)	Oil Capacity (gal)	**Metals Sorption Capacity (cu-ft)	DESCRIPTION			
												Smart Vault® Product Line			
SVB46	4	6	6	1.0	8.1	18"	2	4.5	0.3	34.2	4.5	FINISH	STD. TOLERANCE UNLESS OTHERWISE NOTED .xTOL1 .xxTOL2 .xxxTOL3 FRAC.TOL4 ANG.TOL5		
SVB68	6	6	8	1.6	17	24"	2	7.5	0.8	62.1	7.5	MATERIAL SPECIFIED	APPLICATION		
SVB812	8	6	12	3.0	22	24"	2	14	1.7	118	14	QTY	ITEM NO.	PART NUMBER	PART NUMBER
SVB1016	10	6	16	4.0	31	30"	3	18	2.9	157	18				
SVB1216	12	6	16	5.5	96	48"	3	28	3.4	231	28				

Model dimensions, as stated, can be adjusted to meet site requirements or project specific design criteria. For detail drawings and engineering assistance, please contact AbTech Technical Support (480) 874-4000  
\*\* Based on using Smart Sponge® HM

## Not for Construction Contact AbTech for Project Specific Information

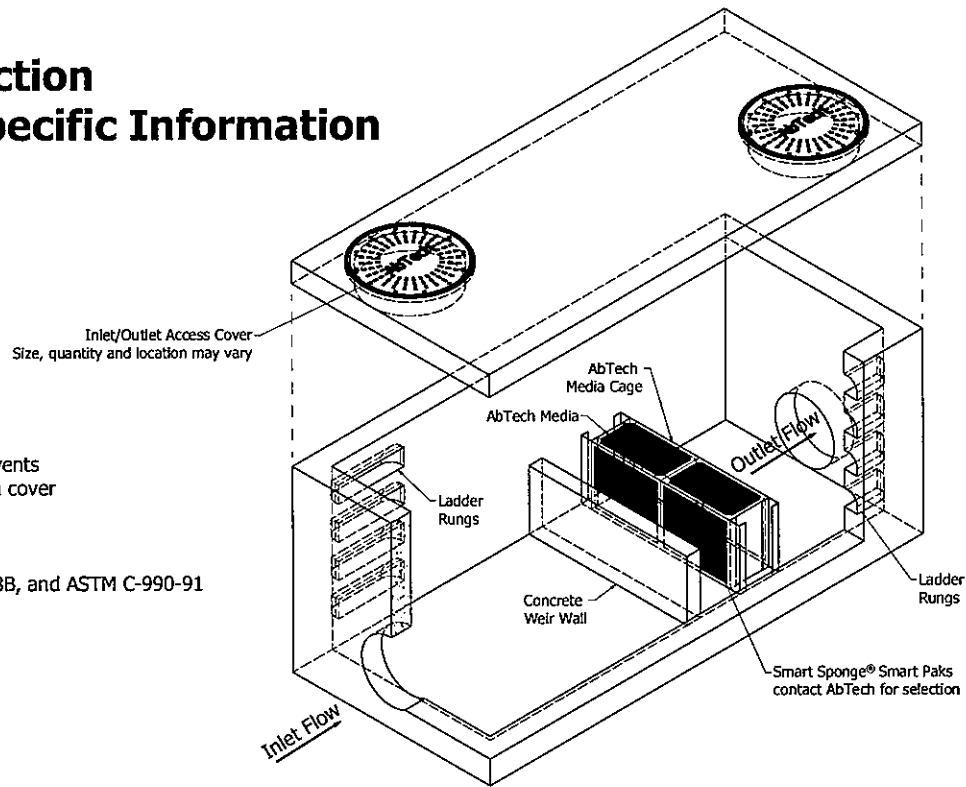
The following information relates to the product shown:

### Structure Notes:

- Weir wall designed to allow standing water to drain down between storm events
- Vault design complies with ASTM C-857 and C-858 with less than 2' of earth cover and an AASHTO HS-20 loading
- Reinforcing: Meets ASTM A615 Grade 60
- Top, bottom, and walls are typically 6" in thickness
- Joint Sealant: Butyl Rubber to that meets SS-S-210 (210-A), AASHTO M-198B, and ASTM C-990-91
- Internal Bypass Included

### Optional Design Features:

- Anti-Floatation Collar
- Access Hatch
- Floatable, Trash & Debris Discharge Cage
- External By-pass Design
- Smart Sponge® Media must meet project specific contaminant removal specifications



PROJECT NAME:	LOCATION:	<p style="font-size: small; margin: 0;">4110 N. Scottsdale Rd., Suite. 235 Scottsdale, AZ 85251, USA F: (480) 970-1665 P: (480) 874-4000 www.abtechindustries.com</p>
PROJECT CONTACT ENGINEER:	CONTACT:	
SITE MANAGER:		
These drawings are the property of AbTech Industries, Inc. Drawings may not be printed, reproduced or used without the prior written consent of AbTech Industries, Inc.		
Smart Vault® with Smart Sponge® Media		
SCALE: 1 / 13		
PROJECT ENGINEER:		
DRAWN BY: ERIC REED		
DESIGNED BY:		
CHECKED BY:		
ISSUE DATE: 4/7/2020		
PROJECT NO.:		
SHEET TITLE: Smart Vault Product Line		
SHEET NUMBER: 1 OF 1		

Exhibit K:  
NYSDEC Consent Order



**STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of Violations of Article 17 of the  
Environmental Conservation Law ("ECL") and  
Title 6 of the Official Compilation of Codes, Rules,  
And Regulations of the State of New York,

-by-

Westchester County;

**ORDER ON CONSENT**

**NYSDEC Case No.  
R3-20170508-87**

Respondent.

**WHEREAS:**

1. The New York State Department of Environmental Conservation ("NYSDEC" or the "Department") is an executive agency of the State of New York with jurisdiction to enforce the environmental laws of the state pursuant to New York State Environmental Conservation Law ("ECL") § 3-0301.
2. It is the Department's responsibility to conserve, improve, and protect New York State's natural resources and environment, and control pollution to enhance the health, safety, welfare, and overall economic and social well-being of the people of the State.
3. The Department is responsible for the administration and enforcement of laws, regulations and management of Water Pollution Control and the State Pollutant Discharge Elimination System ("SPDES") and permits issued thereunder, pursuant to ECL Article 17 and 6 NYCRR Parts 700 et seq. and 750 et seq.
4. Westchester County (the "Respondent") maintains offices at 148 Martine Avenue, White Plains, New York 10601-4704.

5. The Respondent is the owner of the Thruway Transfer Station located off the New York State Thruway Exit 6A, Yonkers, New York 10710 (the "Thruway Transfer Station"). The Respondent has a SPDES Multi-Sector General Permit (MSGP), (Permit No. GP-0-12-001), #NYR00C353 (the "MSGP") for stormwater discharges associated with industrial activity at the Thruway Transfer Station.

6. Department staff documented violations by the Respondent at the Thruway Transfer Station in a Notice of Violation dated May 4, 2017.

7. The MSGP requires the Respondent to submit annual and quarterly Discharge Monitoring Reports (DMRs) to the Department. Department staff reviewed the DMRs the Respondent submitted to the Department for the Thruway Transfer Station for September 2013 through March 2017. The DMRs document that the Respondent exceeded the benchmark cutoff concentrations as prescribed in the MSGP for total suspended solids (3), chemical oxygen demand (31 times), oil and grease (4), total recoverable aluminum (3), total recoverable cadmium (1), total recoverable copper (4), total recoverable iron (4), and total recoverable zinc (4) a total of 54 times from September 2013 through March 2017.

8. The MSGP states that if a benchmark cutoff concentration for one or more parameters is exceeded, the facility owner or operator must remedy any identified stormwater contamination problems to prevent recurrence (MSGP Part IV.B.1.c(6) and Part IV.B.1.g(6)). Failure to take the necessary corrective actions to prevent the recurrence of a stormwater contamination problem is a violation of the MSGP (MSGP Part IV.B.1.c(6)(d)(iii) and Part IV.B.1.g(6)(d)(i)).

9. The Respondent did not take the necessary corrective actions to prevent the recurrence of stormwater contamination problems at the Thruway Transfer Station, as required by the MSGP. 6 NYCRR 750-2.1(e) states that a permittee must comply with all terms and conditions of their SPDES permit. The Respondent did not comply with the MSGP because they did not take necessary corrective actions at the Thruway Transfer Station, in violation of 6 NYCRR 750-2.1(e).

10. ECL § 71-1929 provides that a person who fails to perform any duty imposed by Titles 1 through 11 Inclusive and title 19 of Article 17, the rules and regulations promulgated thereunder, or orders or determinations of the commissioner promulgated thereto, shall be liable for a penalty not to exceed thirty-seven thousand, five hundred dollars (\$37,500) per day for each violation, and may be enjoined from any continuing violation.

11. Respondent admits these violations and affirmatively waives the right to a public hearing in this matter in the manner provided by 6 NYCRR Part 622, consents to the issuing and entering of this Order, agrees to be bound by the terms, provisions, and conditions of this Order, including the Compliance Schedule attached hereto, and waives the right to a public hearing in any matter that may arise under the terms of this Order.

**NOW, having considered this matter and being duly advised, it is ORDERED that:**

**I. Civil Penalty.**

Respondent shall be liable to pay a civil penalty in the amount of SEVEN THOUSAND DOLLARS (\$7,000), which is payable to the Department upon Respondent's return of an executed copy of this Order to the Department. The DEC case number appearing on the first page of this Order shall be endorsed on the face of the check. The civil penalty shall be paid by check, bearing the signature of Respondent, made payable to the "Department of Environmental Conservation" and forwarded to the Regional Attorney, New York State Department of Environmental Conservation, Region 3, 21 South Putt Corners Road, New Paltz, New York 12561.

**II. Schedule of Compliance.**

Respondent shall strictly comply with the terms of this Order and with the attached Schedule of Compliance, including any report(s), plan(s), proposal(s), and other submissions made pursuant thereto. The Schedule of Compliance and all such submissions are hereby deemed incorporated into this Order, upon approval by the Department if such approval is required, and shall be fully enforceable as part of this Order.

**III. Notice of Noncompliance.**

In the event that the Department determines, in the Department's reasonable discretion, that the Respondent has failed to timely and fully comply with any provision of this Order, the Department may serve upon the Respondent a notice of noncompliance setting forth the nature of the violation(s). Service of such notice may be

by personal service or by certified mail return receipt requested (restricted delivery not required) at the Respondent's address as specified in Paragraph 3 of this Order, or, if such service is refused or cannot be completed, by ordinary mail. In the event the Respondent has been served a Notice of Noncompliance for items required in this Order or the attached Schedule of Compliance, Respondent shall be granted a reasonable period from receipt of such notice to comply with those identified items without incurring penalty for the identified noncompliance, which shall not exceed thirty (30) days. Within thirty (30) days of receipt of such notice from the Department, Respondent shall submit proof of compliance to the Department, or Respondent may submit a request to the Department for additional time to achieve compliance together with supporting documentation for the request, the approval of such request not to be unreasonably withheld.

#### **IV. Full Settlement.**

Until fully remediated in accordance with this Order, all violations described above shall be considered continuing violations. The Department shall not institute any action or proceeding for penalties or other relief for the violations described above other than those actions and penalties set forth in this Order, for so long as Respondent remains in compliance with this Order. Any failure by Respondent to comply fully with the terms of this Order may subject the Respondent to further enforcement action for the violations described above. Compliance with this Order shall not excuse nor be a defense to charges of any violations of the ECL or any regulation or permit issued thereunder, which may occur subsequent to the date of this Order, except as provided herein.

**V. Submission.**

All reports and submissions required herein shall be delivered to the Department in person, via mail, or email in PDF format to:

Regional Water Engineer  
Division of Water  
New York State Department of Environmental Conservation, Region Three  
100 Hillside Avenue  
White Plains, New York 10603  
Re: Case No. R3-20170508-87

Respondent shall be responsible for the content of any submissions made pursuant to this Order and shall certify in writing to the Department that such submission complies with the requirements set forth in this Order. Submission of any material containing assertions of fact shall be considered an affirmative representation by Respondent of the truth of such assertions. Respondent shall be in violation of this Order if any submission is of such poor quality that it does not constitute a good faith effort to comply with the provisions of this Order.

**VI. Review of Submitted Remedial Plans and Proposals.**

After review of any remedial plan or proposal required by this Order and its Schedule of Compliance, the Department shall notify Respondent, in writing, of its approval or disapproval of the submission. If the Department approves the submission, Respondent shall implement it in accordance with its schedule and terms, as approved. If the Department disapproves the submission, the Department shall provide to Respondent written notice of its disapproval, specifying with reasonable particularity the grounds for disapproval. Within thirty (30) days after Respondent receives written notice of disapproval, Respondent shall submit a revised submission which fully responds to each of the Department's specified grounds for disapproval. After the Department's

receipt of Respondent's revised submission, the Department shall notify Respondent, in writing, of its approval or disapproval. If the Department approves the revised submission, Respondent shall implement it in accordance with its schedule and terms, as approved. If the revised submission is not approvable as submitted, the Department, at its option, may disapprove it or may approve it on condition that Respondent accept such modifications as may be specified by DEC to make it approvable. If the Respondent does not accept such modifications, the revised submission will be disapproved. If the Department disapproves the revised submission, the Respondent shall be in violation of this Order. Upon Department approval, a submission or revised submission shall be deemed incorporated into this Order.

**VII. Notice of Work.**

Respondent shall provide notice to the Department of any excavating, drilling, sampling, construction, or start-up of equipment to be conducted pursuant to the terms of this Order, if any, at least five (5) working days in advance of such activities.

**VIII. Inspections.**

For the purpose of insuring compliance with this Order, and with applicable provisions of the ECL and regulations promulgated thereunder, representatives of this Department shall be permitted access to the facility and to relevant records during reasonable hours to inspect and/or perform such tests which the Department deems appropriate to determine the status of Respondent's compliance.

**IX. Conveyance.**

In the event that Respondent proposes to convey the whole or any part of its ownership interest in the Facility, Respondent shall, not less than thirty (30) days prior

to the consummation of such proposed conveyance, notify the Department in writing of the identity of the transferee and of the nature and date of the proposed conveyance. In advance of such proposed conveyance, Respondent shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

**X. Other Approvals.**

Respondent shall be obligated to obtain whatever permits, easements, rights of entry, approvals, or authorizations that may be necessary in order to carry out its obligations under this Order. This Order shall not relieve the Respondent of the obligation to comply with any other laws, rules, or regulations of the State of New York or any other governmental authority which are applicable to Respondent's activities, nor preclude or limit such enforcement action as may be authorized by law for any such violation.

**XI. Other Remedies; Natural Resource Damages.**

(a) Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting (1) any legal, administrative, or equitable rights or claims, actions, suits, causes of action, or demands whatsoever that the Department may have against anyone other than Respondent; (2) the Department's right to enforce, administratively or at law or in equity, the terms, provisions and conditions of this Order against Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that Respondent shall be in breach of the provisions hereof; (3) the Department's right to bring any action, administratively or at law or in equity against Respondent, its directors, officers, employees, servants, agents, successors and assigns which the Department could otherwise maintain with respect to areas or



resources that may have been affected or contaminated as a result of the release or migration of wastes from the site or from areas in the vicinity of the site, or to require that Respondent take such additional measures as may be necessary for the protection of public health or the environment, including interim remedial measures; (4) the Department's right to commence any action or proceeding relating to or arising out of any disposal of hazardous wastes at the site, as those wastes are defined by applicable regulation; or (5) the Respondent's right to challenge any such action by the Department, whether by administrative hearing or otherwise, to the extent otherwise permitted by law.

(b) Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights or authorities, including the right to recover natural resource damages, against any party, including Respondent.

(c) This Order shall not be construed to prohibit the Commissioner or the Commissioner's duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

## **XII. Indemnification.**

Respondent or any successors, assigns, or transferees, shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of

this Order by Respondent, its directors, officers, employees, servants, agents, successors, or assigns.

**XIII. Force Majeure.**

Respondent shall not be in default of compliance with this Order to the extent that Respondent may be unable to comply with any provision of this Order because of the action of a national or local government body or court, an act of God, war, strike, riot or catastrophe as to any of which the negligence or willful misconduct on the part of Respondent was not a proximate cause; provided, however, that Respondent shall use its best efforts to comply. Respondent shall provide written notice to the Department immediately upon obtaining knowledge of such event. In addition, Respondent shall, within twenty-one (21) days of such event, provide written request to the Department for an appropriate extension or modification to this Order, along with documentation evidencing entitlement to relief herein. Relief under this clause shall not be available to Respondent, with regard to a particular event, if Respondent fails to provide timely notice of such event. The Respondent shall have the burden of proving entitlement to relief under this clause, by clear and convincing evidence.

**XIV. Modification.**

This Order may not be modified except in a writing executed by the DEC Commissioner or the DEC Commissioner's authorized representative. Reasonable requests for amendments, extensions, and/or modifications shall not be unreasonably withheld.

**XV. Default.**

The failure of Respondent to comply fully and in timely fashion with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL, and may constitute sufficient grounds for revocation pursuant to 6 NYCRR 621.13 of any permit, license, certification, or approval issued to the Respondent by the Department.

**XV. Default of Payment.**

The penalty assessed in the Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty become due.

**XVI. Entire Agreement.**

The provisions hereof shall constitute the complete and entire Order between Respondent and the Department concerning the violations set forth above. No terms, conditions, understandings, or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing pursuant to Paragraph XIV hereof. No informal advice, guidance, suggestions, or comments by the Department regarding reports, proposals, plans, specifications, schedules, or any other writing submitted by

Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

**XVII. Binding Effect.**

This Order shall be deemed to bind the Respondent, its officers, directors, agents, employees, contractors, successors, and assigns, and all persons, firms, and corporations acting under or for Respondent, including, without limitation, any subsequent operator of the Facility who may carry on activities now conducted by Respondent at the Facility, and any successor in title to the Facility or any interest therein. Respondent shall provide a copy of this Order (including any submissions incorporated herein) to any contractor or subcontractor hired to perform work required under this Order, and shall require compliance with this Order as a term of any contract entered into after the effective date of this Order for performance of work under this Order. Respondent shall nonetheless be responsible for ensuring that all work performed under this Order is in compliance with the terms of the Order.

**XVIII. Effective Date.**

This Order shall not become effective until it is signed by the Regional Director on behalf of the Commissioner.


**XIX. Termination**

This Order will terminate when its requirements are completed to the Department's satisfaction.

Dated: New Paltz, New York  
1/27, ~~2018~~ 2020

*Kid*

BASIL SEGGOS  
Commissioner, NYSDEC

By:   
KELLY R. TURTURRO  
Regional Director, NYSDEC Region 3

**CONSENT BY RESPONDENT**

The Respondent, Westchester County, hereby consents to the issuance and entry of this Order without further notice, waives its right to a hearing in this matter, and agrees to be bound by the terms, conditions, and provisions of this Order. The undersigned represents and affirms that they have the legal authority to bind the Respondent to the terms and conditions of this Order.

Westchester County

By: *[Handwritten Signature]*

Title: Commissioner  
County of Westchester  
Department of Environmental  
Facilities

**ACKNOWLEDGMENT**

On this 8<sup>th</sup> day of January, in the year 2020, before me, the undersigned, personally appeared Vincent P. Kopicki, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) as shown in the instrument, and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

*[Handwritten Signature]*  
Notary Public

MELISSA-JEAN ROTINI  
NYS Notary #02-RO6208568  
Qual. West.Co.- Exp. 07/06/20-2-1

**SCHEDULE A**

**Schedule of Compliance for Order on Consent**

**Respondent:** Westchester County  
**Site or Facility:** Thruway Transfer Station  
**DEC Case No.:** R3-20170508-87

1. All submissions pursuant to this Schedule of Compliance are incorporated into this Order, upon approval by the Department if such approval is required, and shall be fully enforceable.

2. Please reference DEC Case No. R3-20170508-87 on all submissions. All submissions pursuant to this Schedule of Compliance shall be made to:

Regional Water Engineer  
Division of Water  
New York State Department of Environmental Conservation, Region Three  
100 Hillside Avenue  
White Plains, New York 10603

3. **Remedial Activities and Milestones:** Respondent(s) shall timely perform the activities set forth below in a good and workmanlike manner and supply all required labor, equipment, and materials at Respondent's own cost and expense.

**I. Immediately upon the effective date of this Order:**

The Respondent shall submit to the Department a revised Operations and Maintenance Plan for the Thruway Transfer Station that reflects the measures implemented to (a) minimize the number of loaded trailers and trucks present at any one time and (b) reduce the surface area upon which loaded and unloaded trailers and trucks are allowed to minimize the generation of leachate pursuant to 6 NYCRR 360.19. The revised Operations and Maintenance Plan shall be submitted to:

Division of Materials Management  
New York State Department of Environmental Conservation, Region Three  
21 South Putt Corners Road  
New Paltz, New York 12561  
Re: Case No. R3-20170508-87

**II. Within 30 days of the effective date of this Order:**

The Respondent shall submit to the Department an engineering report and site map, certified by a Professional Engineer licensed in the State of New York, evaluating the currently existing drainage system at the Thruway Transfer Station. The engineer must verify the current drainage connections between all existing storm drains, sampling locations, and outfall locations for the Thruway Transfer Station.

**III. Within 3 months of the effective date of this Order:**

The Respondent shall submit to the Department for approval a Drainage Modification Report, certified by a Professional Engineer licensed in the State of New York, that provides results of field investigations and design details for proposed drainage modifications at the Thruway Transfer Station. The Drainage Modification Report shall incorporate structural and non-structural best management practices to minimize exposure and separate sources of leachate to prevent it from entering the stormwater drainage system.

The Drainage Modification Report shall also include a plan for short-term, high frequency monitoring. Six samples shall be collected within the nine-month period following the completion of the drainage modifications.

**IV. Within 1 year of the Department's written approval of the Drainage Modification Report:**

The Respondent shall complete the work in the Drainage Modification Report.

**V. Within 2 years of the Department's written approval of the Drainage Modification Report:**

The Respondent shall submit to the Department for approval a Corrective Action Plan, certified by a Professional Engineer licensed in the State of New York, that includes long term corrective actions and a schedule to bring the Respondent into compliance with the MSGP at the Thruway Transfer Station. The Corrective Action Plan shall include a Comprehensive Site Compliance inspection of the Thruway Transfer Station. The Corrective Action Plan shall also evaluate site conditions, verify the effectiveness of the drainage modifications, and evaluate the impact on effluent quality from the timing of operation and maintenance tasks prior to storm events.

The Corrective Action Plan shall provide an analysis of the short-term, high frequency monitoring samples collected during the nine-month period following the completion of the approved work in the Drainage Modification Report. The samples must be analyzed for all pollutants of concern with benchmark cut-off concentrations for Department MSGP Sector N-2 and P.



If the Corrective Action Plan proposes a treatment system subject to an individual SPDES permit, the report shall include an appropriate permit application.

Upon receiving written approval from the Department, this Corrective Action Plan shall be incorporated into and enforceable under this Order.



Department of Environmental Conservation

NUMBER 631867

RECEIPT

Region Number 3 Date 11/27/2020  
 Location New Paltz Division Legal Affairs  
 Received of County of Westchester  
 In the amount of Seven thousand.00/100 \$ 7,000  
 For Civil Penalty - Article 17  
R3-200170508-87

Cash Department Representative Donna Holmes  
 Check Number 02224518 Title A.I.  
 Money Order

ORIGINAL

Exhibit A:  
District Report dated June 2024

Exhibit B:  
Resolution No.: \*\*\*, setting a public hearing for \*\*\*, 2024, at 7:00 p.m., and proof of  
publication

Exhibit C:  
Act No.: \*\*\*, adopted \*\*\*, 2024, along with the Committee Report, making determinations on  
the increase and improvements

Exhibit D:

Act No.: \*\*\*, adopted \*\*\*, 2024, authorizing the submission of a Petition to the Comptroller

Exhibit E:  
Legal Opinion

Exhibit F:

A certified copy of Resolution No.: \*\*\*, reaffirming the BOL's prior determinations on this matter following review of the instant Application, and determining accuracy of the Verified Application