

# Budget & Appropriations Meeting Agenda



Committee Chair: Jewel Williams Johnson

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

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**Monday, March 25, 2024**

**10:00 AM**

**Committee Room**

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## CALL TO ORDER

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

## MINUTES APPROVAL

### I. ITEMS FOR DISCUSSION

1. [2024-162](#) **PH-Sewer District Mod.-Return-Briarcliff Manor**

A RESOLUTION to set a Public Hearing on "AN ACT to modify the Saw Mill Sanitary Sewer District by the addition of one (1) parcel of property located in the Village of Briarcliff Manor." [Public Hearing set for \_\_\_\_\_, 2024 at \_\_\_\_\_ .m.]. ACT INTRO: 2024-163.

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

Joint with PWT.

Guests: Department of Environmental Facilities

Commissioner Vincent Kopicki

Assistant Commissioner Nat Federici

Director of Maintenance Marian Pompa

Director of Maintenance Steve Elie-Pierre

**2. [2024-163](#) ACT-Sewer District Mod.-Return-Briarcliff Manor**

AN ACT to modify the Saw Mill Sanitary Sewer District by the addition of one (1) parcel of property located in the Village of Briarcliff Manor.

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

Joint with PWT.

Guests: Department of Environmental Facilities

Commissioner Vincent Kopicki

Assistant Commissioner Nat Federici

Director of Maintenance Marian Pompa

Director of Maintenance Steve Elie-Pierre

**3. [2024-153](#) BOND ACT-SPC03-Port Chester WWTP-Electrical System Upgrade**

A BOND ACT authorizing the issuance of ELEVEN MILLION (\$11,000,000) DOLLARS in bonds of Westchester County to finance Capital Project SPC03 - Port Chester Waste Water Treatment Plant - Electrical System Upgrade.

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

Joint with PWT.

Guests: Department of Environmental Facilities

Commissioner Vincent Kopicki

Assistant Commissioner Nat Federici

Director of Maintenance Marian Pompa

Director of Maintenance Steve Elie-Pierre

**4. [2024-150](#) ACT - Retainer Agreement with Sheppard Mullin for DPW Contract 17-534**

AN ACT authorizing the County of Westchester to retain, at County expense, the law firm of Sheppard, Mullin, Richter & Hamilton LLP, for the provision of outside counsel legal services in connection with a dispute concerning Department of Public Works & Transportation Contract No. 17-534.

**COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS**

Joint with LMC.

Guest: Law Department

County Attorney John Nonna

5. [2024-149](#) **ACT - Lawsuit Settlement Fentresse/Malloy v Szilva, WCPD and County of Westchester**

AN ACT authorizing the County Attorney to settle the lawsuit of Baase Fentresse and Marian Malloy v. Justin Szilva, Westchester County Police Department and County of Westchester, in the amount of FOUR HUNDRED FIFTY THOUSAND (\$450,000) DOLLARS, inclusive of attorney's fees.

**COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS**

Joint with LMC.

Guest: Law Department

Deputy County Attorney Jane Hogan Felix


## II. OTHER BUSINESS

## III. RECEIVE & FILE

## ADJOURNMENT

March 13, 2024

TO: Hon. Vedat Gashi, Chair  
Hon. Jose Alvarado, Vice Chair  
Hon. Tyrae Woodson-Samuels, Majority Leader  
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer   
Westchester County Executive

RE: **Message Requesting Immediate Consideration: Act – Modify Saw Mill  
Sanitary Sewer District – Return 1 Parcel.**

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This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators March 18, 2024 Agenda.

I have been advised by the Commissioner of the Department of Environmental Facilities that the Village of Briarcliff Manor (“Village”) has requested pursuant to the attached Resolution of the Village that the Saw Mill Sanitary Sewer District (“District”) be modified to return one (1) parcel of property.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 18, 2024 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



**George Latimer**  
County Executive

March 13, 2024

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

Dear Honorable Members:

I have been advised by the Commissioner of the Department of Environmental Facilities that the Village of Briarcliff Manor (“Village”) has requested pursuant to the attached Resolution of the Village that the Saw Mill Sanitary Sewer District (“District”) be modified to return one (1) parcel of property more particularly described by street address and tax map designation as 154 South State Road, Section 98.19, Block 2, Lot 19 (the “Returning Parcel”) to the District. The Returning Parcel was previously part of the District but was removed from the District by your Honorable Board in 2001 for the 2002 tax year.

I am advised that the analysis prepared by the Department of Environmental Facilities (the “Department”) dated January 30, 2024 and attached hereto indicates that the proposed addition of the Returning Parcel represents an increase of 0.0000206 (0.00206%) to the Equalized Full Value of the District. Therefore, the addition of the Returning Parcel will not cause significant changes in the tax rate of the District.

According to the Department, the proposal to add the Returning Parcel to the District is feasible because: 1) the matter was requested by the Village; 2) the facilities necessary to connect the Returning Parcel to County facilities (i.e., Gravity Sewers) will be constructed at the total expense of the Village; 3) maintenance of the completed facilities will be the responsibility of the Village and not the District; 4) the Yonkers Joint Water Resource Recovery Facility has a design flow of 120.0 MGD and the present average daily flow is 86.0 MGD. The daily flow the Returning Parcel will generate after inclusion is 200 GPD. The plant and the County Trunk Sewer have sufficient capacity to accommodate the Returning Parcel; 5) the subject expansion will not result in any significant effect on the tax structure of the District; and 6) the territory proposed to be added to the District is not now in any County sewer district and will be required to pay a surcharge over a ten-year period.

As your Honorable Board knows, County Administrative Code section 237.131 authorizes the alteration or change of a County Sanitary Sewer District. However, the Board of Legislators may only alter or change a district after it has held a public hearing after notice has been given by publication in such manner and for such time as the Board of Legislators shall direct. Therefore, attached hereto is a Resolution which will authorize the date and time for the public hearing.

Furthermore, Sections 237.131 and 237.141 of the County Administrative Code confer authority to determine what charges will be paid by the Returning Parcel. The Department recommends an aggregate surcharge of One Thousand Eight Hundred Seventy Dollars (\$1,870.00), or One Hundred Eighty-Seven Dollars (\$187.00) per annum to be paid in each of ten equal annual installments, be assessed against the Returning Parcel. This surcharge reflects capital costs incurred from 2002 through 2023, the years the Returning Parcel did not contribute to the District tax levies. This formula has been used in past legislation for parcels returned to a sanitary sewer district.

Based on the above facts and the feasibility study provided by the Department, I respectfully recommend that your Board adopt a resolution which will authorize a date and time for the public hearing as required by the Administrative Code in such matters. In addition, I urge your Board to file with the Clerk of the Board the Feasibility Report and, after the public hearing, adopt an Act which will add the Returning Parcel to the District.

Sincerely,



George Latimer  
County Executive

GL/VK/MP/jpg  
Attachments

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

Your Committee is in receipt of a transmittal from the County Executive in which the County Executive states that the Commissioner of Environmental Facilities has advised him that the Village of Briarcliff Manor (“Village”) has requested, pursuant to the attached Resolution of the Village, that the Saw Mill Sanitary Sewer District (“District”) be modified to return one (1) parcel of property more particularly described by street address and tax map designation as 154 South State Road, Section 98.19, Block 2, Lot 19 (“Returning Parcel”) to the District. The Returning Parcel was previously part of the District but was removed from the District by your Honorable Board in 2001 for the 2002 tax year.

Your Committee is informed that the attached Feasibility Report prepared by the Department of Environmental Facilities (the “Department”) dated January 30, 2024 and attached hereto, indicates that the proposed addition of the Returning Parcel represents an increase of 0.0000206 (0.00206%) to the Equalized Full Value of the District. Therefore, the addition of the Returning Parcel will not cause significant changes in the tax rate of the District.

According to the Department, the proposal to add the Returning Parcel to the District is feasible because: 1) the matter was requested by the Village; 2) the facilities necessary to connect the Returning Parcel to County facilities (i.e., Gravity Sewers) will be constructed at the total expense of the Village; 3) maintenance of the completed facilities will be the responsibility of the Village and not the District; 4) the Yonkers Joint Water Resource Recovery Facility has a design flow of 120.0 MGD and the present average daily flow is 86.0 MGD. The daily flow the Returning Parcel will generate after inclusion is 200 GPD. The plant and the County Trunk Sewer have sufficient capacity to accommodate the Returning Parcel; 5) the subject expansion will not result in any significant effect on the tax structure of the District; and 6) the territory proposed to be added to the District is not now in any County sewer district and will be required to pay a surcharge over a ten-year period.

Your Committee notes that Section 237.131 of the County Administrative Code authorizes the alteration or change of a sewer district. However, your Honorable Board may only alter or change the district after it has held a public hearing after notice has been given by publication in such manner and for such time as the Board shall direct. Therefore, attached hereto is a Resolution, which, if adopted by your Honorable Board, would set a date and time for the necessary public hearing. Your Committee recommends adoption of said Resolution.

Furthermore, Sections 237.131 and 237.141 of the County Administrative Code confer authority to determine what charges, if any, will be paid by the Returning Parcel. Your Committee has been informed that the Department recommends that an aggregate surcharge of One Thousand Eight Hundred Seventy Dollars (\$1,870.00), or One Hundred Eighty-Seven Dollars (\$187.00) per annum to be paid in each of ten equal annual installments, be assessed against the Returning Parcel. This surcharge reflects capital costs incurred from 2002 through 2023, the years the Returning Parcel did not contribute to the District tax levies. This formula has been used in past legislation for parcels returned to a sanitary sewer district.

The Planning Department has advised that based on its review, the proposed addition of the Returning Parcel may be classified as “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 attached SEQRA documentation and concurs with this recommendation.

Based on the above facts and the Feasibility Report prepared by the Department, your Committee concurs with the recommendation of the County Executive and recommends that your Honorable Board adopt the annexed Resolution which will set a date and time for the public hearing as required by the Administrative Code in such matters, and, after such hearing, urges your Honorable Board to adopt the annexed Act which accomplishes the addition of the Returning Parcel to the Saw Mill Sanitary Sewer District.



It should be noted that a vote of not less than a majority of the voting strength of the Board of Legislators is required to pass this Act.

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

COMMITTEE ON

K:JPG 2/05/2024

# FISCAL IMPACT STATEMENT

SUBJECT: 154 So State Rd, Saw Mill SSD, Briarcliff Manor

NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ \_\_\_\_\_ -

Total Current Year Revenue \$ \_\_\_\_\_ -

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses: Annual Amount \$ \_\_\_\_\_ -

Describe: Operating expenses related to process and treatment

plant expenses of additional flow from these parcels.

Potential Related Operating Budget Revenues: Annual Amount \$ \_\_\_\_\_ 187

Describe: "Buy-in" revenue for parcel added to the Saw Mill Sewer District each year

for the next 10 years

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \_\_\_\_\_

Next Four Years: \_\_\_\_\_

Prepared by: Marian Pompa, Jr. P.E. *WG*

Title: Director- Wastewater Treatment

Department: Environmental Facilities

Date: January 30, 2024

Reviewed By: *[Signature]*

Budget Director

Date: 3/11/24

TO: Vincent Kopicki, Commissioner  
Department of Environmental Facilities

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



DATE: March 6, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR REINSTATEMENT  
OF PROPERTY TO SAW MILL VALLEY SANITARY SEWER DISTRICT –  
154 SOUTH STATE ROAD, BRIARCLIFF MANOR**

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**PROJECT/ACTION:** The reinstatement of one parcel located in the Village of Briarcliff Manor—154 South State Road (Section 98.19, Block 2, Lot 19)—to the County’s Saw Mill Valley Sanitary Sewer District.

**With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:**

- DOES NOT MEET THE DEFINITION OF AN “ACTION” AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTIONS:**
  - **617.5(c)(13):** extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
  - **617.5(c)(26):** routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
  - **617.5(c)(33):** adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list.

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**COMMENTS:** The subject parcel was removed from the County sewer district in 2001, along with many other parcels that were not connected to sanitary sewers, at the request of the Village of Briarcliff Manor. The owner of the property would like the parcel to be reinstated. The parcel is approximately 0.83 acre in size, is located in the R20B zoning district, and is currently developed with a single-family residence. The parcel will be able to access the County sewer system via a connection to an existing local sanitary sewer line that runs along the rear of the property. The estimated total sewage contribution for the parcel is 200 gallons per day. Sewage from the Saw Mill Valley Sanitary Sewer District is treated at the Yonkers Joint Water Resource Recovery Facility

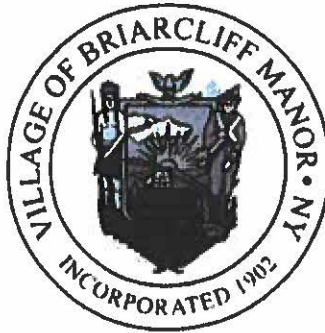
(WRRF). Since the WRRF has a design flow of 120 million gallons per day (MGD) and the present average flow is 86 MGD, the plant has sufficient capacity to accommodate the additional flow.

DSK/cnm

Att.

cc: Joan McDonald, Director of Operations  
Andrew Ferris, Chief of Staff  
Paula Friedman, Assistant to the County Executive  
Tami Altschiller, Assistant Chief Deputy County Attorney  
Blanca Lopez, Commissioner of Planning  
Marian Pompa, Director of Wastewater Treatment  
Jeffrey Goldman, Senior Assistant County Attorney  
Claudia Maxwell, Principal Environmental Planner

VILLAGE OF BRIARCLIFF MANOR  
1111 PLEASANTVILLE ROAD  
BRIARCLIFF MANOR, N.Y. 10510



WWW.BRIARCLIFFMANOR.GOV  
TELEPHONE: (914) 941-4800  
FAX: (914) 941-4837

**Addition of Parcel to Saw Mill Sewer District**

Upon motion by Deputy Mayor Chatzky, seconded by Trustee Midgley, the Board voted unanimously to approve the following resolution:

WHEREAS, on May 21, 2001, the Westchester County Board of Legislators adopted legislation to modify the Ossining and Saw Mill Sanitary Sewer Districts by removing a total of 332 parcels of property not currently connected to the County sewer system and treated at the County operated wastewater treatment plants; and

WHEREAS, the property at 154 South State Road, identified on the Village Tax Maps as Section 98, Plate 19, Block 2, Lot 19 ("Property"), was removed from the Saw Mill Sanitary Sewer District; and

WHEREAS, the owner of the Property asked the Board of Trustees to request the Westchester County Board of Legislations to extend the Saw Mill Sanitary Sewer District to add the Property, but not adjacent property, to that sewer district; and

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees hereby authorize the Village Engineer to submit a request to the Westchester County Board of Legislators for the addition of the Property into the Saw Mill Sanitary Sewer District.

Roll Call:

Trustee Mallett	Aye
Trustee Midgley	Aye
Trustee Hunt	Aye
Deputy Mayor Chatzky	Aye
Mayor Vescio	Aye




COUNTY OF WESTCHESTER  
DEPARTMENT OF ENVIRONMENTAL FACILITIES

January 30, 2024

**FEASIBILITY REPORT  
IN THE MATTER OF**

**THE ENLARGEMENT FOR A CERTAIN PARCEL  
IN THE  
SAW MILL SANITARY SEWER DISTRICT  
VILLAGE OF BRIARCLIFF MANOR, Town of Ossining**

  
MP Vincent F. Kopicki, P.E.  
Commissioner  
Environmental Facilities

The Village of Briarcliff Manor has petitioned that one (1) property currently not included in the Saw Mill Sanitary Sewer District be returned to the Saw Mill Sanitary Sewer District. This parcel was removed from the County Sewer District in 2001 for the 2002 tax year.

**A.** The identification of the one (1) property not currently within the boundaries of the Saw Mill Sanitary Sewer District and to be returned is contained in the attached Resolution prepared by the Village Clerk, Village of Briarcliff Manor. Said parcel is not currently in any County Sanitary Sewer District, having been removed from the County Sewer District in 2001 for the 2002 tax year. The identification of the one (1) property is as follows:

- 154 South State Road, Section 98.19, Block 2, Lot 19

**B.** Full Equalized Valuations, which are assessed values adjusted for equalization rates, form the basis on which the sewer district tax levies are apportioned by the County Board of Legislators. The following are the full equalized valuations in the 2024 tax levy pertinent to the subject parcel:

Full Value of District

<b>CITIES/TOWNS</b>	<b>ASSESSED VALUE</b>	<b>EQ. PERCENT</b>	<b>FULL VALUE</b>
Greenburgh	\$11,315,180,467	100.00%	\$11,315,180,467
Mt, Pleasant	\$154,922,230	1.13%	\$13,709,931,858
Mt. Pleasant - Briarcliff	\$2,559,455	1.13%	\$226,500,442
New Castle	\$286,445,460	14.80%	\$1,935,442,297
City of Yonkers	\$84,007,418	1.79%	\$4,693,151,844
Ossining - Briarcliff Manor	\$1,155,022,151	100.00%	\$1,155,022,151
Ossining	\$131,984,700	100.00%	\$131,984,700

Total \$33,167,213,759

(Village of Briarcliff Manor) Total Value of the  
Parcels to be added + 684,300

Total Full Value of District as Amended: \$33,167,898,059

\* represents a 0.00206% increase in the FEV of the District



C. The Surcharge Calculation for the parcel which is not now in a County Sewer District and is proposed for inclusion in the Saw Mill Sanitary Sewer District is as follows:

If: e = added area's share in District equity or surcharge amount;

A = added area's f.e.v., 2024 Rolls

D = District f.e.v., 2024 rolls, before proposed additions

and E = District equity in existing facilities or the total of debt service and advances from district levies to pay the capital costs of those facilities for the period of time the parcels were not in any County Sewer District, from 2002 through 2020.

Then: 
$$e = \frac{A}{D+A} \times E$$

$$e = \frac{684,300}{33,167,213,759 + 684,300} \times \$90,884,243$$

$$e = \frac{684,300}{33,167,898,059} \times \$90,884,243$$

$$e = .0000206314 \times \$90,884,243$$

$$e = \$1,875.07 \text{ (rounded to } \$1,870.00)$$

and:

in each of 10 annual installments, a total surcharge of **\$187.00** is to be collected from the added property and credited to the remaining properties of all Municipalities in the District, in each of the ten years.

D. Summary and Recommendations.

The proposed Saw Mill Sanitary Sewer District Addition is feasible because:

1. The matter was requested by the Village of Briarcliff Manor.
2. The facilities necessary to connect the subject property to County facilities (i.e. Gravity Sewers) will be constructed at the total expense of the Village of Briarcliff Manor.
3. Maintenance of the completed facilities will be the responsibility of the Village of Briarcliff Manor but not the Saw Mill Sanitary Sewer District.
4. The Yonkers Joint Water Resource Recovery Facility has a design flow of 120.0 MGD and the present average daily flow is 86.0 MGD. The daily flow the parcels will generate after inclusion is 200 gallons per day. The Plant and the County Trunk Sewer have sufficient capacity to accommodate these parcels.
5. The subject expansion will not result in any significant effect on the tax structure of the district.
6. The Territory proposed to be added to the Saw Mill Sanitary Sewer District is not now in any County Sewer District and will be required to pay a surcharge over a ten year period.

File Name: FEAS\_154\_So\_State\_St\_Saw Mill SSD Return.docx

**PUBLIC NOTICE**

NOTICE OF HEARING: MODIFICATION TO THE SAW MILL SANITARY SEWER DISTRICT BY THE ADDITION OF ONE (1) PARCEL OF PROPERTY IN THE VILLAGE OF BRIARCLIFF MANOR; 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 ADDITION TO THE SAW MILL SANITARY SEWER DISTRICT OF LAND IN THE VILLAGE OF BRIARCLIFF MANOR IN ACCORDANCE WITH THE FEASIBILITY REPORT OF THE COMMISSIONER OF ENVIRONMENTAL FACILITIES, DATED JANUARY 30, 2024, OF THE PARCEL AS LISTED BELOW BY STREET ADDRESS AND TAX MAP DESIGNATION:

154 SOUTH STATE ROAD, SECTION 98.19, BLOCK 2, LOT 19

A COPY OF THE REPORT AND MAP PREPARED BY THE COMMISSIONER OF ENVIRONMENTAL FACILITIES IS ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD OF LEGISLATORS AND MAY BE INSPECTED THERE BY ANY INTERESTED PARTY DURING BUSINESS HOURS.

\_\_\_\_\_  
CLERK OF THE COUNTY  
BOARD OF LEGISLATORS  
WESTCHESTER COUNTY, NEW YORK

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

**RESOLUTION NO. – 2024**

**RESOLVED**, that this Board hold a public hearing on the proposed modification to the Saw Mill Sanitary Sewer District by the addition of one (1) parcel of property located in the Village of Briarcliff Manor more particularly described as 154 South State Road, Section 98.19, Block 2, Lot 19, pursuant to Section 237.131 of the Laws of Westchester County. The public hearing will be held at \_\_\_\_\_ m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law. Such Notice shall be substantially in the form attached hereto.

**ACT NO. 2024 - \_\_\_\_\_**

**AN ACT to Modify the Saw Mill Sanitary Sewer District by the Addition of One (1) parcel of Property Located in the Village of Briarcliff Manor.**

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

**Section 1.** The property known and designated as 154 South State Road, Section 98.19, Block 2, Lot 19 (“Returning Parcel”) on the assessment map of the Village of Briarcliff Manor is hereby added to the Saw Mill Sanitary Sewer District (the “District”).

**§ 2.** Pursuant to the provisions of Chapter 237 of the Laws of Westchester County, the Board levies and assesses against the Returning Parcel the aggregate sum of One Thousand Eight Hundred Seventy Dollars (\$1,870.00), which amount shall be payable in ten equal annual installments of One Hundred Eighty-Seven Dollars (\$187.00), and shall be credited to the remaining portion of the District.


**§ 3.** This Act and the District and assessment areas as so altered, changed, modified, reduced and/or enlarged hereby, shall become effective immediately and the assessment rolls filed after the next taxable status date shall show County sewer district assessments and taxes on the basis of such revised District, and taxes levied on such rolls shall be based thereon, but any sewer district tax or assessment levied on any valid assessment rolls in effect prior to the next taxable status date, on any parcel affected by the revisions made by this Act shall continue valid as such or as a tax lien, until paid and the amount paid shall be credited to the sewer district in which such parcel was assessed on the role on which said tax is levied.

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

**§ 5.** This Act shall take effect immediately.

March 13, 2024

TO: Hon. Vedat Gashi, Chair  
Hon. Jose Alvarado, Vice Chair  
Hon. Tyrae Woodson-Samuels, Majority Leader  
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer   
Westchester County Executive

RE: **Message Requesting Immediate Consideration: Bond Act – SPC03 –  
Port Chester WWTP – Electrical System Upgrade.**

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This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators March 18, 2024 Agenda.

Transmitted herewith for your review and approval is a bond act (“Bond Act”) which, if adopted, would authorize the County of Westchester (“County”) to issue bonds in the amount of \$11,000,000 to finance the following capital project: SPC03.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 18, 2024 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



George Latimer  
County Executive

Marc 8, 2024

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

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a bond act ("Bond Act") which, if adopted, would authorize the County of Westchester ("County") to issue bonds in the amount of \$11,000,000 to finance the following capital project:

SPC03 – Port Chester Waste Water Treatment Plant – Electrical System Upgrade ("SPC03").

The Bond Act, in the amount of \$11,000,000, would finance a portion of the cost of the design, construction management and construction for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning systems at the County's Port Chester Wastewater Treatment Plant, including incidental expenses in and for the benefit of the Port Chester Sanitary Sewer District.


While the current request is needed in connection with SPC03, Bond Act No. 5-2021 consolidated the financing authorization for projects SPC03 and SPC09 - Port Chester Waste Water Treatment Plant HVAC Systems Upgrade ("SPC09") into one bond act. Therefore, the \$11,000,000 bonds will be available for both projects if the attached bond act is adopted. Bonds have been issued under the authorization of prior Bond Act No. 5-2021, so that bond act will not be amended.

The Department of Environmental Facilities ("Department") has advised that additional construction funding is required for the replacement and upgrade of the plant electrical system, which includes but not limited to the replacement of the electrical switch gear, electrical panel boards, the motor control centers, emergency generators and any other related ancillary equipment, which is reaching the end of its useful life.

Design is currently being undertaken by consultants and is expected to be completed by the end of the first quarter of 2024. It is estimated that construction will take 36 months to complete and will begin after award and execution of the construction contracts.

It should be noted that your Honorable Board has previously authorized bonding in connection with these capital projects as indicated in the annexed fact sheet.

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

Sincerely,  
  
George Latimer  
County Executive



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

Your Committee is in receipt of a transmittal from the County Executive recommending approval by the County of Westchester (“County”) of a bond act (“Bond Act”) in the amount of \$11,000,000 to finance capital project SPC03 – Port Chester Waste Water Treatment Plant – Electrical System Upgrade (“SPC03”). The Bond Act, which was prepared by the law firm Norton Rose Fulbright, will finance a portion of the cost of the design, construction management and construction for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning systems at the County’s Port Chester Wastewater Treatment Plant, including incidental expenses in and for the benefit of the Port Chester Sanitary Sewer District.

While the current request is needed in connection with SPC03, Bond Act No. 5-2021 consolidated the financing authorization for projects SPC03 and SPC09 - Port Chester Waste Water Treatment Plant HVAC Systems Upgrade (“SPC09”) into one bond act. Therefore, the \$11,000,000 bonds will be available for both projects if the attached bond act is adopted. Bonds have been issued under the authorization of prior Bond Act No. 5-2021, so that bond act will not be amended.

The Department of Environmental Facilities (“Department”) has advised that additional construction funding is required for the replacement and upgrade of the plant electrical system, which includes but not limited to the replacement of the electrical switch gear, electrical panel boards, the motor control centers, emergency generators and any other related ancillary equipment, which is reaching the end of its useful life.

Design is currently being undertaken by consultants and is expected to be completed by the end of the first quarter of 2024. It is estimated that construction will take 36 months to complete and will begin after award and execution of the construction contracts.

The Planning Department has advised your Committee that based on its review, SPC03 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.

It should be noted that your Honorable Board has previously authorized bonding in connection with these capital projects as indicated in the annexed fact sheet.

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

Dated: \_\_\_\_\_, 20\_\_\_\_  
White Plains, New York

**COMMITTEE ON**

c/mg/1-23-24

# FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: SPC03

NO FISCAL IMPACT PROJECTED

## SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

Source of County Funds (check one):

Current Appropriations

Capital Budget Amendment

## SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

**Total Principal**    \$            11,000,000            **PPU**    30            **Anticipated Interest Rate**    3.29%

**Anticipated Annual Cost** (Principal and Interest):            \$    562,886

**Total Debt Service** (Annual Cost x Term):            \$    16,886,580

**Finance Department:**            Interest rates from March 5, 2023 Bond Buyer - ASBA

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

To Be Completed by Submitting Department and Reviewed by Budget

**Potential Related Expenses** (Annual):            \$            -

**Potential Related Revenues** (Annual):            \$            -

**Anticipated savings to County and/or impact of department operations**  
(describe in detail for current and next four years):

\_\_\_\_\_

\_\_\_\_\_

## SECTION D - EMPLOYMENT

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

**Number of Full Time Equivalent (FTE) Jobs Funded:**            119

**Prepared by:**            Joe Brown

**Title:**            Capital Program Coordinator


**Department:**            DEF

**Date:**            3/5/24

**Reviewed By:**    
 Budget Director

**Date:**            3/7/24

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

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

DATE: January 26, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT:  
SPC03 Port Chester Waste Water Treatment Plant – Electrical System Upgrade**

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**PROJECT/ACTION:** Per Capital Project Fact Sheet as approved by the Planning Department on 01-23-2024 (Unique ID: 2431)

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

- **617.5(c)(2):** replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part.
- 

**COMMENTS:** None.

DSK/dvw

cc: Andrew Ferris, Chief of Staff  
Paula Friedman, Assistant to the County Executive  
Lawrence Soule, Budget Director  
Tami Altschiller, Assistant Chief Deputy County Attorney  
Dianne Vanadia, Associate Budget Director  
Joseph Brown, Capital Program Coordinator, Department of Environmental Facilities  
Susan Darling, Chief Planner  
Michael Lipkin, Associate Planner  
Claudia Maxwell, Principal Environmental Planner

ACT NO. \_\_\_\_\_ - 2024

BOND ACT DATED \_\_\_\_\_, 2024.

A BOND ACT OF THE COUNTY OF WESTCHESTER, NEW YORK, AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$11,000,000 BONDS TO PAY A PORTION OF THE \$45,200,000 ESTIMATED MAXIMUM COST OF THE DESIGN, CONSTRUCTION MANAGEMENT, AND CONSTRUCTION OF THE REPLACEMENT AND UPGRADING OF THE ELECTRICAL SYSTEM AND REPLACEMENT OF THE HEATING, VENTILATING AND AIR CONDITIONING SYSTEM AT THE PORT CHESTER WASTEWATER TREATMENT PLANT, FOR THE BENEFIT OF THE PORT CHESTER SANITARY SEWER DISTRICT.

WHEREAS, this Board previously authorized, pursuant to Bond Act No. 68-2014, the issuance of \$2,150,000 bonds to finance the design and construction management costs of the replacement and upgrading of the electrical system at the Port Chester Wastewater Treatment Plant ("SPC03");

WHEREAS, this Board previously authorized, pursuant to Bond Act No. 91-2014, the issuance of \$2,300,000 bonds to finance the design and construction management costs of the replacement of heating, ventilating and air conditioning equipment at the Port Chester Wastewater Treatment Plant ("SPC09");

WHEREAS, this Board previously authorized, pursuant to Bond Act No. 5-2021, to (i) combine the purposes described in Bond Acts No. 68-2014 and 91-2014, (ii) expand the scope to include construction costs for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning system at the Port Chester Wastewater Treatment Plant, and (iii) increase the estimated maximum cost of such combined purposes and the amount of bonds authorized to be issued for such purposes by \$29,750,000 for a total aggregate amount of \$34,200,000;

WHEREAS, obligations have been issued under Bond Act No. 5-2021.

WHEREAS, the plan for the financing of the estimated maximum cost of such capital purpose, as hereinafter set forth in this Bond Act, is in conformity with such capital budget; and

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, to the extent required, have been performed; and

WHEREAS, the cost of said class of objects or purposes shall be specially assessed against properties in the County's Port Chester Sanitary Sewer District, which are specially benefitted by said class of objects or purpose; and

WHEREAS, it is now desired to authorize the financing of such capital purpose; NOW, THEREFORE,

BE IT ENACTED, by the Board of Legislators of the County of Westchester, New York, by the affirmative vote of not less than two thirds of the entire voting strength thereof, as follows:

Section 1. There are hereby authorized to be issued \$11,000,000 bonds of the County of Westchester to finance a portion of the cost of the design, construction management and construction for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning system at the Port Chester Wastewater Treatment Plant, including incidental expenses in connection therewith, which is a class of objects or purposes, in and for the benefit of the Port Chester Sanitary Sewer District. To the extent that the details of the aforesaid class of objects or purposes set forth in this act are inconsistent with any details set forth in the current Capital Budget of the County, such Budget shall be deemed and is hereby amended to the extent inconsistent herewith.

Section 2. It is hereby determined that the estimated maximum cost of the aforesaid class of objects or purposes is \$45,200,000, and that the plan for the financing thereof is by the issuance of (i) \$34,200,000 bonds of said County authorized to be issued pursuant to Bond Act 5-2021 and (ii) \$11,000,000 bonds of said County authorized to be issued pursuant to this Bond Act.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is thirty years pursuant to subdivision four of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of the County of Westchester, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not paid from the assessment of properties assessable for this purpose in County's Port Chester Sanitary Sewer District, or other sources, there shall annually be levied on all the taxable real property of said County a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County of Westchester, New York, by the manual or facsimile signature of the Commissioner of Finance and a facsimile of the corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as said Commissioner of Finance shall deem best for the interests of the County; including, but not limited to, the power to

sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, the Commissioner of Finance shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

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

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



Section 10. The Commissioner of Finance is hereby further authorized, at his or her sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and, or note issue of said County in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 11. The intent of this Bond Act is to give the Commissioner of Finance sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and, or notes without resorting to further action of this Board of Legislators.

Section 12. All other matters, except as provided herein, relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance and, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the

fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or

2) The provisions of law which should be complied with at the date of publication of this Bond Act are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This Bond Act shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this Bond Act, no moneys are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 15. This Bond Act, which shall take effect immediately in accordance with the provisions of Section 33.10 of the Local Finance Law and as provided in Section 107.71 of the Westchester County Charter, shall be published in summary form in the official newspaper of said County for purposes of this Bond Act, together with a notice of the Clerk of the County Board of Legislators in substantially the form provided in Section 81.00 of the Local Finance Law.

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

AYES:

NOES:

ABSENT:

The Bond Act was thereupon declared duly adopted.

\* \* \*

APPROVED BY THE COUNTY EXECUTIVE

\_\_\_\_\_

Date: \_\_\_\_\_, 2024

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

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

That I have compared the annexed extract of the minutes of the meeting of the Board of Legislators of said County, including the Bond Act contained therein, held on \_\_\_\_\_, 2024, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

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

Newspaper and/or Other News Media

Date Given

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

Designated Location(s) of Posted Notices

Date of Posting

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Board of Legislators on \_\_\_\_\_, 2024.

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

(CORPORATE  
SEAL)

LEGAL NOTICE

A Bond Act, a summary of which is published herewith, has been adopted by the Board of Legislators on \_\_\_\_\_, 2024 and approved by the County Executive on \_\_\_\_\_, 2024 and the validity of the obligations authorized by such Bond Act may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Westchester, in the State of New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the Constitution.

Complete copies of the Bond Act summarized herewith shall be available for public inspection during normal business hours at the Office of the Clerk of the County Board of Legislators of the County of Westchester, New York, for a period of twenty days from the date of publication of this Notice.

ACT NO. \_\_\_\_\_-2024

A BOND ACT OF THE COUNTY OF WESTCHESTER, NEW YORK, AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$11,000,000 BONDS TO PAY A PORTION OF THE \$45,200,000 ESTIMATED MAXIMUM COST OF THE DESIGN, CONSTRUCTION MANAGEMENT, AND CONSTRUCTION OF THE REPLACEMENT AND UPGRADING OF THE ELECTRICAL SYSTEM AND REPLACEMENT OF THE HEATING, VENTILATING AND AIR CONDITIONING SYSTEM AT THE PORT CHESTER WASTEWATER TREATMENT PLANT, FOR THE BENEFIT OF THE PORT CHESTER SANITARY SEWER DISTRICT.

Class of objects or purposes: to pay a portion of the design, construction management and construction costs for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning system at the Port Chester Wastewater Treatment Plant

period of probable usefulness: thirty years

amount of obligations to be issued: \$11,000,000

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

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

## CAPITAL PROJECT FACT SHEET

<b>Project ID:*</b> SPC03	<input type="checkbox"/> CBA	<b>Fact Sheet Date:*</b> 01-10-2024
<b>Fact Sheet Year:*</b> 2024	<b>Project Title:*</b> PORT CHESTER WASTE WATER TREATMENT PLANT - ELECTRICAL SYSTEM UPGRADE	<b>Legislative District ID:</b> 6,
<b>Category*</b> SEWER AND WATER DISTRICTS	<b>Department:*</b> ENVIRONMENTAL FACILITIES	<b>CP Unique ID:</b> 2431

**Overall Project Description**

This project will fund the replacement and upgrade of the plant electrical system, and include replacement of electrical switch gear, panelboards, motor control centers, emergency generators and any other ancillary equipment reaching the end of its useful life.

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Best Management Practices | <input checked="" type="checkbox"/> Energy Efficiencies | <input checked="" type="checkbox"/> Infrastructure |
| <input type="checkbox"/> Life Safety                          | <input type="checkbox"/> Project Labor Agreement        | <input type="checkbox"/> Revenue                   |
| <input type="checkbox"/> Security                             | <input type="checkbox"/> Other                          |  |

**FIVE-YEAR CAPITAL PROGRAM (in thousands)**

	Estimated Ultimate Total Cost	Appropriated	2024	2025	2026	2027	2028	Under Review
<b>Gross</b>	32,900	21,900	11,000	0	0	0	0	0
<b>Less Non-County Shares</b>	0	0	0	0	0	0	0	0
<b>Net</b>	32,900	21,900	11,000	0	0	0	0	0

**Expended/Obligated Amount (in thousands) as of :** 2,047

<b>Current Bond Description:</b> Additional construction funding for the replacement and upgrade of the plant electrical system, which includes but not limited to the replacement of the electrical switch gear, electrical panel boards, the motor control centers, emergency generators and any other related ancillary equipment.	
<b>Financing Plan for Current Request:</b>	
Non-County Shares:	\$ 0
Bonds/Notes:	11,000,000
Cash:	0
<b>Total:</b>	<b>\$ 11,000,000</b>

**SEQR Classification:**  
TYPE II

**Amount Requested:**  
11,000,000

**Expected Design Work Provider:**

- County Staff                       Consultant                       Not Applicable

**Comments:**

**Energy Efficiencies:**

NEW UPDATED EQUIPMENT AND LIGHTING WILL CONSUME LESS ENERGY.

**Appropriation History:**

Year	Amount	Description
2013	2,150,000	DESIGN AND CONSTRUCTION MANAGEMENT OF PLANT ELECTRICAL SYSTEM UPGRADES
2015	7,750,000	CONSTRUCTION
2021	12,000,000	CONSTRUCTION
2024	11,000,000	ADD'L CONSTRUCTION

**Total Appropriation History:**

32,900,000

**Financing History:**

Year	Bond Act #	Amount	Issued	Description
14	68	0	0	PORT CHESTER WWTP - ELECTRICAL SYSTEM UPGRADE
21	5	21,900,000	838,504	PORT CHESTER WWTP - ELECTRICAL SYSTEM UPGRADE (1469)

**Total Financing History:**

21,900,000

**Recommended By:**

Department of Planning Date  
MLLL 01-23-2024

Department of Public Works Date  
RJB4 01-23-2024

Budget Department Date  
DEV9 01-23-2024

Requesting Department Date  
JWBA 01-23-2024



## PORT CHESTER WASTE WATER TREATMENT PLANT - ELECTRICAL SYSTEM UPGRADE ( SPC03 )

**User Department :** Environmental Facilities  
**Managing Department(s) :** Environmental Facilities ; Public Works ;  
**Estimated Completion Date:** TBD

**Planning Board Recommendation:** Project without physical planning aspects of concern to the Westchester County Planning Board.

### FIVE YEAR CAPITAL PROGRAM (in thousands)

	Est Ult Cost	Appropriated	Exp / Obl	2024	2025	2026	2027	2028	Under Review
Gross	32,900	21,900	2,047	11,000					
Non County Share									
<b>Total</b>	<b>32,900</b>	<b>21,900</b>	<b>2,047</b>	<b>11,000</b>					

### Project Description

This project will fund the replacement and upgrade of the plant electrical system, and include replacement of electrical switch gear, panelboards, motor control centers, emergency generators and any other ancillary equipment reaching the end of its useful life.

### Current Year Description

The current year request funds construction cost escalation.

### Current Year Financing Plan

Year	Bonds	Cash	Non County Shares	Total
2024	11,000,000			11,000,000

### Impact on Operating Budget

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

### Appropriation History

Year	Amount	Description	Status
2013	2,150,000	Design and construction management of plant electrical system upgrades	DESIGN
2015	7,750,000	Construction	CONSTRUCTION
2021	12,000,000	Construction	CONSTRUCTION
<b>Total</b>	<b>21,900,000</b>		

### Prior Appropriations

	Appropriated	Collected	Uncollected
Bond Proceeds	21,900,000	838,504	21,061,496
<b>Total</b>	<b>21,900,000</b>	<b>838,504</b>	<b>21,061,496</b>

### Bonds Authorized

Bond Act	Amount	Date Sold	Amount Sold	Balance
68 14				
5 21	21,900,000	12/01/21	838,504	21,061,496
<b>Total</b>	<b>21,900,000</b>		<b>838,504</b>	<b>21,061,496</b>

# Westchester County

George Latimer  
County Executive

Office of the County Attorney

John M. Nonna  
County Attorney

March 7, 2024

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

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if approved by your Honorable Board, would authorize the County of Westchester (the "County") to retain, at County expense, the law firm of Sheppard, Mullin, Richter & Hampton LLP ("Sheppard Mullin" or the "Firm") to provide outside counsel legal services to the County in connection with a dispute the County is having with Nuco Painting Corporation ("Nuco), and Nuco's subcontractor, Unique Scaffolding Systems ("USS"), under Department of Public Works & Transportation (the "Department") Contract No. 17-534 (the "Contract").

By way of background, pursuant to an Administrative Order issued by the EPA on April 11, 2023 (the "Order"), the County was directed to "rehabilitate" one of its water storage towers located in the Town of Mount Pleasant (the "Tower"). The Order contained a deadline of September 11, 2024. In an effort to comply with the Order, the County, through the Department, entered into the Contract with Nuco, pursuant to which Nuco agreed to paint both the exterior and interior of the Tower. In order to complete the work, Nuco subcontracted with USS to erect scaffolding around the Tower. USS alleges that Nuco has failed to pay it for the scaffolding, and, on January 10, 2024, filed a Public Improvement Lien with the County against Nuco for \$282,177.09. Moreover, USS is now seeking to remove the scaffolding from the Tower. These actions are disrupting the County's ability to complete the project by the deadline. The County now requires the services of the Firm to provide it with legal guidance on this matter.

Due to the complex and specialty nature of construction law litigation, and the evaluation and analysis of damages related to such claims, it is in the best interests of the County to retain counsel qualified to handle such litigation. Sheppard Mullin is a firm that specializes in this type of litigation. Moreover, its lead attorney, Ira M. Schulman, Esq. is a nationally-recognized construction law attorney with over 38 years of experience in the field and has successfully represented the County in the past on similar matters. The Firm will be retained

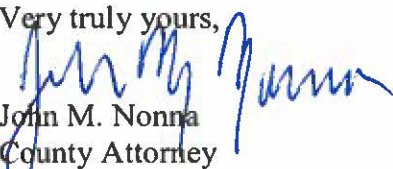
to provide legal advice to the County concerning the Contract dispute, and will represent the County in prosecuting any legal actions commenced by it regarding the dispute. Additionally, the Firm will be retained to defend the County in any legal action commenced by USS or Nuco against it, and, if necessary, prosecute on the County's behalf, any appropriate counterclaims, cross claims, and/or the impleader of third parties (the "Services").

For the Services rendered to the County by Sheppard Mullin, the Firm will be paid at the agreed upon rates as follows: \$630.00 per hour for the services of Ira M. Schulman, Esq.; \$525.00 per hour for Sophia Cahill, Esq.; and \$200.00 per hour for paralegal services; or personnel within Sheppard Mullin with comparable experience and ability as those mentioned at the same rate of pay. In no event shall the total amount payable to the Firm under the retainer exceed the sum of One Hundred Thousand Dollars (\$100,000.00). In addition, the Firm will be reimbursed, at cost, for *reasonable and necessary* out of pocket expenses and disbursements. The term of the Agreement will commence retroactive to March 6, 2024 and will continue until the matter has been resolved.

The Planning Department has advised that the proposed retainer agreement does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators.

Accordingly, your Honorable Board's approval of the attached Act is most respectfully requested.

Very truly yours,

  
John M. Nonna  
County Attorney

JMN/MG/jpg/nn

**HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER**

Your Committee is in receipt of a proposed Act transmitted by the County Attorney which, if adopted, would authorize the County of Westchester (the “County”) to retain, at County expense, the law firm of Sheppard, Mullin, Richter & Hampton LLP (“Sheppard Mullin” or the “Firm”) to provide outside counsel legal services to the County in connection with a dispute the County is having with Nuco Painting Corporation (“Nuco), and Nuco’s subcontractor, Unique Scaffolding Systems (“USS”), under Department of Public Works & Transportation (the Department”) Contract No. 17-534 (the “Contract”).

The County Attorney has advised your Committee that pursuant to an Administrative Order issued by the EPA on April 11, 2023 (the “Order”), the County was directed to “rehabilitate” one of its water storage towers located in the Town of Mount Pleasant (the “Tower”). The Order contained a deadline of September 11, 2024. In an effort to comply with the Order, the County, through the Department, entered into the Contract with Nuco, pursuant to which Nuco agreed to paint both the exterior and interior of the Tower. In order to complete the work, Nuco subcontracted with USS to erect scaffolding around the Tower. USS alleges that Nuco has failed to pay it for the scaffolding, and, on January 10, 2024, filed a Public Improvement Lien with the County against Nuco for \$282,177.09. Moreover, USS is now seeking to remove the scaffolding from the Tower. These actions are disrupting the County’s ability to complete the project by the deadline. The County now requires the services of the Firm to provide it with legal guidance on this matter.

Your Committee is advised that due to the complex and specialty nature of construction law litigation, and the evaluation and analysis of damages related to such claims, it is in the best interests of the County to retain counsel qualified to handle such litigation. Sheppard Mullin is a firm that specializes in this type of litigation. Moreover, its lead attorney, Ira M. Schulman, Esq. is a nationally-recognized construction law attorney with over 38 years of experience in the field and has successfully represented the County in the past on similar matters. The Firm will be retained to provide legal advice to the County concerning the Contract dispute, and will represent the County in prosecuting any legal actions commenced by it regarding the dispute. Additionally, the Firm will be retained to defend the County in any

legal action commenced by USS or Nuco against it, and, if necessary, prosecute on the County's behalf, any appropriate counterclaims, cross claims, and/or the impleader of third parties (the "Services").

For the services rendered to the County by Sheppard Mullin, the Firm will be paid at the agreed upon rates as follows: \$630.00 per hour for the services of Ira M. Schulman, Esq.; \$525.00 per hour for Sophia Cahill, Esq.; and \$200.00 per hour for paralegal services; or personnel within Sheppard Mullin with comparable experience and ability as those mentioned at the same rate of pay. In no event shall the total amount payable to the Firm under the retainer exceed the sum of One Hundred Thousand Dollars (\$100,000.00). In addition, the Firm will be reimbursed, at cost, for *reasonable and necessary* out of pocket expenses and disbursements. The term of the Agreement will commence retroactive to March 6, 2024 and will continue until the matter has been resolved.

The Planning Department has advised that the proposed retainer agreement does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 8, 2024, which is on file with the Clerk of the Board of Legislators.

An affirmative vote of a majority of the voting strength of the Board is required for approval of the attached Act.

Your Committee recommends approval of the attached Act.

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

**COMMITTEE ON**

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# FISCAL IMPACT STATEMENT

SUBJECT: Sheppard, Mullen CT#17-534  NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND  AIRPORT FUND  SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 100,000

Total Current Year Revenue \$ -

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations  
 Additional Appropriations  Other (explain)

Identify Accounts: 243\_60\_5310\_4923. The term of the agreement will commence retroactive to  
March 6, 2024 and will continue until the matter has been resolved.

Potential Related Operating Budget Expenses: Annual Amount \$100,000

Describe: An Act authorizing the the County to retain, at County expense, the law firm  
of Sheppard, Mullin, Richter & Hampton LLP in connection with a dispute the County is having  
with Nuco Painting Corp and its subcontractor, Unique Scaffolding Systems under CT#17-534

Potential Related Operating Budget Revenues: Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \_\_\_\_\_

Next Four Years: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Prepared by: Mark Medwid

Title: Associate Budget Director

Department: Budget

Date: March 7, 2024

Reviewed By:   
Budget Director

Date: 3/8/24

ACT NO. 2024 - \_\_\_\_\_

AN ACT authorizing the County of Westchester to retain, at County expense, the law firm of Sheppard, Mullin, Richter & Hampton LLP, for the provision of outside counsel legal services in connection with a dispute concerning Department of Public Works & Transportation Contract No. 17-534

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

**Section 1.** The County of Westchester (the “County”) is hereby authorized to retain, at County expense, the law firm of Sheppard, Mullin, Richter & Hampton LLP (the “Firm”) for the provision of outside counsel legal services in connection with a dispute the County is having with Nuco Painting Corporation (“Nuco), and Nuco’s subcontractor, Unique Scaffolding Systems (“USS”), under Department of Public Works & Transportation (the “Department”) Contract No. 17-534 (the “Contract”).

**§2.** The Firm shall be retained to provide legal advice to the County concerning the Contract dispute, and will represent the County in prosecuting any legal actions commenced by it regarding the dispute. Additionally, the Firm will be retained to defend the County in any legal action commenced by USS or Nuco against it, and, if necessary, prosecute on the County’s behalf, any appropriate counterclaims, cross claims, and/or the impleader of third parties (the “Services”).

**§3.** For the aforesaid Services rendered to the County by Sheppard Mullin, the County is authorized to pay the Firm at the following rates: \$630.00 per hour for the services of Ira M. Schulman, Esq.; \$525.00 per hour for Sophia Cahill, Esq.; and \$200.00 per hour for paralegal services; or personnel within Sheppard Mullin with comparable experience and ability as those mentioned at the same rate of pay. In no event shall the total amount payable by the County to the Firm exceed the sum of One Hundred Thousand





George Latimer  
County Executive

March 5, 2024

Office of the County Attorney

John M. Nonna  
County Attorney

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

Re: Request for authorization to settle the lawsuit of Baase Fentresse and Marian Malloy v Justin Szilva, Westchester County Police Department and County of Westchester, in Supreme Court Westchester County, Index No. 64226/2021, in the amount of \$450,000.00 inclusive of attorney's fees.

Dear Honorable Members of the Board:

Attached for your consideration is an Act, which if enacted by your Board, would authorize the settlement of the lawsuit of Baase Fentresse and Marian Malloy v Justin Szilva, Westchester County Police Department and County of Westchester, in the amount of \$450,000.00 inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court before the Honorable Joan B. Lefkowitz. The lawsuit tentatively settled at a settlement conference, pending this Board's approval, in the amount of \$450,000.00, inclusive of attorney's fees with \$400,000.00 being allocated to plaintiff Marian Malloy and \$50,000.00 to plaintiff Baase Fentresse.

Mark Kochanowicz, Esq. of Cellino Law, LLP, 420 Lexington Avenue., Ste. 830, New York New York 10170, is representing the plaintiffs, Baase Fentresse and Marian Malloy.

This lawsuit arises out of a motor vehicle accident that occurred on January 26, 2021 on the Sprain Brook Parkway north at approximately 12:46 pm. This is a motor vehicle accident involving a police officer in an undercover narcotics vehicle. The accident happened in a snow storm. The officer testified that he recalls changing lanes from the far left lane to the middle lane because the vehicle in front of him began to stop. He recalls hitting the vehicle in front of him in the center lane while traveling on the Sprain Brook Parkway. He lost control of his vehicle and then spun out. When he regained control of his vehicle, he pulled over to the shoulder and the plaintiff's vehicle was on the side of the road. The evidence established that the plaintiff's vehicle was hit by the officer's vehicle. Both plaintiffs were taken by ambulance to Westchester Medical Center where Marian Molloy, the 74 year- old passenger in the vehicle, complained of

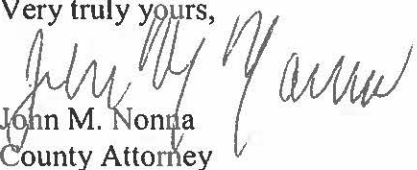


neck, back and right knee pain. She underwent a right knee arthroscopy on June 2, 2021 and a cervical discectomy and fusion from C-4 through C-7 on June 30, 2021. She engaged in physical therapy for several months after the surgeries. She continues to complain of limited range of motion in her neck and right knee pain. Baase Fentress, the 48 year- old driver of the vehicle, complained of neck, lower back, both knees and left shoulder pain. He has treated with physical therapy and has had injections, for pain management, in his lower back and left shoulder. He continues to complain of pain in the neck, back, both knees and left shoulder. We conducted independent medical examinations of each of the plaintiff which confirmed their injuries.

At trial plaintiffs will claim that the County officer was negligent for traveling at an unsafe speed for the conditions then and there prevailing and for failing to maintain control of his vehicle. The plaintiffs will further argue that the County's negligence was the proximate cause of their injuries.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. The accompanying Act will authorize settlement of the lawsuit entitled Baase Fentresse and Marian Malloy v Justin Szilva, Westchester County Police Department and County of Westchester, in the amount of \$450,000.00 inclusive of attorney's fees.

Very truly yours,

  
John M. Nonna  
County Attorney

JMN/jhf

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by your Board, would authorize the settlement of the lawsuit of Baase Fentresse and Marian Malloy v. Justin Szilva, Westchester County Police Department and County of Westchester, in the amount of \$450,000.00 inclusive of attorney's fees with \$400,000.00 being allocated to plaintiff Marian Malloy and \$50,000.00 to plaintiff Baase Fentresse.

This matter is pending in the Westchester County Supreme Court before the Honorable Joan B. Lefkowitz. The lawsuit tentatively settled at a settlement conference, pending this Board's approval, in the amount of \$450,000.00, inclusive of attorney's fees.

Mark Kochanowicz, Esq. of Cellino Law, LLP, 420 Lexington Avenue., Ste. 830, New York New York 10170, is representing the plaintiffs, Baase Fentresse and Marian Malloy.

This lawsuit arises out of a motor vehicle accident that occurred on January 26, 2021 on the Sprain Brook Parkway north at approximately 12:46 pm. This is a motor vehicle accident involving a police officer in an undercover narcotics vehicle. The accident happened in a snow storm. The officer testified that he recalls changing lanes from the far left lane to the middle lane because the vehicle in front of him began to stop. He recalls hitting the vehicle in front of him in the center lane while traveling on the Sprain Brook Parkway. He lost control of his vehicle and then spun out. When he regained control of his vehicle, he pulled over to the shoulder and the plaintiff's vehicle was on the side of the road. The evidence established that the plaintiff's

vehicle was hit by the officer's vehicle. Both plaintiffs were taken by ambulance to Westchester Medical Center where Marian Molloy, the 74 year- old passenger in the vehicle, complained of neck, back and right knee pain. She underwent a right knee arthroscopy on June 2, 2021 and a cervical discectomy and fusion from C-4 through C-7 on June 30, 2021. She engaged in physical therapy for several months after the surgeries. She continues to complain of limited range of motion in her neck and right knee pain. Baase Fentress, the 48 year- old driver of the vehicle, complained of neck, lower back, both knees and left shoulder pain. He has treated with physical therapy and has had injections, for pain management, in his lower back and left shoulder. He continues to complain of pain in the neck, back, both knees and left shoulder. We conducted independent medical examinations of each of the plaintiff which confirmed their injuries.

At trial plaintiffs will claim that the County officer was negligent for traveling at an unsafe speed for the conditions then and there prevailing and for failing to maintain control of his vehicle. The plaintiffs will further argue that the County's negligence was the proximate cause of their injuries.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal. The accompanying Act will authorize settlement of the lawsuit entitled Baase Fentresse and Marian Malloy v Justin Szilva, Westchester County Police Department and County of Westchester, in the amount of \$450,000.00 inclusive of attorney's fees.

Your Committee has carefully considered the subject matter, the settlement proposal, the attached Act and recommends authorizing the County Attorney or his designee to settle the

lawsuit entitled Baase Fentresse and Marian Malloy v Justin Szilva, Westchester County Police Department and County of Westchester et al., in the amount of \$450,000.00, Westchester County Supreme Court Index No. 64226/2021, inclusive of attorney's fees.

An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York

, 2024

COMMITTEE ON

ACT NO. -2024

AN ACT authorizing the County Attorney to settle the lawsuit of Baase Fentress and Marian Malloy v Justin Szilva, Westchester County Police Department and County of Westchester, Westchester County Supreme Court Index No. 64226/2021, in the amount of \$450,000.00, inclusive of attorney's fees

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

Section 1. The County Attorney is authorized to settle the lawsuit of Baase Fentress and Marian Malloy v. Justin Szilva, County of Westchester Police Department and County of Westchester, Westchester County Supreme Court Index No. 64226/2021, in the amount of \$450,000.00, inclusive of attorney's fees.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

# FISCAL IMPACT STATEMENT

SUBJECT: Lawsuit Settlement: Baase Fentress &  NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND       AIRPORT FUND       SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense      \$ 450,000

Total Current Year Revenue      \$ -

Source of Funds (check one):     Current Appropriations     Transfer of Existing Appropriations

Additional Appropriations       Other (explain)

Identify Accounts:    6N Fund: 615 59 0701 4520 4280 05

Potential Related Operating Budget Expenses:      Annual Amount    N/A

Describe:    Settlement of Auto Liability Claim A210005 Fentress Baase & Malloy Marian

Potential Related Operating Budget Revenues:      Annual Amount    N/A

Describe:    \_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year:    N/A

Next Four Years: N/A

Prepared by:    Jane Hogan-Felix

Title:    Deputy County Attorney

Department:    Law

Date:    March 5, 2024

Reviewed By:   
Budget Director

Date:    3/11/24