

ACT NO. _____ - 2021

AN ACT to increase and improve Westchester County Water District No. 1 facilities to carry out capital project WD104 in accordance with the recommendations of the District Report of Department of Environmental Facilities subject to an order of the Comptroller of the State of New York

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

Section 1. This Board finds, after holding a public hearing pursuant to Section 268 of Article 5-A of the New York County Law, that the proposed increase and improvement to Westchester County Water District No. 1 (“District”), described as capital project WD104 – County Water District No. 1 – Shaft 22 & Kensico Dam Performance Maintenance (“WD104”) as set forth in the District Report of the Department of Environmental Facilities dated July 1, 2021 (“District Report”), at a maximum estimated cost of Six Million (\$6,000,000) Dollars, is in the public interest as it is necessary to keep the District in compliance with state, federal and local law, and to ensure continued effective operation of District facilities.

§2. The County of Westchester, on behalf of the District is hereby authorized and empowered to proceed with the increase in improvement for the District substantially in accordance with the District Report, subject to an order of the Comptroller of the State of New York approving the expenditure of bonds of the County. The expense shall be proportioned among the benefited municipalities in accordance with the duly established zones of assessment, as follows: City of White Plains 30%; City of Mount Vernon 28%; City of Yonkers 24% and the Village of Scarsdale 18%, of the total cost.

§3. The Clerk of the Board of Legislators shall, within ten (10) days of the enactment of this Act, cause certified copies of this Act to be filed with and recorded in the Office of the County Clerk and shall also file certified copies of this Act with the State Department of Audit and Control in Albany, New York.

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

§5. This Act shall take effect immediately.

County of Westchester Department of Environmental Facilities

**CAPITAL PROJECT WD104 –
COUNTY WATER DISTRICT NO. 1- SHAFT 22 & KENSICO DAM
PERFORMANCE MAINTENANCE**

DISTRICT REPORT

Dated: July 1, 2021

Vincent F. Kopicki, P. E.
Commissioner

I. INTRODUCTION

The Department of Environmental Facilities (the “Department”) on behalf of County Water District No. 1 (the “District”) is proposing an increase, addition and improvement of existing District facilities, which is necessary for the continued effective operation of the District in compliance with state, federal, and local law as described herein, and for which the Department at this time, seeks approval of a bond act of the County, in an amount not to exceed \$2,000,000, to finance a component of the following capital project and noting that the maximum estimated cost of the entire capital project is \$6,000,000.

Capital Project WD104: County Water District No. 1 – Shaft 22 & Kensico Dam Performance Maintenance - Overall Project Description

This Capital Project will provide funding for the rehabilitation and/or replacement of drinking water disinfection equipment and systems, in the District, which has reached the end of its useful life.

The current project that is the subject of this District Report (“Project”) is described herein in Section III.

The Department’s plan of financing for this Project includes a previous request of \$500,000, authorized by Bond Act No. 353-2016, for the refurbishment of the chemical bulk storage tanks at the Kensico Dam to correct a Notice of Violation issued to the District by the New York State Department of Environmental Conservation. The Department is now requesting authorization of a bond act to fund the design and construction management costs of the remaining components of the Project, as described herein in Section III, and then plans to request funding for the construction costs of the remaining components of the Project.

II. BACKGROUND

By Act No. 29-1964 (the “Act”), the Westchester Board of Supervisors established the District comprising the territorial limits of the Cities of White Plains, Mount Vernon and Yonkers and the Village of Scarsdale. This Act also approved the acquisition of a forty-eight (48) inch pipeline owned by the City of New York for purposes of the District, the reconstruction and rehabilitation of said pipeline including direct connections to the Kensico Reservoir and the Delaware Aqueduct, and established zones of assessment and allocation of costs between zones of assessment.

The District includes four (4) zones of assessment, which were established correlating to the municipalities in the District, and the apportionment of taxes for the cost of acquisition, reconstruction, rehabilitation, operation and maintenance of District facilities, noting that the current design and construction management costs are anticipated to be allocated as follows:

<u>Municipality/ Zone</u>	<u>Percent</u>	<u>Cost for the current bonding request</u>
Mount Vernon	28.00%	\$ 560,000
White Plains	30.00%	\$ 600,000
Yonkers	24.00%	\$ 480,000
Scarsdale	18.00%	\$ 360,000
Total	100.00%	\$ 2,000,000

III. THE CURRENT RECOMMENDED PROJECT

At this time, the Department recommends authorization of a bond act authorizing the issuance of up to \$2,000,000 in bonds of the County to finance the cost of design and construction management for the rehabilitation of Shaft 22 in the City of Yonkers and additional rehabilitation work at the Kensico Dam Chlorination Facility in Valhalla. The Shaft 22 work will include replacement or rehabilitation of the following items: roofs, including removable panels, equipment such as chemical bulk storage tanks, pumps, HVAC, pumping, chemical fill ports, gas and chemical monitoring and control equipment, electrical, lighting, concrete, asphalt, brick, doors, and windows. Work will also include the installation of the following new equipment: leak detection systems, chemical sampling lines, ventilation systems, stairs, and storage area. The work at the Kensico Dam Chlorination Facility will include installation of new sampling piping in the grass and reflecting pool area in front of the dam, including excavation and backfill, replacement of pipe supports inside of the facility, repair of roof leaks inside the facility, replacement of the HVAC system, provide emergency lighting, provide leak monitoring between the bottom of the chemical storage tanks and the secondary containment floor, and repair of the chemical transfer area just outside the face of the dam, including installation of concrete and chemical resistant sealant and incidental expenses in connection therewith, which is a specific object or purpose in and for the benefit of the District.

IV. EFFECT ON COST OF OPERATION

The cost of the proposed improvements for capital project WD104 will be assessed against all District properties benefiting from the Project, noting that no benefited property will be excluded.

For purposes of calculating the cost to the typical District property in accordance with Article 5-A of the County Law, the following calculations are based on the total estimated cost of \$6,000,000 for the entire Project.

The County Finance Department has calculated that the issuance of \$6,000,000 in bonds of the County for capital project WD104 equates to an estimated highest single year debt service payment of \$271,180 which distributed over the 67,004 taxable parcels in the District equates to an estimated average increase in tax assessment of \$4.05 per parcel (as more fully set forth in

Attachment 1 annexed hereto). Accordingly, the cost to the typical District property, resulting from the proposed increase, addition and improvement of existing District facilities is approximately \$3.41.

V. FINDINGS AND RECOMMENDATIONS

The Department has carefully reviewed the proposed increase and improvement of the District facilities and recommends approval of the above referenced Project. The Department advised that the Project is necessary in order to continue compliance with state, federal, and local drinking water regulations. These regulations require, but are not limited to, ensuring publicly owned water treatment facilities be maintained in a state of good repair and meet the regulations for the handling and storage of the chemicals used in water treatment. The Department has determined that the Project is necessary to keep the District in compliance with state, federal and local law, and to ensure continued effective operation of District facilities. Based on its review, the Department has determined that the proposed Project is the best, most cost effective option for these purposes and is essential for maintaining the continued supply of compliant drinking water.

Attachment No. 1

The proposed estimated total cost of the Project includes an amount not to exceed \$6,000,000 for the benefit of County Water District No. 1 (the "District") which is comprised of four (4) zones of assessment as follows:

<u>Municipalities/Zones</u>	<u>Percent</u>	<u>Project Cost</u>
Mount Vernon	28.00%	\$1,680,000
White Plains	30.00%	\$1,800,000
Yonkers	24.00%	\$1,440,000
Scarsdale	18.00%	\$1,080,000
Total	100.00%	\$6,000,000

The Executive Director of the Westchester County Tax Commission advised the Department that 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:

Municipality Typical Residential Assessed Value:

City of Mount Vernon:	\$9,986
City of White Plains:	\$14,352
City of Yonkers:	\$11,000
Village of Scarsdale:	\$1,300,000

Following the formula set forth in 2 NYCRR 85.4(q), the Department calculated that it is estimated that the owner of a typical one or two family home will be required to pay \$3.41 "in the first year . . . for debt service, operation and maintenance and other charges, such as user charges or hook-up fees, related to the proposed improvements"

<u>Municipalities/ Zones</u>	<u>Average Increase to the Typical Property in Each Zone</u>	<u>Percent</u>	<u>Weighted Average Cost</u>
Yonkers	\$1.37	24%	0.32
Mount Vernon	\$3.83	28%	1.07
Scarsdale	\$6.49	18%	1.17
White Plains	\$2.85	30%	0.86
Total		100%	\$3.41

The Department calculated the average cost increase for the typical property in the District based on the Typical Residential Assessed Value of each Municipality. The weighted average of those increases based on the Zone % of each yields an average cost increase for the District of \$3.41.

-----X
In the Matter of the Application of the
County of Westchester to the State of New
York State Comptroller pursuant to Section 268,
subsection 3, of Article 5-A of the New York
County Law for permission for an increase and
improvement of Westchester County Water
District No. 1 facilities to proceed with capital project
WD104 – Shaft 22 & Kensico Dam Performance
Maintenance necessary and desirable for the proper
maintenance and service of District facilities and to
ensure the continued effective operation of the District
by issuing an amount not-to-exceed \$6,000,000 in bonds,
notes or other evidences of indebtedness of the County,
noting that the current bonding request is for an amount
not-to-exceed \$2,000,000
-----X

**VERIFIED
APPLICATION**

Benjamin Boykin II, being duly sworn, hereby deposes and says:

1. I am the Chairman of the Board of Legislators of Westchester County (the "Board of Legislators") and am making this application to the Comptroller of the State of New York ("State Comptroller") on behalf of Westchester County (the "County") pursuant to Section 268, subsection 3, of the New York County Law for permission for an increase and improvement of Westchester County Water District No. 1 ("Water District No. 1" or the "District") facilities in order to proceed with a capital project identified as WD104 – Shaft 22 & Kensico Dam Performance Maintenance (hereafter "WD104" or "Project") which is necessary and desirable to keep the District in compliance with state, federal and local law, and to ensure continued effective operation of District facilities at a total cost not-to-exceed \$6,000,000 in bonds of the County.

2. I have been directed by §3 of Act No. ____-2021 of the Board of Legislators, which was duly adopted on _____, 2021 to execute all instruments and take all actions reasonable, necessary and appropriate to petition the State Comptroller pursuant to Section 268 of the New York County Law for an order approving the issuance of bonds in a maximum

amount not-to-exceed \$2,000,000 at this time by the County for the proposed increase and improvement of facilities of Water District No. 1, substantially in accordance with the district report dated July 1, 2021 (the "District Report") submitted by the Westchester County Department of Environmental Facilities ("Environmental Facilities") on behalf of the District. This application is being made in accordance with the regulations of the State Comptroller which are contained in Title 2, Part 85 of the New York Code of Rules and Regulations. For convenience, references will be made in brackets at the end of each point in this application to the applicable provision of the Comptroller's regulations, which that particular point is addressing. A copy of the Committee Report, and certified copies of Resolution No. ___ -2021 (which was adopted to set the public hearing required by Section 268 of the New York County Law) and a certified copy of Act No. ___-2021 are annexed hereto and made a part hereof as Exhibit "A". A copy of the District Report for Water District No. 1 is annexed hereto and made a part hereof as Exhibit "B". [Part 85.3]

3. By Act No. ___-2021, the County Board of Legislators determined that the proposed increase and improvement of facilities of Water District No. 1 set forth in the District Report is in the public interest as it is necessary and desirable to keep the District in compliance with state, federal and local law, and to ensure continued effective operation of District facilities. (See Exhibit "A"). [Part 85.4(a)]

4. Pursuant to a memorandum from the Westchester County Department of Planning ("Planning"), and in accordance with the State Environmental Quality Review ("SEQR") Act and implementing regulations, the proposed action can be classified as a Type II action. Said memorandum is annexed hereto and made a part hereof as Exhibit "C". [Part 85.3]

5. By Resolution No. ___ - 2021, which was duly adopted on _____, 2021 the Board of Legislators directed that this application be prepared, found that the proposed increase and improvement of facilities of Water District No. 1 is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof, that the cost of the proposed improvements will be assessed against all benefited properties in said District and that no benefited property will be excluded, and that said Board of Legislators believes that the

contents of this application are accurate. A certified copy of Resolution No. ____-2021 is annexed hereto and made a part hereof as Exhibit "D" ("State Regulations Resolution"). [Part 85.3(b) (1)]

6. The opinion of legal counsel is annexed hereto and made a part hereof as Exhibit "E". [Part 85.3(b) (2) and Part 85.5]

7. All statements below are made upon information and belief. I believe that the following statements are true based upon the exhibits which are annexed hereto and made a part of this application and upon information provided to me by various County officials, including staff of the County Departments of Environmental Facilities, Planning, Budget and Finance, as well as, officials from the following four (4) municipalities: City of Mount Vernon; City of White Plains; City of Yonkers; and Village of Scarsdale, which comprise Water District No. 1.

8. All documents and information required to be included by Section 268 of the County Law are as follows: the plan of the proposed increase and improvement of District facilities is the District Report for Water District No. 1, (see Exhibit "B"); a certified copy of Resolution No. ____-2021, authorizing the publication of a Notice of Hearing, which is annexed hereto and made a part hereof as Exhibit "F"; a copy of the proof of publication of the Notice of Public Hearing which was published on _____, (see also Exhibit "F"); the public hearing was held on _____, at _____pm.; and Act No. ____ -2021, which notes that a public hearing was held and that the County Board of Legislators found the proposed increase and improvement of facilities is in the public interest and which directs the County Commissioner of Environmental Facilities to proceed with the improvement. (see Exhibit "A"). [Part 85.4 (a)]

9. A description of the proposed improvements is contained in the District Report, (see Exhibit "B"). [Part 85.4 (b)]

10. The statement setting forth the maximum cost of the proposed improvements is contained in the District Report, (see Exhibit "B"). [Part 85.4 (c)].

11. The statement containing the factors, which the Board of Legislators considered can be found in Act No. ___-2021 and the accompanying Committee Report (see Exhibit "A"), which references the District Report (see Exhibit "B"). [Part 85.4 (d)].

The primary reason cited by the Board of Legislators in Act. _____-2021 , based upon the information contained in the District Report, is that the proposed improvements are necessary for the proper maintenance and service of District facilities and are in the public interest to help assure ultraviolet treatment of the water supply of the District as mandated by the United States Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act and the Long Term 2 Enhanced Surface Water Treatment Rule. In addition, the District Report (see Exhibit "B") recommends assessing the cost of these improvements over Water District No. 1, pursuant to the previously established zones of assessment. It further indicates that the cost of the proposed improvements will be assessed against all District properties benefiting from the project, noting that no benefited property will be excluded.

12. The statement describing the proposed manner of financing the cost of the improvement is attached hereto as Exhibit "G". [Part 85.4 (e) (1)]. There is no proposed State or Federal aid in connection with the proposed improvements. [Part 85.4 (e) (2)].

13. An estimate of the cost of operating and maintaining the proposed improvements can be found in Section IV of the District Report annexed thereto (see Exhibit "B"). [Part 85.4 (f)].

14. The statements detailing the manner in which it is proposed to raise the cost of debt service and operation and maintenance is contained in Section II of the District Report (see Exhibit "B"). [Part 85.4(g)].

(Parts 85.4 (h) and (i) do not apply to this application.)

15. While this application is being made pursuant to Section 268 of the County Law, it is not proposing to establish two or more zones of assessment within the District. It should however be noted that a statement of the allocation of costs of the proposed improvements

between the previously established zones of assessment is included in the District Report (see Exhibit "B"). [Part 85.4 (j)]

16. A statement of the average full valuation of the taxable real property of the County computed pursuant to the first paragraph of subdivision seven-a of Section 2.00 of the Local Finance Law is annexed hereto and made a part hereof as Exhibit "H". [Part 85.4 (k)]

17. In lieu of the statements required by subdivisions (l) and (m), the County has submitted its most recent Constitutional Debt Statement which is annexed hereto and made a part hereof as Exhibit "I". [Part 85.4 (n)]

18. The current tax rates and assessments applicable to the taxable real property which will bear the cost of the improvements is annexed hereto and made a part hereof as Exhibit "J". [Part 85.4 (o)].

19. A statement of the assessed value of a Typical Property can be found in the District Report, specifically Attachment No. 1 annexed thereto (see Exhibit "B"). [Part 85.4 (p)]

20. The statement setting forth the amount it is estimated that the owner of a Typical Property and, if different, a Typical One- or Two-Family Home will be required to pay in the first year following approval of the application, if granted, for debt service, operation and maintenance and other charges, related to the proposed improvements, together with an explanation of how such costs have been computed, can be found in the District Report, specifically Attachment No. 1 annexed thereto. (see Exhibit "B"). The figures were prepared for all previously established zones of assessment and are illustrative of the spectrum of property valuation in the District. [Part 85.4 (q)]

21. The statement setting forth the maximum amount any real property owner will be required to pay in the first year following approval of the application, if granted, for debt service, operation, maintenance and other charges related to the proposed improvements, together with an explanation of how such costs have been computed is annexed hereto and made a part hereof as Exhibit "K". [Part 85.4 (r)]

22. Upon information and belief, the only State lands in Water District No. 1 are as set forth in Exhibit "L," which is attached hereto and forms a part hereof. No costs will be borne by the aforementioned State lands, which are exempt. [Part 85.4 (s)]

23. Upon information and belief, there are no areas of the District that are located in an existing or proposed agricultural district. [Part 85.4 (t)]

24. The statement setting forth the population of Water District No. 1, which will bear the costs of the improvements and the number of one and two-family homes located in Water District No. 1, along with a statement of the assessed value of the Typical One- or Two-Family Home, and a description of any non-residential areas, including the total assessed value thereof is annexed hereto and made a part hereof as Exhibit "M". [Part 85.4 (u)]

25. It has been determined by the governing board that the proposed improvements may benefit vacant land within the District. The status of any proposals for the development of such land was not a factor in the governing board's determination that the cost of the proposed improvements will not constitute an undue burden on the area which will bear the cost of those improvements. That is, that determination is not dependent, in whole or in part, on the development of vacant land. Any such future development will only serve to reduce the cost of the proposed improvements in future years below the maximum cost contained in the District Report. (see Exhibit "B"). [Part 85.4 (v)]

(Part 85.4 (w) does not apply to this application.)

(Part 85.4 (x) does not apply to this application.)

26. No other actions have been taken by the Board of Legislators, other than those actions required by the applicable provisions of the New York County Law, to apprise the owners of properties which will bear the cost of the proposed improvements of the cost, including estimated first year costs. [Part 85.4 (y)]

27. Upon information and belief, no objections have been received from the owners of real property that will bear the cost of the proposed improvements relating to such costs. [Part 85.4 (z)]

DRAFT

VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER)

Benjamin Boykin II, 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.

Benjamin Boykin II
Chairman

Sworn to before me this
___ day of ___, 2021.

Notary Public

Exhibit "A"

COMMITTEE REPORT
AND
CERTIFIED COPY OF ACT NO. _____-2021

To be attached hereto

DRAFT

Exhibit "B"

DISTRICT REPORT FOR WATER DISTRICT NO. 1

To be attached hereto

DRAFT

Exhibit "C"

**SEQRA MEMORANDUM FROM THE WESTCHESTER COUNTY DEPARTMENT OF
PLANNING**

To be attached hereto

DRAFT

Exhibit "D"

Certified copy of Resolution No. ___-2021

[State Regulations Resolution]

To be attached hereto

DRAFT

Exhibit "E"

Opinion of Legal Counsel

To be attached hereto

DRAFT

Exhibit "F"

Certified Copy of Resolution No. ____-2021

[Public Hearing Resolution]

and

Proof of publication of the Notice of Public Hearing

Published on _____.

To be attached hereto

DRAFT

Exhibit "G"

STATEMENT DESCRIBING THE PROPOSED MANNER OF FINANCING

According to the Westchester County Department of Finance, it is estimated that \$7,332,374 of General Obligation Bonds could be bonded by the County of Westchester over a thirty (30) year period of probable usefulness as an anticipated Net Interest cost of 1.43%. It is believed that the proposed financing is reasonable under current market conditions.

DRAFT

Exhibit "H"

**STATEMENT OF THE AVERAGE FULL VALUATION OF THE TAXABLE REAL
PROPERTY OF THE COUNTY**

The average full valuation of the taxable real property of the County computed to the first paragraph of subdivision seven-a of section 2.00 of the Local Finance Law is \$187,487,527,225.

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Exhibit "I"

CONSTITUTIONAL DEBT STATEMENT

To be attached hereto

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Exhibit "J"

To be attached hereto

DRAFT

Exhibit "K"

To be attached hereto

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Exhibit "L"

STATE LANDS OF THE DISTRICT

To be attached hereto

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Exhibit "M"

The population of Water District No. 1 which will bear the costs of the improvements is 337,287.

The number of one and two-family homes located in Water District No. 1 is the following:

City of Mount Vernon: 7,163

City of White Plains: 7,564

City of Yonkers: 23,206

Village of Scarsdale: 5,350

Cities/Village 2021 Total Assessed Value of One- and Two-Family Homes

City of Mount Vernon	\$9,986
City of White Plains	\$14,352
City of Yonkers	\$11,000
Village of Scarsdale	\$1,300,000