

ACT NO. _____ - 2023

BOND ACT DATED _____, 2023.

A BOND ACT AUTHORIZING THE ISSUANCE OF \$5,000,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY DESIGN AND CONSTRUCTION MANAGEMENT COSTS FOR THE REPLACEMENT OR REHABILITATION OF A PORTION OF THE TARRYTOWN FORCE MAIN, IN AND FOR THE COUNTY'S SAW MILL SANITARY SEWER DISTRICT.

WHEREAS, the capital project hereinafter described has been duly approved in the adopted capital budget for the current fiscal year; and

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

WHEREAS, all other 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, it is now desired to authorize the financing of the cost of such capital project;
NOW, THEREFORE,

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

Section 1. For paying the cost of design and construction management for the replacement or rehabilitation of a portion of the Tarrytown force main, including incidental expenses in connection therewith, there are hereby authorized to be issued \$5,000,000 bonds of said County pursuant to the provisions of the Local Finance Law. To the extent that the details of the aforesaid specific object or purpose set forth in this Bond 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 specific object or purpose is \$5,000,000, and that the plan for the financing thereof is by the issuance of the \$5,000,000 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 specific object or purpose is five years, pursuant to subdivision sixty-two 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 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 the County's Saw Mill 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 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 the sole discretion of the Commissioner of Finance, to execute a project financing 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, 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 monies 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 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: _____, 2023

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

I, the undersigned Clerk of the 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 _____, 2023, 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:

<u>Newspaper and/or Other News Media</u>	<u>Date Given</u>
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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:

<u>Designated Location(s) of Posted Notice</u>	<u>Date of Posting</u>
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IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Board of Legislators on _____, 2023.

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 _____, 2023 and approved by the County Executive on _____, 2023 and the validity of the obligations authorized by such Bond Act may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Westchester, in the State of New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the Constitution.

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

ACT NO. _____-2023

A BOND ACT AUTHORIZING THE ISSUANCE OF \$5,000,000 BONDS OF THE COUNTY OF WESTCHESTER, NEW YORK, TO PAY DESIGN AND CONSTRUCTION MANAGEMENT COSTS FOR THE REPLACEMENT OR REHABILITATION OF A PORTION OF THE TARRYTOWN FORCE MAIN, IN AND FOR THE COUNTY'S SAW MILL SANITARY SEWER DISTRICT.

specific object or purpose design and construction management costs for the replacement or rehabilitation of a portion of the Tarrytown force main, including incidental expenses in connection therewith, in and for the County's Saw Mill Sanitary Sewer District

period of probable usefulness: five years

amount of obligations to be issued: \$5,000,000

Dated: _____, 2023
White Plains, New York

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

CAPITAL PROJECT FACT SHEET

Project ID:* SY057	<input checked="" type="checkbox"/> CBA	Fact Sheet Date:* 08-14-2023
Fact Sheet Year:* 2023	Project Title:* REPLACEMENT OF TARRYTOWN FORCEMAIN (PHASE II) AND ROUTE 119 GRAVITY SEWER	Legislative District ID: 2, 17, 16, 15, 14, 13, 12, 11, 10, 9, 8, 5, 3,
Category* SEWER AND WATER DISTRICTS	Department:* ENVIRONMENTAL FACILITIES	CP Unique ID: 2329

Overall Project Description

This project provides for the replacement of the section of the Tarrytown force main that was not replaced in the previous project under Capital Project SY020. The scope of work involves replacement and/or rehabilitation of approximately 10,500 linear feet of 30" diameter force main and 1,300 linear feet of 30" gravity sewer. The Tarrytown force main carries sewage under pressure approximately 2.75 miles from the Tarrytown Pumping Station in the Village of Tarrytown to a ¼ mile section of gravity sewer that connects to the Saw Mill Trunk Sewer in the Village of Elmsford.

- | | | |
|--|--|--|
| <input type="checkbox"/> Best Management Practices | <input 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	2023	2024	2025	2026	2027	Under Review
Gross	83,000	0	0	0	0	0	5,000	78,000
Less Non-County Shares	0	0	0	0	0	0	0	0
Net	83,000	0	0	0	0	0	5,000	78,000

Expended/Obligated Amount (in thousands) as of : 0

Current Bond Description: The capital budget amendment and bond request will fund design and construction management for the replacement of the section of the Tarrytown force main that was not replaced in the previous project under Capital Project SY020. The scope of work of this project involves replacement of approximately 10,500 linear feet of 30" diameter force main with a new force main pipe. Depending on the chosen route, the approximate 1,300 linear foot section of 30" gravity sewer will either be replaced or rehabilitated. The Tarrytown force main carries sewage approximately 2.75 miles from the Tarrytown Pumping Station in the Village of Tarrytown under pressure to a 0.25 mile gravity sewer section that connects to the Saw Mill Trunk Sewer in the Village of Elmsford. The first 4,200 feet of force main was replaced under capital project SY020 and was completed in 2017. The remaining section of forcemain and the gravity sewer section have reached the end of their useful life. A break in the old section of forcemain occurred in September, 2021 and was repaired. A second force main break occurred on 1/26/22, which was repaired. A third break occurred on 7/10/23 and was repaired. Future breaks in this pipe can be expected if the pipe is not replaced as expeditiously as possible. WCDEF received a Notice of Violation from the New York State Department of Environmental Conservation on July 13, 2023 and we are required to institute a corrective action plan by August 31, 2023. The submission of this CBA and bond request is the first step of that corrective action plan.

Financing Plan for Current Request:

Non-County Shares:	\$ 0
Bonds/Notes:	5,000,000
Cash:	0
Total:	\$ 5,000,000

SEQR Classification:

TYPE II

Amount Requested:

5,000,000

Expected Design Work Provider:

- | | | |
|---------------------------------------|--|---|
| <input type="checkbox"/> County Staff | <input checked="" type="checkbox"/> Consultant | <input type="checkbox"/> Not Applicable |
|---------------------------------------|--|---|

Comments:

Energy Efficiencies:

NONE

Total Financing History:

0

Recommended By:

Department of Planning

MLLL

Date

08-15-2023

Department of Public Works

RJB4

Date

08-15-2023

Budget Department

DEV9

Date

08-16-2023

Requesting Department

JWBA

Date

08-17-2023