

2024-227, # 2024-228

Westchester County

George Latimer
County Executive

April 3, 2024

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

Dear Members of the Board of Legislators:

Transmitted herewith for your review and approval are two bond acts ("Bond Acts") of the County of Westchester ("County") as follows:

- (1) a bond act to amend prior Bond Act No. 52-2022 to remove a \$5,000,000 authorization allocable to Capital Project SM021 – Mamaroneck WRRF Blower Replacement ("SM021"), and to decrease the estimated maximum amount of bonds authorized to \$35,705,000 ("Amending Bond Act"); and
- (2) a bond act authorizing the issuance of bonds in the amount of \$14,000,000 to finance design, construction management and construction costs for the replacement of existing blowers that feed process air to the aeration tanks at the Mamaroneck Water Resource Recovery Facility in the County's Mamaroneck Valley Sanitary Sewer District, including upgrades to the associated electrical and instrumentation systems, and incidental expenses in connection with SM021. This \$14,000,000 proposed Bond Act represents an increase in the amount of \$9,000,000 for construction costs and includes the \$5,000,000 previously authorized for SM021 in Bond Act No. 52-2022 ("Consolidated Bond Act").

The Amending Bond Act is required to remove design and construction management bonding authorizations related to SM021 so that those authorizations may be included in the Consolidated Bond Act for SM021.

The Department of Environmental Facilities ("Department") has advised that additional construction funding will be used to replace the three existing blowers that feed process air to the aeration tanks with more resilient and efficient blowers. The new blowers will be turbo blowers, which will provide an energy savings, and are critical to the aeration treatment process and the biological nitrogen removal ("BNR") process. The work will include upgrades to the associated electrical and instrumentation systems. The equipment to be replaced under this project will be reaching the end of its useful life, is necessary for the BNR media process, and will need to be replaced. The replaced equipment will improve the operational reliability, performance, and efficiency of the facility. The Department is required to keep its water and wastewater treatment facilities in a state of good repair, in accordance with State and Federal regulations.

Office of the County Executive

Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

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Design is currently being undertaken by consultants and is expected to be completed by the end of the second quarter of 2024. It is estimated that construction will take 24 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 the County to issue bonds to finance SM021 as indicated in the annexed fact sheet.

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

Sincerely,

A handwritten signature in black ink, appearing to read "George Latimer", written in a cursive style.

George Latimer
County Executive

Attachments

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

Your Committee is in receipt of an amended bond act (“Amending Bond Act”) of the County of Westchester (“County”) authorizing amendment to prior Bond Act No. 52-2022 to remove \$5,000,000 of the authorization allocable to Capital Project SM021 – Mamaroneck WRRF Blower Replacement (“SM021”), and to decrease the estimated maximum amount and bonds authorized to \$35,705,000. The Bond Act was prepared by the law firm Norton Rose Fulbright.

The Amending Bond Act is required to remove design and construction management bonding authorizations related to SM021 so that those authorizations may be included in a Consolidated Bond Act for SM021.

The Department of Environmental Facilities (“Department”) has advised that additional construction funding will be used to replace the three existing blowers that feed process air to the aeration tanks with more resilient and efficient blowers. The new blowers will be turbo blowers, which will provide an energy savings, and are critical to the aeration treatment process and the biological nitrogen removal (“BNR”) process. The work will include upgrades to the associated electrical and instrumentation systems. The equipment to be replaced under this project will be reaching the end of its useful life, is necessary for the BNR media process, and will need to be replaced. The replaced equipment will improve the operational reliability, performance, and efficiency of the facility. The Department is required to keep its water and wastewater treatment facilities in a state of good repair, in accordance with State and Federal regulations.

Design is currently being undertaken by consultants and is expected to be completed by the end of the second quarter of 2024. It is estimated that construction will take 24 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 the County to issue bonds to finance SM021 as indicated in the annexed fact sheet.

The Planning Department has advised your Committee that based on its review, SM021 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 an affirmative vote of two-thirds of the members of your Honorable Board is required in order to adopt the Consolidated Bond Act. Your Committee recommends the adoption of the proposed Consolidated Bond Act.

Dated: _____, 20____.
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: SM021

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

AMEND BA 52-2022

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 35,705,000 PPU 30 Anticipated Interest Rate 3.60%

Anticipated Annual Cost (Principal and Interest): \$ 1,884,784

Total Debt Service (Annual Cost x Term): \$ 56,543,520

Finance Department: Interest rates from April 17, 2024 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

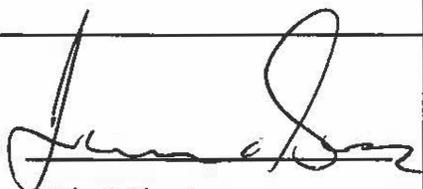
Number of Full Time Equivalent (FTE) Jobs Funded: 388

Prepared by: Joe Brown

Title: Capital Program Coordinator

Department: DEF

Date: 4/18/24

Reviewed By: 
Budget Director

Date: 4/18/24

REFERENCE SM018, SM019, SM021, SM030, SM075, SM095

ACT NO. _____ - 2024

BOND ACT DATED _____, 2024.

A BOND ACT OF THE COUNTY OF WESTCHESTER, NEW YORK, AMENDING ACT NO. 52-2022 DATED MAY 9, 2022, WHICH AUTHORIZED THE ISSUANCE OF \$40,705,000 BONDS TO PAY THE DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS FOR VARIOUS IMPROVEMENTS TO THE FACILITIES OF THE MAMARONECK VALLEY SANITARY SEWER DISTRICT, TO REMOVE \$5,000,000 BONDS ALLOCABLE TO THE COSTS OF THE BLOWER REPLACEMENT AT THE MAMARONECK WATER RESOURCE RECOVERY FACILITY (SM021) AND TO DECREASE THE ESTIMATED MAXIMUM COST AND THE AMOUNT OF BONDS AUTHORIZED TO \$35,705,000.

WHEREAS, this Board previously consolidated Bond Act Nos. 62-2020, 108-2015, and 115-2017 into Bond Act No. 52-2022, dated May 9, 2022, which authorized the issuance of \$40,705,000 bonds to pay the design, construction management and construction costs for various improvements to the facilities of the Mamaroneck Valley Sanitary Sewer District, including the following projects: (i) rehabilitation of the HVAC system at the Mamaroneck Water Resource Recovery Facility (SM018) (ii) emergency power upgrades at the Mamaroneck Water Resource Recovery Facility (SM019), (iii) blower replacement at the Mamaroneck Water Resource Recovery Facility (SM021), (iv) replacement of roofs at the Mamaroneck Water Resource Recovery Facility (SM030), (v) rehabilitation and modification of the Cove Road Pumping Station, replacement of the Cove Road force main and installation of a new wet cell at the Edgewater Pumping Station (SM075), and (vi) rehabilitation of the Fenimore Road and Weaver Street Pumping Stations (SM095), and incidental expenses in connection therewith; and

WHEREAS, of the \$40,705,000 bonds authorized in Bond Act 52-2022, \$5,000,000 bonds were allocable to the costs of the blower replacement at the Mamaroneck Water Resource Recovery Facility (SM021); and

WHEREAS, no obligations have been issued for SM021 under Bond Act No. 52-2022, however, to date, approximately \$683,834.89 obligations have been issued for SM095 (rehabilitation of the Fenimore Road and Weaver Street Pumping Stations) under Bond Act No. 52-2022; and

WHEREAS, it has now been determined that it would be beneficial to remove the \$5,000,000 bonds allocable to SM021 in Act No. 52-2022 for consolidation with other amounts authorized for SM021 in a separate bond act and, accordingly, decrease the estimated maximum cost and the amount of bonds authorized under Act No. 52-2022 to \$35,705,000;

WHEREAS, the capital project described herein 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 conditions precedent to the financing of the capital projects 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 Mamaroneck Valley Sanitary Sewer District, which are specially benefitted by said class of objects or purposes; and

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 (A)(i): The bond act duly adopted by this Board on May 9, 2022, entitled:

ACT NO. 52-2022

A BOND ACT AUTHORIZING THE ISSUANCE OF \$40,705,000 BONDS TO PAY THE DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS FOR VARIOUS IMPROVEMENTS TO THE FACILITIES OF THE MAMARONECK VALLEY SANITARY SEWER DISTRICT, IN AND FOR SAID COUNTY.

are hereby amended to read as follows:

A BOND ACT AUTHORIZING THE ISSUANCE OF \$35,705,000 BONDS TO PAY THE DESIGN, CONSTRUCTION MANAGEMENT AND CONSTRUCTION COSTS

FOR VARIOUS IMPROVEMENTS TO THE FACILITIES OF THE MAMARONECK VALLEY SANITARY SEWER DISTRICT, IN AND FOR SAID COUNTY.

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 maximum estimated 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, and 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 Mamaroneck Valley Sanitary Sewer District, which are specially benefitted by said class of objects or purposes; 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 \$35,705,000 bonds of the County of Westchester to finance the design, construction management and construction costs for various improvements to the facilities of the County's Mamaroneck Valley Sanitary Sewer District, including the following projects (i) rehabilitation of the HVAC system at the Mamaroneck Water Resource Recovery Facility (SM018) (ii) emergency power upgrades at the Mamaroneck Water Resource Recovery Facility (SM019), (iii) replacement of roofs at the Mamaroneck Water Resource Recovery Facility (SM030), (iv) rehabilitation and modification of the Cove Road Pumping Station, replacement of the Cove Road force main and installation of a new wet cell at the Edgewater Pumping Station (SM075), and (v) rehabilitation of the Fenimore Road and Weaver Street Pumping Stations (SM095), and incidental expenses in connection therewith, which is a class of objects or purposes, in and for the benefit of the County's Mamaroneck Valley 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 \$35,705,000, and that the plan for the financing thereof is by the issuance of \$35,705,000 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 the County's Mamaroneck Valley 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 the sole discretion of the Commissioner of Finance, to execute a project finance 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 class of objects or purposes 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 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.

Section (B). The amendments of the bond act set forth in Section (A) of this act shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond act, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond act, as so amended.

Section (C). This Act shall take effect immediately upon approval by the County Executive.

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 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.

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

(CORPORATE
SEAL)

