

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, November 18, 2009, at 8:00 p.m. in the Council Room of City Hall. It will be preceded at 7:00 p.m. by a Budget Workshop.

### **AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. Residents may be heard who have matters to discuss that do not appear on the agenda.
4. Public hearing regarding the New York State Capital Assistance Program for flood mitigation for the Sluice Gate project.
5. Resolution authorizing the refunding of \$11.8 million of serial bonds of the City of Rye, Westchester County, New York as a cost saving measure.  
Roll Call.
6. Proposal to create a Parking Benefit Fund for the Central Business District.
7. Authorization for City Manager to enter into an Agreement with the County of Westchester for the disposal of Recyclable Material as well as a disposal of Solid Waste for Members of Refuse Disposal District #1.
8. Acceptance of Grant Award from Governor's Traffic Safety Committee in the amount of \$2,400 for participation in the "Child Passenger Safety" program.  
Roll Call.
9. Miscellaneous communications and reports.
10. Old Business.
11. New Business.
12. Draft unapproved minutes of the regular meeting of the City Council held November 4, 2009 and the special meeting of the City Council held November 9, 2009.
13. Adjournment.

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, December 2, 2009.  
The City Council will hold a Budget Workshop on Monday, November 30, 2009.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Manager's Office

DATE: October 22, 2009

CONTACT: Frank J. Culross, City Manager

**AGENDA ITEM:** Public hearing regarding the New York State Capital Assistance Program (NYS CAP) for flood mitigation for the Sluice Gate project.

**FOR THE MEETING OF:**

November 18, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:**

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The City of Rye and the Village of Rye Brook are proposing modifications to the City-owned Bowman Avenue Spillway. The purpose of the project is to provide flood mitigation for properties located along Blind Brook downstream of the existing spillway. Properties in both the City and Village sustained significant damage as the result of two major floods in March and April 2007. In response to those events the City engaged consulting engineers WSP-Sells (formerly Chas. H. Sells, Inc.) to consider alternative flood management strategies for Blind Brook. The sluice alternative was deemed to be the most cost-effective.

The City of Rye has been approved for a NYS CAP grant in the amount of \$400,000 to be administered by the Dormitory Authority. This Public Hearing to review the project and complete the necessary SEQRA process requirements is a provision for the funding.



**Dormitory Authority**  
State of New York

*right  
this is the \$ for Mr. Williams - P*

Gail H. Gordon, Chair  
Paul T. Williams, Jr., Executive Director

July 17, 2008

**Received**

JUL 21 2008

City Manager's Office  
Rye, New York

Mr. Paul Shew  
City Manager  
City of Rye  
1051 Boston Post Road  
Rye, NY 10580

*Re: New York State Capital Assistance Program (NYS CAP)  
Flood Mitigation*

Dear Mr. Shew:

As you know, City of Rye has been approved by the New York State Assembly Ways & Means Committee to receive a New York State Capital Assistance Program ("NYS CAP") grant for the above-referenced project in the amount of \$400,000 (the "Grant"). The Dormitory Authority of the State of New York will be administering this Grant.

Enclosed you will find the "**Project Information Sheet**" for your NYS CAP Grant. Please complete the four (4) sections in the attached Project Information Sheet, as well as sign and date the Project Information Sheet certifying that the information you provided to the Dormitory Authority is true and correct. Please mail the signed original, as soon as possible, to:

Ms. Karen B. Rieth  
Director, Budget  
Dormitory Authority of the State of New York  
515 Broadway  
Albany, New York 12207

For your convenience, a sample return letter is attached to assist you when assembling the Package to return to the Dormitory Authority.

**CORPORATE HEADQUARTERS**  
515 Broadway  
Albany, New York 12207-2964  
Tel: 518-257-3000  
Fax: 518-257-3100

**NEW YORK OFFICE**  
One Penn Plaza, 52nd Floor  
New York, New York 10119-0098  
Tel: 212-273-5000  
Fax: 212-273-5121

**BUFFALO OFFICE**  
539 Franklin Street  
Buffalo, New York 14202-1109  
Tel: 716-884-9780  
Fax: 716-884-9787

**WEB**  
[www.dasny.org](http://www.dasny.org)



Once the Dormitory Authority receives the Project Information Sheet, a Grant Administrator may contact you to set up a conference call between the Dormitory Authority and City of Rye to discuss the project and how we will proceed.

Should you have any questions concerning the enclosed documentation, please call (518) 257-3177 and someone from the Grant Unit will contact you.

Very truly yours,

Debra Pulenskey Drescher  
Managing General Counsel

Enc.

cc (w/out enc.): Stephen M. August, Assembly Ways & Means  
Michael T. Corrigan, Dormitory Authority  
Jack Homkow, Dormitory Authority  
Sara Richards, Dormitory Authority  
Deborah DeGenova, Dormitory Authority



# CITY COUNCIL AGENDA

NO. 5

DEPT.: Finance

DATE: November 12, 2009

CONTACT: Jean Gribbins, Comptroller

**AGENDA ITEM:** Resolution authorizing the refunding of \$11.8 million of serial bonds of the City of Rye, Westchester County, New York as a cost saving measure.

**FOR THE MEETING OF:**

November 18, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Mayor and Council approve the refunding of existing debt. The aggregate amount of estimated present value savings computed in accordance with Local Finance Law is not expected to be less than \$400,000 subject to changes in market interest rates.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Bonds issued in 1998 for \$3.7 million, in 2000 for \$3.8 million, in 2001 for \$1.9 million and 2002 for \$5.4 million currently have an outstanding balance of \$11.8 million. These can be refunded to generate a savings dependent upon market rates on the date of closing of not less than \$400,000.

See attached documentation and Resolution.



**SQUIRE, SANDERS & DEMPSEY L.L.P.**

30 Rockefeller Plaza  
New York, NY 10112

Office: +1.212.872.9800  
Fax: +1.212.872.9815

**Direct Dial: +1.212.872.9862**  
**lpennini@ssd.com**

November 3, 2009

**VIA EMAIL**

Jean A. Gribbins  
City Comptroller  
City of Rye  
1051 Boston Post Road  
1<sup>st</sup> Floor, City Hall  
Rye, New York 10580

Re: City of Rye, New York  
Refunding Bond Resolution

Dear Jean:

Enclosed please find extracts from minutes of a meeting of the City Council of the City of Rye, New York (the "City") containing a refunding bond resolution authorizing the refunding of all or a portion of the City's outstanding Series 1998A, 2000, 2001 and 2002 serial bonds. Upon the adoption of the resolution by at least two-thirds of the voting strength of the City Council, please have the extract page completed and the City Clerk's certificate completed, signed and sealed. The resolution and the attached estoppel notice should then be published in the City's official newspaper.

We will require receipt of a certified copy of the extracts containing the resolution and the newspaper affidavit of publication of the resolution and estoppel notice. The bond resolution and estoppel notice must be published at least 20 days before the refunding bonds are issued.

Please call me if you have any questions.

Very truly yours,

Lauren Pennini

cc: Mr. Kenneth W. Bond  
Mr. Lawrence Turtle

**EXTRACTS FROM MINUTES OF MEETING OF THE CITY COUNCIL OF  
THE CITY OF RYE  
COUNTY OF WESTCHESTER, STATE OF NEW YORK**

*(Refunding Bond Resolution-Series 1998A, 2000, 2001 & 2002)*

A regular meeting of the City Council of the City of Rye, located in the County of Westchester, State of New York, was held at 1051 Boston Post Road, New York, on November 18, 2009 at 8 o'clock,    P.M. (Prevailing Time), at which meeting a quorum was at all times present and acting. There were:

PRESENT:

ABSENT:

ALSO PRESENT:

\* \* \* \* \*

Council member \_\_\_\_\_ presented the following bond resolution and moved that it be adopted. The motion was seconded by Council member \_\_\_\_\_. The City Council of the City was polled. The motion was adopted by a vote of \_\_\_ affirmative votes (being at least two-thirds of the voting strength of the City Council of the City with \_\_\_\_ negative votes and votes absent.



REFUNDING BOND RESOLUTION, DATED \_\_\_\_\_, 2009,  
AUTHORIZING THE ISSUANCE OF REFUNDING SERIAL BONDS  
OF THE CITY OF RYE, IN THE COUNTY OF WESTCHESTER,  
STATE OF NEW YORK, PURSUANT TO SECTION 90.10 OF THE  
LOCAL FINANCE LAW OF THE STATE OF NEW YORK,  
PROVIDING FOR OTHER MATTERS AND MAKING CERTAIN  
DETERMINATIONS IN RELATION THERETO AND PROVIDING  
FOR THE PAYMENT OF THE BONDS TO BE REFUNDED  
THEREBY.

-----

WHEREAS, the City of Rye, located in the County of Westchester, State of New York (the “City”) previously issued \$3,657,000 principal amount of Public Improvement (Serial) Bonds, Series 1998A (the “Series 1998A Bonds”) pursuant to a certificate of determination of the City Comptroller (sometimes referred to herein as the “Chief Fiscal Officer”), which Series 1998A Bonds are dated September 15, 1998 and matured or mature in annual installments on September 15 in each of the years 2000 to 2018, inclusive, as follows:

\$127,000 in the year 2000,  
\$130,000 in the year 2001,  
\$135,000 in the year 2002,  
\$140,000 in the year 2003,  
\$150,000 in the year 2004,  
\$155,000 in the year 2005,  
\$165,000 in the year 2006,  
\$170,000 in the year 2007,  
\$180,000 in the year 2008,  
\$185,000 in the year 2009,  
\$195,000 in the year 2010,  
\$205,000 in the year 2011,  
\$215,000 in the year 2012,  
\$225,000 in the year 2013,  
\$235,000 in the year 2014,  
\$245,000 in the year 2015,  
\$255,000 in the year 2016,  
\$265,000 in the year 2017, and  
\$280,000 in the year 2018

WHEREAS, the Series 1998A Bonds were authorized pursuant to a serial bond resolution duly adopted by the City Council of the City for the objects or purposes described therein on \_\_\_\_\_ and delegated to the Chief Fiscal Officer the power to prescribe the terms, form and contents of and to sell and deliver such serial bonds of the City; and

WHEREAS, \$2,120,000 aggregate principal amount of the Series 1998A Bonds currently remain outstanding and unredeemed as of the date hereof; and

WHEREAS, it is hereby determined to be in the public interest of the City to refund all of said outstanding \$2,120,000 aggregate principal amount Series 1998A Bonds by the issuance of the refunding bonds authorized herein pursuant to Section 90.10 of the Local Finance Law; and

WHEREAS, the City of Rye, located in the County of Westchester, State of New York (the “City”) previously issued \$3,825,000 principal amount of Public Improvement (Serial) Bonds, Series 2000 (the “Series 2000 Bonds”) pursuant to a certificate of determination of the City Comptroller (sometimes referred to herein as the “Chief Fiscal Officer”), which Series 2000 Bonds are dated October 1, 2000 and matured or mature in annual installments on October 1 in each of the years 2001 to 2020, inclusive, as follows:

\$110,000 in the year 2001,  
\$115,000 in the year 2002,  
\$120,000 in the year 2003,  
\$130,000 in the year 2004,  
\$135,000 in the year 2005,  
\$140,000 in the year 2006,  
\$150,000 in the year 2007,  
\$160,000 in the year 2008,  
\$165,000 in the year 2009,  
\$175,000 in the year 2010,  
\$185,000 in the year 2011,  
\$195,000 in the year 2012,  
\$210,000 in the year 2013,  
\$220,000 in the year 2014,  
\$235,000 in the year 2015,  
\$250,000 in the year 2016,

\$260,000 in the year 2017,  
\$275,000 in the year 2018  
\$290,000 in the year 2019, and  
\$305,000 in the year 2020

WHEREAS, the Series 2000 Bonds were authorized pursuant to serial bond resolutions duly adopted by the City Council of the City for the objects or purposes described therein on July 21, 1999 and January 19, 2000 and delegated to the Chief Fiscal Officer the power to prescribe the terms, form and contents of and to sell and deliver such serial bonds of the City; and

WHEREAS, \$2,600,000 aggregate principal amount of the Series 2000 Bonds currently remain outstanding and unredeemed as of the date hereof; and

WHEREAS, it is hereby determined to be in the public interest of the City to refund \$2,425,000, a portion of said outstanding aggregate principal amount Series 2000 Bonds, by the issuance of the refunding bonds authorized herein pursuant to Section 90.10 of the Local Finance Law; and

WHEREAS, the City of Rye, located in the County of Westchester, State of New York (the “City”) previously issued \$1,965,000 principal amount of Public Improvement (Serial) Bonds, Series 2001 (the “Series 2001 Bonds”) pursuant to a certificate of determination of the City Comptroller (sometimes referred to herein as the “Chief Fiscal Officer”), which Series 2001 Bonds are dated December 1, 2001 and matured or mature in annual installments on October 1 in each of the years 2002 to 2021, inclusive, as follows:

\$75,000 in the year 2002,  
\$65,000 in the year 2003,  
\$65,000 in the year 2004,  
\$70,000 in the year 2005,  
\$75,000 in the year 2006,  
\$75,000 in the year 2007,  
\$80,000 in the year 2008,  
\$85,000 in the year 2009,  
\$90,000 in the year 2010,

\$95,000 in the year 2011,  
\$95,000 in the year 2012,  
\$100,000 in the year 2013,  
\$105,000 in the year 2014,  
\$110,000 in the year 2015,  
\$115,000 in the year 2016,  
\$120,000 in the year 2017,  
\$125,000 in the year 2018,  
\$135,000 in the year 2019,  
\$140,000 in the year 2020, and  
\$145,000 in the year 2021

WHEREAS, the Series 2001 Bonds were authorized pursuant to serial bond resolutions duly adopted by the City Council of the City for the objects or purposes described therein on July 21, 1999 and April 18, 2001 and delegated to the Chief Fiscal Officer the power to prescribe the terms, form and contents of and to sell and deliver such serial bonds of the City; and

WHEREAS, \$1,375,000 aggregate principal amount of the Series 2001 Bonds currently remain outstanding and unredeemed as of the date hereof; and

WHEREAS, it is hereby determined to be in the public interest of the City to refund \$1,285,000, a portion of said outstanding aggregate principal amount Series 2001 Bonds, by the issuance of the refunding bonds authorized herein pursuant to Section 90.10 of the Local Finance Law; and

WHEREAS, the City of Rye, located in the County of Westchester, State of New York (the “City”) previously issued \$5,389,500 principal amount of Public Improvement (Serial) Bonds, Series 2002 (the “Series 2002 Bonds”) pursuant to a certificate of determination of the City Comptroller (sometimes referred to herein as the “Chief Fiscal Officer”), which Series 2002 Bonds are dated December 15, 2002 and matured or mature in annual installments on December 15 in each of the years 2003 to 2020, inclusive, as follows:

\$214,500 in the year 2003,  
\$220,000 in the year 2004,

\$230,000 in the year 2005,  
\$235,000 in the year 2006,  
\$240,000 in the year 2007,  
\$250,000 in the year 2008,  
\$260,000 in the year 2009,  
\$275,000 in the year 2010,  
\$285,000 in the year 2011,  
\$300,000 in the year 2012,  
\$310,000 in the year 2013,  
\$325,000 in the year 2014,  
\$340,000 in the year 2015,  
\$350,000 in the year 2016,  
\$365,000 in the year 2017,  
\$380,000 in the year 2018  
\$395,000 in the year 2019, and  
\$415,000 in the year 2020

WHEREAS, the Series 2002 Bonds were authorized pursuant to serial bond resolutions duly adopted by the City Council of the City for the objects or purposes described therein on January 16, 2002 and April 10, 2002 and delegated to the Chief Fiscal Officer the power to prescribe the terms, form and contents of and to sell and deliver such serial bonds of the City; and

WHEREAS, \$4,000,000 aggregate principal amount of the Series 2002 Bonds currently remain outstanding and unredeemed as of the date hereof; and

WHEREAS, it is hereby determined to be in the public interest of the City to refund \$3,180,000, a portion of said outstanding aggregate principal amount Series 2002 Bonds, by the issuance of the refunding bonds authorized herein pursuant to Section 90.10 of the Local Finance Law; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RYE, IN THE COUNTY OF WESTCHESTER, STATE OF NEW YORK (BY THE AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS OF THE VOTING STRENGTH OF THE CITY COUNCIL OF THE CITY), AS FOLLOWS:

Section 1. For the purpose of refunding all of the \$2,120,000 outstanding principal amount of the Series 1998A Bonds; a portion of the \$2,600,000 outstanding principal amount of the Series 2000 Bonds in the principal amount of \$2,425,000; a portion of the \$1,375,000 outstanding principal amount of the Series 2001 Bonds in the principal amount of \$1,285,000; and a portion of the \$4,000,000 outstanding principal amount of the Series 2002 Bonds in the principal amount of \$3,180,000, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized shall be sufficient to pay: (i) the principal amount of the Refunded Bonds; (ii) the aggregate amount of the unmatured interest payable on the Refunded Bonds to and including the date on which any series of the Refunded Bonds which are callable are to be redeemed prior to their respective maturities in accordance with the Refunding Financial Plan (as hereinafter defined) and attached hereto as Exhibit B and made a part of this resolution; (iii) the costs and expenses incidental to the issuance of the Series 1998A Refunding Bonds, the Series 2000 Refunding Bonds, the Series 2001 Refunding Bonds, and the Series 2002 Refunding Bond sometimes hereinafter referred to collectively as (the “Refunding Bonds”) as hereinafter authorized and as described in Exhibit A, including without limitation, the development of the Refunding Financial Plan, costs and expenses of executing and performing the terms and conditions of the Escrow Contract (as hereinafter defined), and any securities supply contract, the premium with respect to any bond insurance policy or policies acquired with respect to the Refunding Bonds (as defined below), discount or compensation of underwriters, fees of bond counsel and financial advisors, rating agency fees, printing and service agency fees and expenses, and fees and charges of the Escrow Holder (as hereafter described); and (iv) the redemption premium, if any, to be paid on any series of the Refunded Bonds which are to be called prior to their respective maturities; there are hereby authorized to be issued in one or more

series not exceeding \$9,800,000 aggregate principal amount of refunding serial bonds of the City pursuant to the provisions of Section 90.10 of the Local Finance Law (the “Refunding Bonds”), it being anticipated that the amount of Refunding Bonds actually to be issued will be approximately \$9,225,000 as provided in Section 4 hereof. The proposed principal amounts and dates of maturity of such Refunding Bonds are set forth in the Refunding Financial Plan attached hereto.

Section 2. It is hereby determined pursuant to Section 90.10 that:

(a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by subdivision 1 of paragraph (b) of Section 90.10 of the Local Finance Law with respect to each series of the Refunded Bonds;

(b) the aggregate amount of estimated present value savings computed in accordance with subparagraph (a) of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law is not expected to be less than \$400,000 subject to changes in market interest rates.

(c) The City Comptroller is hereby authorized and directed to enter into an escrow contract (the “Escrow Contract”) with a bank or trust company located and authorized to do business in this State as the City Comptroller shall designate (the “Escrow Holder”) for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in Section 90.10 of the Local Finance Law. In addition, the Escrow Contract may include a forward supply or purchase contract or agreement as part thereof or as a separate agreement for the provision of acquiring obligations of the United States of America or unconditionally guaranteed by the United States of America or other obligations or instruments qualified under Section 90.10 of the Local Finance Law or may be necessary for the completion of the Refunding Financial Plan. The Escrow Contract shall contain such terms and conditions as shall be necessary or required, including terms and conditions required for the completion of the

Refunding Financial Plan, including provisions for the Escrow Holder, without further authorization or direction from the City Council of the City, except as otherwise provided therein, including, without limitation, (i) to make all required payments of principal, interest and any redemption premiums to appropriate paying agents with respect to the Refunded Bonds, (ii) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the Refunding Financial Plan, and of executing and performing the terms and conditions of the Escrow Contract by the Escrow Holder, (iii) at the appropriate time or times, to cause to be given on behalf of the City in the manner provided by law the notice of redemption authorized to be given pursuant to Section 8 hereof, and (iv) to invest the moneys held by the Escrow Holder pursuant to the terms of the Escrow Contract and consistent with the provisions of the Refunding Financial Plan. The Escrow Contract shall be irrevocable and shall constitute a covenant with the owners of the Refunding Bonds.

(d) The proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt, shall be placed in escrow by the City with the Escrow Holder pursuant to the terms of the Escrow Contract. All moneys held by the Escrow Holder shall be invested only in direct obligations of the United States of America, in obligations the principal of and interest on which are unconditionally guaranteed by the United States of America or in obligations or instruments qualified under Section 90.10 of the Local Finance Law, which obligations or instruments shall mature or be subject to redemption at the option of the Escrow Holder not later than the respective dates when such moneys will be required to make payments in accordance with the Escrow Contract and the Refunding Financial Plan. Any such moneys remaining in the custody of the Escrow Holder after the performance in full of the Escrow Contract by the Escrow Holder shall be returned to the City and shall be applied by the City Comptroller to the payment of the



principal of or interest on the Refunding Bonds then outstanding, to the payment of any amounts required to be paid to the United States of America in connection of with the refunding of the Refunding Bonds or to the payment of or reimbursement for the costs of issuance or other administrative costs incurred in connection with the issuance of the Refunding Bonds. In connection with the investment of moneys held by the Escrow Holder under the Escrow Contract, the City Comptroller is authorized to execute on behalf of the City any forward purchase or supply contract for the purchase or supply of the securities described in this subsection (d) at a date subsequent to the delivery of the Refunding Bonds, as is needed to accomplish the purposes of the Refunding Financial Plan.

Section 3. It is hereby determined that the maximum period or periods of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds for each of the objects or purposes for which the Refunded Bonds were issued is no less than as shown on Exhibit A attached hereto and made a part of this resolution taking into account the earlier of the original date of issuance of any such series of serial bonds or bond anticipation notes funded by such series of Refunded Bonds; and

Section 4. The financial plan for the refunding authorized by this resolution (the “Refunding Financial Plan”), showing the sources and amounts of all moneys required to accomplish such refunding, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit B attached hereto and made a part hereof. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount of \$9,225,000 if fully issued and will mature, be of such terms, and bear such interest as set forth in the Refunding Financial Plan. The City Council of the City recognizes that the principal

amount of the Refunding Bonds, the series, maturities, terms, interest rate or rates borne by the Refunding Bonds, the provisions for redemption thereof prior to maturity and whether or not all of the Refunding Bonds will be insured, and the resulting present value savings are likely to vary from such assumptions and that the Refunding Financial Plan will likely vary from that attached hereto as Exhibit B. The City Comptroller is hereby authorized and directed to determine the principal amount of the Refunding Bonds to be issued, the series and designation or designations thereof, the time or times of the sale thereof, the maturities and terms thereof, the provisions relating to the redemption of the Refunding Bonds prior to maturity, if any, the rate or rates of interest to be borne thereby, whether or not the Refunding Bonds will be insured in whole or in part or uninsured, and to prepare, or cause to be provided, a final Refunding Financial Plan, all in accordance herewith, and all powers in connection therewith may be exercised by the City Comptroller; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the Local Finance Law. The City Comptroller shall file a copy of a certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the City Clerk within ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The faith and credit of the City are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds 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 the Refunding Bonds becoming due and payable in such year. To the extent that the same are not paid from other sources, there shall be annually levied on all the taxable real property in the City a tax sufficient to pay the principal of and interest on the Refunding Bonds as the same become due and payable.

Section 6. Proceeds from the sale of the Refunding Bonds, including any accrued interest and, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Refunded Bonds, including any redemption or call premiums, in accordance with the Refunding Financial Plan, shall be irrevocably committed and pledged to such purpose and the owners of the Refunded Bonds shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. The pledge and lien provided by this resolution shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding against all parties having claims of any kind in tort, contract, equity, at law or otherwise against the City irrespective of whether such parties have notice thereof. Neither this resolution, the Escrow Contract, nor any other instrument relating to such pledge and lien, need be filed or recorded.

Section 7. In accordance with the terms of the Refunded Bonds and the provisions of Section 53.00 and of paragraph (h) of Section 90.10 of the Local Finance Law, and subject only to the issuance of the Series 1998A Bonds, the Series 2000 Bonds, the Series 2001 Bonds and the Series 2002 Bonds, as herein authorized, the City hereby elects to call in and redeem all Series 1998A Bonds maturing on and after September 15, 2010 on December 31, 2009, all Series 2000 Bonds maturing on or after October 1, 2011 on October 1, 2010, all Series 2001 Bonds maturing on or after October 1, 2011 on October 1, 2010, and all Series 2002 Bonds maturing on or after December 15, 2012 on December 15, 2011. The sum to be paid therefor on such redemption dates shall be the par value thereof plus the redemption premium, if any, as provided in the issuance proceedings for the Series 1998A Bonds, the Series 2000 Bonds, the Series 2001 Bonds and the Series 2002 Bonds and the accrued interest to such redemption date. The Escrow Holder is hereby

authorized and directed to cause notice of such call for redemption to be given in the name of the City in the manner and within the times provided in the issuance proceedings for the Series 1998A Bonds, the Series 2000 Bonds, the Series 2001 Bonds and the Series 2002 Bonds respectively. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the applicable portion of the callable Series 1998A Bonds, Series 2000 Bonds, Series 2001 Bonds and Series 2002 Bonds the direction to the Escrow Holder to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the notice, requirements of paragraph (a) of Section 53.00 of the Local Finance Law, or any successor law thereto. It is hereby determined that with respect to the series of Refunded Bonds to be called in and redeemed as provided in this Section 7, it is to the financial advantage of the City not to charge, impose and collect or receive from registered owners of the Refunded Bonds mailing, shipping, insurance or other similar charges in connection with such redemption or calls. Accordingly, pursuant to paragraph (c) of Section 70.00 of the Local Finance Law, no such charges shall be so charged, collected or received by the Chief Fiscal Officer, as fiscal agent.

Section 8. The Refunding Bonds shall be sold at a private sale, and the City Comptroller is hereby authorized to execute a purchase contract on behalf of the City for the sale of the Refunding Bonds, provided that the terms and conditions of such sale shall be approved by the State Comptroller and further provided that, prior to the issuance of the Refunding Bonds the City Comptroller shall have filed with the city Council of the City a certificate approved by the State Comptroller pursuant to subdivision 2 of paragraph (g) of Section 90.10 of the Local Finance Law setting forth the present value savings to the City resulting from the issuance of the Refunding

Bonds. In connection with such sale, the City Council of the City hereby authorizes the preparation of an Official Statement and approves its use in connection with such sale, and further consents to the distribution of a Preliminary Official Statement prior to the date said Official Statement is executed and available for distribution, all in accordance with applicable State and Federal securities laws, rules and regulations.

Section 9. The City Council of the City hereby appoints \_\_\_\_\_ as lead senior managing underwriter, in connection with the issuance and sale of the Refunding Bonds. The City Council of the City hereby appoints the law firm of Squire, Sanders & Dempsey L.L.P., of New York, New York, as bond counsel in connection with the issuance and sale of the Refunding Bonds. The City Council of the City hereby appoints the firm of New York Municipal Advisory Corporation (“NYMAC”) of Syosset, New York, as financial advisor in connection with the issuance and sale of the Bonds. The City Council of the City is hereby authorized to appoint an Escrow Holder, as that term is referred to herein, at a future date.

Section 10. Each of the Refunding Bonds authorized by this resolution shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law and the Refunding Bonds shall be general obligations of the City, payable as to both principal and interest by a general tax upon all the taxable real property within the City, without limitation as to rate or amount.

Section 11. The City Comptroller, pursuant to Sections 50.00, 90.00, 90.10 and 168.00 of the Local Finance Law, and all other officers, employees and agents of the City are hereby authorized and directed for and on behalf of the City to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including to correct or

amend the documents and certificates authorized to complete the transactions contemplated by this resolution.

Section 12. All other matters pertaining to the terms, issuance and sale of the Refunding Bonds consistent with the provisions of Section 90.10 of the Local Finance Law shall be determined by the City Comptroller and the powers in connection therewith not otherwise heretofore delegated thereto are hereby delegated to the City Comptroller.

Section 13. The City intends to issue the obligations authorized by this resolution to finance the costs of the purposes described herein for the completion of the Refunding Financial Plan. The City covenants for the benefit of the holders of the Refunding Bonds that it will not make any use of (a) the proceeds of the Refunding Bonds, any funds reasonably expected to be used to pay the principal of or interest on the Refunding Bonds or any other funds of the City, and (b) the purposes financed with the proceeds of the Refunding Bonds, which would cause the interest on which to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to the Refunding Bonds or the proceeds thereof, if such action or omission would cause the interest on the Refunding Bonds to become subject to Federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Refunding Bonds or any other provision hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Refunding Bonds may be applied to reimburse expenditures or commitments made

for the purposes on or after a date which is not more than sixty (60) days prior to the adoption date of this resolution by the City.

Section 14. For the benefit of the holders and beneficial owners from time to time of the Refunding Bonds, the City agrees, in accordance with and as an obligated person with respect to the Refunding Bonds under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the City Comptroller is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”) to be placed on file with the City Clerk, which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the Refunding Bonds in accordance with the Rule, with any changes or amendments that are not inconsistent with this resolution and not substantially adverse to the City and that are approved by the City Comptroller, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively by this paragraph and the Commitment, shall be the City’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Comptroller is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and

notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Comptroller shall consult with, as appropriate, the City Attorney and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by the City Attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 15. The validity of the Refunding Bonds may be contested only if such obligations are authorized for objects or purposes for which the City is not authorized to expend money, or the provisions of law which should be complied with at the date of the publication of this resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of publication, or if said obligations are authorized in violation of the provisions of the Constitution of New York.

Section 16. When this bond resolution takes effect, it shall be published in full by the City Clerk, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, and such publication shall be in \_\_\_\_\_ a newspaper having a general circulation in the City and which is hereby designated as the official newspaper of the City for such purpose.

Section 17. This bond resolution shall take effect immediately upon its adoption by the City Council of the City.



Exhibit A to the Refunding Bond Resolution,

Dated \_\_\_\_\_, 2009,

of the City of Rye

in the County of Westchester, State of New York

Series 1998A Bonds - Refunding Bonds

| <u>Maturity Date</u> | <u>Principal Amount</u> |
|----------------------|-------------------------|
| 10/1/2010            | \$215,000               |
| 10/1/2011            | \$210,000               |
| 10/1/2012            | \$220,000               |
| 10/1/2013            | \$225,000               |
| 10/1/2014            | \$235,000               |
| 10/1/2015            | \$240,000               |
| 10/1/2016            | \$250,000               |
| 10/1/2017            | \$255,000               |
| 10/1/2018            | \$265,000               |

Series 2000 Bonds-Refunding Bonds

|           |           |
|-----------|-----------|
| 10/1/2010 | \$35,000  |
| 10/1/2011 | \$210,000 |
| 10/1/2012 | \$215,000 |
| 10/1/2013 | \$225,000 |
| 10/1/2014 | \$230,000 |
| 10/1/2015 | \$245,000 |
| 10/1/2016 | \$255,000 |
| 10/1/2017 | \$255,000 |
| 10/1/2018 | \$270,000 |
| 10/1/2019 | \$275,000 |
| 10/1/2020 | \$290,000 |

Series 2001 Bonds–Refunding Bonds

|           |           |
|-----------|-----------|
| 10/1/2010 | \$15,000  |
| 10/1/2011 | \$105,000 |
| 10/1/2012 | \$105,000 |
| 10/1/2013 | \$105,000 |
| 10/1/2014 | \$110,000 |
| 10/1/2015 | \$115,000 |
| 10/1/2016 | \$115,000 |
| 10/1/2017 | \$120,000 |
| 10/1/2018 | \$125,000 |
| 10/1/2019 | \$130,000 |
| 10/1/2020 | \$135,000 |
| 10/1/2021 | \$145,000 |

Series 2002 Bonds–Refunding Bonds

|           |           |
|-----------|-----------|
| 10/1/2010 | \$35,000  |
| 10/1/2011 | \$15,000  |
| 10/1/2012 | \$315,000 |
| 10/1/2013 | \$325,000 |
| 10/1/2014 | \$335,000 |
| 10/1/2015 | \$350,000 |
| 10/1/2016 | \$355,000 |
| 10/1/2017 | \$370,000 |
| 10/1/2018 | \$380,000 |
| 10/1/2019 | \$395,000 |
| 10/1/2020 | \$410,000 |

Exhibit B to the Refunding Bond Resolution,  
dated \_\_\_\_\_, 2009,  
of the City of Rye,  
in the County of Westchester, State of New York

Refunding Financial Plan

[attach numerical analysis of NYMAC for Refunding Financial  
Plan]

I, **DAWN NODARSE**, Clerk of the City of Rye, located in the County of Westchester, State of New York (the "City"), HEREBY CERTIFY as follows:

1. A regular meeting of the City Council of the City was duly held on \_\_\_\_\_, 2009, and minutes of such meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purpose of recording the minutes of meetings of the City Council of the City.

2. I have compared the attached extract with such minutes so recorded and such extract is a true and correct copy of such minutes and of the whole thereof insofar as such minutes relate to matters referred to in such extract.

3. Such minutes correctly state the time when such meeting was convened and the place where such meeting was held and the members of the City Council of the City who attended such meeting.

4. Notice of such meeting was given as prescribed by law and such meeting was open to all persons who were entitled by law to attend such meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this \_\_\_ day of September, 2009.

**(SEAL)**

---

**DAWN NODARSE**  
City Clerk  
City of Rye, New York

CITY OF RYE  
WESTCHESTER COUNTY, NEW YORK

ESTOPPEL NOTICE

The resolution published herewith was adopted by the City Council of the City of Rye, located in the County of Westchester, State of New York (the "City") on \_\_\_\_\_, 2009. The validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the City 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 date of publication of this resolution, or such obligations were authorized in violation of the provisions of the Constitution of the State of New York.

Date: \_\_\_\_\_, 2009

/s/ Dawn Nodarse \_\_\_\_\_  
**DAWN NODARSE**  
City Clerk  
City of Rye, New York



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: November 13, 2009

CONTACT: Council member Catherine Parker

**AGENDA ITEM:** Proposal to create a Parking Benefit Fund for the Central Business District.

**FOR THE MEETING OF:**

November 18, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council consider the proposal.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** A proposal has been made to establish a fund which would be a long term funding stream for needed improvements for the CBD. It would be funded by parking meter revenue and would go towards the improvements already identified as the "Streetscape Study" by the CBD Task Force. Just as parking meter revenue from 2006, 2007, and 2008 are being used to fund the shelters for the pay stations and the Locust Ave. traffic signal, future meter revenue would be earmarked for continued improvement of pedestrian safety in an area of Rye that is used by every resident, the downtown.

The 2010 Budget estimates parking meter revenue to be \$175,000. The impact of this proposal, all other things being equal, would be to increase the property tax rate from \$139.52 per thousand of taxable assessed valuation, a 1.56% increase in the property tax rate, to \$140.77 per thousand of taxable assessed valuation, a 2.46% increase in the property tax rate.



# CITY COUNCIL AGENDA

NO. 7

DEPT.: Public Works

DATE: November 6, 2009

CONTACT: George J. Mottarella, City Engineer

**AGENDA ITEM:** Authorization for City Manager to enter into an Agreement with the County of Westchester for the disposal of Recyclable Material as well as a disposal of Solid Waste for Members of Refuse Disposal District #1.

**FOR THE MEETING OF:**

November 18, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council authorize the City Manager to sign an Inter-municipal Agreement with the County of Westchester for Solid Waste and Recyclables Disposal for Refuse Disposal District #1.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** This Agreement will extend the agreement with the County for the disposal of municipally collected solid waste and recyclables until October 21, 2010.

Andrew J. Spano  
County Executive

Department of Environmental Facilities  
Thomas J. Lauro, P.E.  
Commissioner

Received

NOV 04 2009

City Manager's Office  
Rye, New York

October 30, 2009

Mr. Steven Otis  
Mayor  
City of Rye  
City Hall  
1051 Boston Post Road  
Rye, NY 10580

Dear Mayor Otis:

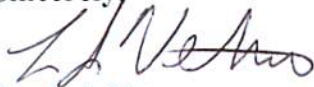
On October 19, 2009, the Westchester County Board of Legislators approved the Inter-Municipal Agreement ("IMA") for Solid Waste and Recyclables Disposal for Refuse Disposal District #1.

Under the new IMA, the tip-fee of \$25.00 per ton for solid waste will continue through October 21, 2010, and will be subject to an Adjustment Factor equal to the Consumer Price Index for each year thereafter that the IMA remains in effect. As you know, there is currently no tip-fee for recyclables, and there are no plans to institute one at this time.

Please return three (3) signed copies of the IMA together with the completed Certificate of Authority, Municipal Cooperation, and a certified copy of your authorized resolution as soon as possible.

If you have any questions please contact Mario Parise, at (914) 813-5453.

Sincerely,



Louis J. Vetrone  
Deputy Commissioner



**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 2009, by and  
between:

**THE COUNTY OF WESTCHESTER, ACTING BY AND THROUGH  
REFUSE DISPOSAL DISTRICT NO. 1**, a district created pursuant to  
Article 5-A of the New York State County Law by Act No. 32-1982 of the  
Westchester County Board of Legislators, having an office and place of  
business at 270 North Avenue, New Rochelle, New York 10801  
(hereinafter referred to as either the "County" or the "District")

and

\_\_\_\_\_, a municipal Corporation of the State of  
New York, having an office and place of business \_\_\_\_\_  
(hereinafter referred to as "Participant")

**WITNESSETH:**

**WHEREAS**, the County of Westchester ("County"), in 1967 undertook to  
investigate the problem of Solid Waste disposal in the County and to formulate environmentally  
sound, and economically viable solutions; and

**WHEREAS**, in 1974, pursuant to Resolution No. 162-1974, and as a result of the  
aforesaid investigation, the County Board of Legislators (hereinafter "County Board") adopted a  
Plan for Solid Waste Disposal in the County pursuant to which the County undertook to assist  
municipalities with the disposal of Municipally Collected Solid Waste, and placed an emphasis  
on resource recovery; and

**WHEREAS**, the County entered into an agreement with the City of Peekskill  
dated January 25, 1979, relating to the construction and operation of a Resource Recovery  
Facility in Peekskill; and

**WHEREAS**, the County Board approved Act No. 32-1982 and created the District pursuant to Article 5-A of the New York State County Law and intermunicipal agreements were executed with the municipalities that comprise the District to guarantee the amount of Solid Waste necessary to operate the Resource Recovery Facility; and

**WHEREAS**, the Resource Recovery Facility commenced operation in 1984; and

**WHEREAS**, the County entered into intermunicipal agreements with the Participants to accept Recyclables and Participants agreed to deliver all Recyclables they collected to the County; and the County agreed to process the Recyclables at the Material Recovery Facility which commenced operation on or about September 2, 1992; and

**WHEREAS**, the current intermunicipal agreements for solid waste and recyclables between the County and the Participants will expire on October 21, 2009 and the parties desire to continue the efficient operation of the District's Solid Waste Management and Disposal System which all parties to the current agreements find to be mutually beneficial; and

**WHEREAS**, Participant seeks assurance that the County will, during the term of this Agreement, accept all of Participant's Municipally Collected Solid Waste at a guaranteed price per ton, subject to annual adjustments based on the change in the consumer price index, and that the County will continue the current system of Recyclables collection and processing; and

**WHEREAS**, the parties have agreed to act in good faith and to take all necessary and appropriate actions, in cooperation with one another, to effect the purposes of this Agreement and enter into this Agreement pursuant to their respective lawful authorities.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements herein set forth, and of the undertakings of each party to the other, the parties do hereby promise and agree as follows:

**ARTICLE I  
DEFINITIONS**

101. "Contract Year" means each twelve month period commencing on October 22 and ending on October 21 during the term of this Agreement.

102. "County Solid Waste Plan" shall mean the County-wide solid waste management and disposal program adopted by the County Board in resolutions 162-1974, 173-1976 and 22-1979, and then updated in accordance with the requirements of the New York State Solid Waste Management Act of 1988, as amended in 1990 by resolutions 214-1991 and 37-1992, as such may be amended or modified in the future in accordance with all applicable law and regulations; and

103. "District Charge" shall have the meaning set forth in Section 303 below.

104. "Fees for Participants" or "Fees" shall have the meaning set forth in Article III below.

105. "Fiscal Year" shall mean the fiscal year of the County.

106. "Material Recovery Facility" or "MRF" shall mean the facility located on premises adjoining the Thruway Transfer Station located on the northbound side of the New York State Thruway in Yonkers, New York where Recyclables are delivered and processed as set forth in Article VI herein.

107. "MRF Recyclables" shall mean those Recyclables (as defined below) set forth in Schedule "A", which is attached hereto and made a part hereof, as may from time to time be amended in accordance with the terms of this Agreement.

108. "Municipally Collected Solid Waste" shall mean that Solid Waste, originating within the boundaries of the Participant, and that is presently collected or caused to be collected by Participant's employees and/or by persons under contract to Participant for the express

purpose of collecting, storing, transporting and disposing of such Solid Waste. For purposes of this definition, Recyclables shall not be considered Municipally Collected Solid Waste.

109. "Participant" shall mean the municipality signing this agreement and "Participants" shall mean all municipalities in the District which enter into binding agreements for the delivery of Municipally Collected Solid Waste and Recyclables to the System.

110. "Person" shall mean any individual, firm, corporation, partnership, trust, governmental agency or any other entity, or any group of such persons.

111. "Point of Entry into the System" shall mean that delivery site designated by the District for delivery of Solid Waste by Participant.

112. "Recycling" shall mean the use of a waste product as a raw material in the manufacture of the same, similar or other product.

113. "Recyclables" shall mean marketable newspaper, mixed paper, cardboard, plastic, glass, metal containers, tires and other "recyclables" as such term is defined in Section 825.30(8) of the Laws of Westchester County (Westchester County Source Separation Law) as amended from time to time. For information purposes, attached hereto as Schedule "B" is the definition contained in the Westchester County Source Separation Law as of the effective date of this agreement as described in Section 801.

114. "Resource Recovery Facility" shall mean the Resource Recovery Facility located in Peekskill, New York.

115. "Solid Waste" shall mean residential, governmental, industrial and/or commercial refuse but shall not include the following: human wastes; rendering wastes; demolition wastes; residue from incinerators or other destructive systems for processing waste, other than now existing individual building incinerators whose residue is presently collected as part of normal municipal collections; junked automobiles or pathological, toxic, explosive, radioactive material

or any other hazardous wastes, which according to existing or future Federal, State or local laws, rules or regulations, require special handling in their collection and/or disposal.

116. "Source Separation" shall mean the segregation and collection, prior to the Point of Entry into the System, for the sole purpose of recycling, of individual components of Solid Waste, such as bottles, cans, newspapers and corrugated containers. Source Separation shall not include the shipment of heterogeneous loads of Solid Waste out of the municipal boundaries of Participant.

117. "System" shall mean the District's overall, solid waste management and disposal system and every aspect thereof including, but not limited to, equipment, transfer and Resource Recovery Facilities acquired, constructed or operated or to be acquired, constructed or operated by the District or any agent, designee or contractor in connection with the County Solid Waste Plan.

118. "Transfer Facility" or "Transfer Facilities" shall mean those Transfer Station(s) and/or Transfer System(s) that have been established by the District or which shall be established as determined to be necessary by the District, and in accordance with the provisions of this Agreement, for the economical assembly and consolidation of Solid Waste for delivery to the Resource Recovery Facility or other disposal site.

## **ARTICLE II DISTRICT UNDERTAKINGS AND DELIVERIES TO THE SYSTEM**

201. Commitment to Accept Solid Waste and Limitation on Fees. For the term of this Agreement, the District agrees to accept, at the Point of Entry into the System, and to dispose of the Municipally Collected Solid Waste of Participant for the fees set forth in Article III below.

202. Commitment to Deliver. Participant agrees that for the term of this Agreement, it will deliver, or cause to be delivered, all of its Municipally Collected Solid Waste into the System.

203. Collection of Recyclable Materials. The Participant shall continue to be solely responsible for the collection of source separated materials and shall provide for the delivery of MRF Recyclables to the designated Point of Entry into the System for processing at the MRF as set forth in Section 504.

204. Plan of Operations. The District has promulgated and disseminated a Plan of Operation for the System. Such Plan of Operations will be adhered to by Participant and shall, inter alia, deal with such matters relating to the operation, management and administration of the System, including, but not limited to hours of operation, which hours of operation shall account for the regular collection schedule of all Participants, schedule and routing of deliveries, provisions for the deliveries of non-heterogeneous waste, issuance of authorizations to and regulation of delivery vehicles, measurements for quantity, quality and other characteristics, billing, rules and regulations relating to the use of the System and such other items as may be appropriate.

### **ARTICLE III CHARGES AND PAYMENTS**

301. Payment of Fees by Participants. For the term of this Agreement, Participant shall pay, on a monthly basis, the then current per ton Solid Waste Tipping Fee for Participants for all Solid Waste delivered or caused to be delivered into the System. Payment of the District Charge by Participant shall be made in accordance with the applicable sections of the County Tax Law. If any Tipping Fee should ever be imposed for Recyclables under Section 305 below, then Participant shall pay such fees monthly. The Fees for Participants shall be determined annually by the District in accordance with the criteria set forth below.

302. Basis of Fees for Participants. The purpose of Fees set forth hereunder is to cover the expenses of the District. Fees shall consist of two components: the District Charge as defined in Section 303 below and tipping fees. The tipping fee for Solid Waste shall be defined in Section 304 below. There is currently no tipping fee for Recyclables, but should one ever be

imposed hereunder, it shall only be done in accordance with the procedures set forth in Section 305 below.

303. District Charge. The Participant may be assessed a District Charge in the form of an Ad Valorem tax to pay District expenses not covered by the Fees assessed in Sections 304 and 305 below. Such charge will be assessed as part of the adoption of the annual County budget and Participant will have the right to be heard by the County Board on any District Charge during the regularly scheduled annual budget hearings.

304. Solid Waste Tipping Fee. For the period October 22, 2009 through October 21, 2010, the Participant shall pay a fee of \$25.00 per ton (the "Tipping Fee") for Solid Waste delivered to the District.

The Tipping Fee shall be adjusted upward or downward on the first day of each Contract Year by adjusting the then current Tipping Fee by an adjustment factor ("AF"), which is defined as the sum of (i) one plus (ii) the percent change (as a positive or negative number) in the Consumer Price Index for all Urban Consumers for New York – Northern New Jersey ("CPI-U") during the immediately preceding twelve (12) month period (as published by the United States Department of Labor, Bureau of Labor Statistics); provided that no such adjustment shall be made prior to October 22, 2010. The AF may be positive, zero, or negative. The Tipping Fee, as adjusted by the AF, shall take effect immediately and remain effective until it is adjusted pursuant hereto on the first day of the subsequent Contract Year. In the event that the Bureau of Labor Statistics revises the standard reference base period or if a change occurs in the structure of the CPI-U, the parties agree to use the applicable conversion factors supplied by the Bureau of Labor Statistics to convert the changed CPI-U to reflect the standard reference base period and structure of the CPI-U in effect as of the date first written above. Expressed algebraically:

AF for Contract Year commencing in calendar year n =

$1 + \frac{\text{CPI-U in September of Year (n)} - \text{CPI-U in September of Year (n-1)}}{\text{CPI-U in September of Year (n-1)}}$

$\frac{\text{CPI-U in September of Year (n)} - \text{CPI-U in September of Year (n-1)}}{\text{CPI-U in September of Year (n-1)}}$

305. Disposal Fees for MRF Recyclables. The Participant shall not be required to pay a tipping fee for the delivery of MRF Recyclables for processing at the MRF. The District reserves the right to impose a tipping fee, but only by a District rule duly adopted by the County Board of Legislators, after prior notice and an opportunity to comment on the adoption of such rule has been provided to Participant in the manner set forth in Section 501 of this Agreement.

306. MRF Operating Revenues and Expenses. The costs and expenses of the operation of the MRF shall be a District Charge, as defined in Section 303 above, rather than a general County tax levy, as the MRF is solely for the use by the District. All revenues derived from the operation of the MRF shall be applied to the District. It is the intent of the parties that to the extent the revenues of the MRF, during any one year of this Agreement, exceed the operating costs plus the cost of servicing debt incurred to construct and equip the MRF, such revenues shall be used to reduce the District Charge.

307. Uniformity. The solid waste Fees for Participants shall be the same for all Participants provided, however, the District or its agent may from time to time and for limited periods accept into the System, Solid Waste from other sources so as to maximize the efficiency of the System and the revenues to be derived therefrom (e.g.: by selling unused disposal capacity at the Resource Recovery Facility) and may charge such rates therefor as the District determines which best achieve such objective. Notwithstanding the above, should the District enter into an agreement for the regularly scheduled collection and disposal of Solid Waste at the Resource Recovery Facility with an entity that is not a member of the District, and the fee charged by the County is less than the Solid Waste Tipping Fee being charged to Participants, the District shall lower such Solid Waste Tipping Fee charged to participants to an amount equal to or less than the fee charged to the non-District entity.



**ARTICLE IV**  
**ACCOUNTING, WEIGH SCALES, RECORDS & LOCAL OPERATIONS**

401. Accounting and Audit. The District will account for its administration of the System separate and apart from its general operations as an enterprise fund. The District will keep proper books of record and account, in accordance with generally accepted accounting principles, consistently applied. Such books and records, together with all documents and materials relating to the System (other than such as may be subject to legal privilege) shall, at all reasonable times, be subject to inspection by Participant. The District shall cause such enterprise fund to be audited annually by independent, certified public accountant(s) and shall provide a copy of such audit to Participant promptly upon receipt thereof.

402. Weigh Scales and Records. The District will arrange for and/or provide, weigh scales and/or other devices appropriate for determining the quantity, quality and other characteristics of all Solid Waste. The District will make and keep appropriate records of such measurements, which records shall be available to Participant at all reasonable times.

403. Local Operations. Participant shall take all such action as may be necessary to ensure that all of its Municipally Collected Solid Waste will be delivered to the System. Participant agrees to not place any Solid Waste into the System that has been treated in any way, unless the District has approved such treatment process in advance.

As provided in Sections 503 and 504 hereof, the Participant agrees to deliver all MRF Recyclables for processing at the MRF. Accordingly, the Participant shall not construct or operate or join with others in the construction or operation of a facility intended to perform the functions of the MRF. This Section 403 shall not preclude the Participant from establishing a recycling facility, such as a composting facility, with functions different from those of the MRF, provided that Participant shall continue to be responsible for the delivery to the MRF of all materials collected by it within categories designated as acceptable for such delivery. For the purposes of this paragraph the functions of the MRF shall be construed to mean the processing for sale or reuse of MRF Recyclables.

404. Responsibility for Collection Costs. Participant shall be solely responsible for and shall bear the total cost, expense and other obligation connected with the collection and transportation of Solid Waste prior to its Point of Entry Into the System. The Point of Entry for Participant's Municipally Collected Solid Waste is identified in Schedule "C", which is attached hereto and made a part hereof. If the District changes a Participant's Point of Entry Into the System, the District will make best efforts to provide a suitable alternative Point of Entry Into the System taking into account the Participant's recommendations.

## **ARTICLE V RECYCLING FACILITIES AND COMMITMENTS OF PARTIES**

501. Materials Recovery Facility ("MRF"). The MRF employs equipment and personnel capable of sorting and preparing for the delivery to market, or otherwise for reuse, certain categories of Recyclables designated as MRF Recyclables. Such categories may from time to time be changed, but only by District rules duly adopted by the County Board. At least thirty (30) days prior to the submittal of legislation to the County Board for the adoption of any such District Rule, the County Commissioner of Environmental Facilities shall give written notice of the District's intent to adopt such rule, together with a copy of the proposed rule, to the Participant and the Participant shall be afforded a reasonable opportunity to comment on the proposed rule within the notice period.

502. Commitment to Accept Recyclables. The District shall accept, without limitation, at the MRF, or at places designated for delivery, source separated MRF Recyclables.

503. Commitment to Deliver Recyclable Materials. The Participant agrees to deliver to the District, in the manner provided in Section 504, all source separated MRF Recyclables collected by it.

504. Delivery of Recyclable Materials. As provided in the County Solid Waste Plan, all Participants shall either; (a) provide a secure and accessible location for the placement by the District of containers for the collection of MRF Recyclables, which containers shall be removed

at times specified by the District or; (b) deliver MRF Recyclables to the MRF at the times, in the manner and along the routes prescribed by the District.

Nothing contained herein shall prevent the Participant from joining together with one or more other Participants, in accordance with the requirements of applicable law, for the purpose of designating a common site for the placement of containers, provided, however, that each Participant must exclusively utilize a separate container or such other means or methods that will separately identify the MRF Recyclables delivered by each Participant.

505. Operating Criteria. From time to time the County Board may adopt and publish rules relevant to the operation of the MRF, which rules may include, *inter alia*, categories of acceptable Recyclables and the form in which such Recyclables will be accepted at the MRF. Prior notice and opportunity to comment on the proposed adoption of such rules shall be provided to the Participant in accordance with the provisions of Section 501 of this Agreement.

## **ARTICLE VI FURTHER ASSURANCES**

601. Additional Actions. The Parties shall, in good faith, during the term of this Agreement take all such actions as may be necessary or appropriate to carry out the purposes of this Agreement including, without limitation, the enactment of legislation, resolutions and the like. In addition to the foregoing and without limitation thereof to the extent that any Fees to be paid by Participant shall or may be pledged in connection with the financing of any portion of the System, the District and Participant shall each use its best, good faith efforts to defend, preserve and protect such pledge of such Fees.

602. Assistance with Permits and Approval. The County and /or the District and Participant shall use their mutual best, good faith efforts to obtain such agreements, approvals, licenses, permits, legislation, authorizations and the like as may be necessary or appropriate in

connection with the design, financing, construction and operation of the System or as may be necessary or appropriate to carry out the purposes of this Agreement.

603. Commitment to Pay Unconditional. Participant agrees that so long as the District shall accept or shall be willing to accept Participant's Municipally Collected Solid Waste, and whether or not the System is then functioning as per design or functioning normally, Participant's obligation to make all aforesaid payments in the amounts required and at the time specified whether to the District or the District's designee, agent or contractor, shall be absolute and unconditional, and shall not be subject to any set-off, counterclaim, recoupment, defense (other than payment itself) or other right which Participant may have against the District, its designees, agents or contractors or any other person for any reason whatsoever.

## **ARTICLE VII MISCELLANEOUS**

701. Effect of Breach. Each party specifically recognizes that the other is entitled to bring suit for injunctive relief, mandamus, or specific performance or to exercise other legal or equitable remedies to enforce the obligations and covenants of each Party hereto. In addition, it being recognized that the successful operation of the System - and therefore the ability of municipalities within the County to safely, lawfully and economically dispose of their Municipally Collected Solid Waste - is dependent on all Participants fully living up to the terms and conditions of their agreements, it is agreed that all Participants shall be deemed third-party beneficiaries of all other Agreements entered into by all Participants.

702. Assignability. The District may assign or pledge this Agreement in relation to the financing of the System but no other assignment of this Agreement shall be authorized or permitted by either Party.

703. Waiver Not to be Construed. No waiver by the District or Participant of any term or condition of this agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any pledge be deemed to constitute a waiver of any subsequent pledge, whether of the same or of a different section, subsection, paragraph, clause, phrase, word

or other provision of this Agreement required of it under this Agreement or by law. The failure of either party to insist in any one or more instances, upon strict performance of any the terms, covenants, agreements or conditions in this agreement shall not be considered to be a waiver or relinquishment of such term, covenant, agreement or condition, but the same shall continue in full force and effect.

704. Amendments. This Agreement being for the benefit of all Participants, it may not be substantially amended without the concurrence of all other Participants and any such amendment shall be only by written agreement, duly authorized and executed. This Agreement represents the entire agreement between the parties and any modification or amendment shall be in writing and duly executed by the parties.

705. Severability. If any provision, paragraph, sentence, clause or word of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such shall not affect the remainder of this Agreement and this Agreement shall be construed and enforced, consistent with its expressed purposes, as if such invalid and unenforceable provision, paragraph, sentence, clause or word had not been contained herein.

706. Duplicate Originals. This Agreement may be executed in two or more counterparts, any of which shall be regarded for all purposes as duplicate originals.

707. Insurance. Schedule "D" annexed hereto and made a part hereof, contains the insurance coverage which each of the parties hereto have agreed to maintain with respect to matters relating to the performance of this Agreement. In addition to, and not in limitation of the insurance provisions contained in Schedule "D", the Participant agrees:

- (a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Participant shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising

directly or indirectly out of the performance or failure to perform hereunder by the Participant or third parties under the direction or control of the Participant; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

708. Notices. All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail, postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

The District:

Commissioner of Environmental Facilities  
County of Westchester  
270 North Avenue  
New Rochelle, New York 10805

with a copy to the County Attorney:

County Attorney  
148 Martine Avenue, 6<sup>th</sup> Floor  
White Plains, NY 10601

The Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

709. WBE/MBE. Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Under this IMA it is recognized and understood that the County encourages the Municipality to do similarly.

### **ARTICLE VIII TERM OF AGREEMENT**

801. Term. This Agreement shall become effective at 12:01 a.m., October 22, 2009 and shall continue for ten (10) years (the "Initial Term"). The County, at its sole option, upon thirty (30) days written notice, may elect to extend the Initial Term for one five (5) year renewal period upon the same terms and conditions contained herein (the "First Renewal Term"). If the County elects to extend the Initial Term, the parties may, upon mutual written agreement, further extend the First Renewal Term not more than two (2) times for additional five (5) year terms (each, an "Additional Renewal Term"). Any such mutual agreement to extend the agreement for an Additional Renewal Term must be agreed to in writing not less than one hundred eighty (180) days prior to the expiration of the First Renewal Term or the first Additional Renewal Term, as the case may be.

802. Termination. Except as is expressly provided herein, neither the District nor Participant shall have the right to terminate this Agreement for any reason whatsoever including breach or default in the obligations of either to the other and this agreement shall, for its term, remain in full force effect and may at all times be enforced by each upon the other at law or in equity.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement the day and year first above mentioned.

**THE COUNTY OF WESTCHESTER,  
ACTING BY AND THROUGH REFUSE  
DISPOSAL DISTRICT NO. 1**

By: \_\_\_\_\_

MUNICIPALITY: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name and Title:

Approved by the Board of Legislators of the County of Westchester at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Authorized by the Board of Acquisition and Contract of the County of Westchester at meeting duly held on the day of \_\_\_\_\_, 2009.

Approved as to form and manner of execution

\_\_\_\_\_  
Associate County Attorney  
The County of Westchester  
s/k:/r/dxf/solid waste imas/solid waste IMAs/solid waste recycling agreement 080509.doc



**MUNICIPALITY'S ACKNOWLEDGEMENT**

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

On this \_\_\_\_ day of \_\_\_\_\_ 200\_, before me personally came \_\_\_\_\_, to me known, and known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the municipal corporation described in and which executed the within instrument, who being by me duly sworn did depose and say that he/she, the said \_\_\_\_\_ resides at \_\_\_\_\_ and that he/she is the \_\_\_\_\_ of said municipal corporation.

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

**CERTIFICATE OF AUTHORITY**  
(Municipality)

I, \_\_\_\_\_, certify that I am the  
*(Officer other than officer signing contract)*  
\_\_\_\_\_ of the \_\_\_\_\_  
*(Title)* *(Name of Municipality)*  
(the "Municipality") a corporation duly organized in good standing under the \_\_\_\_\_  
*(Law under which organized, e.g., the New York Village Law, Town Law, General Municipal Law)*  
named in the foregoing agreement that \_\_\_\_\_ who signed said  
*(Person executing agreement)*  
agreement on behalf of the Municipality was, at the time of execution \_\_\_\_\_ of  
*(Title of such person),*  
the Municipality, that said agreement was duly signed for on behalf of said Municipality by  
authority of its \_\_\_\_\_ thereunto duly authorized,  
*(Town Board, Village Board, City Council)*  
and that such authority is in full force and effect at the date hereof.

\_\_\_\_\_  
(Signature)

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

On this \_\_\_ day of \_\_\_\_\_ 200\_, before me personally came \_\_\_\_\_  
\_\_\_\_\_ whose signature appears above, to me known, and know to be the  
\_\_\_\_\_ of \_\_\_\_\_,  
*(Title)*  
the municipal corporation described in and which executed the above certificate, who being by me  
duly sworn did depose and say that he, the said \_\_\_\_\_  
resides at \_\_\_\_\_, and that he/she  
is the \_\_\_\_\_ of said municipal corporation.  
*(Title)*

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

## **Schedule A**

### **RECYCLABLE CATEGORIES DESIGNATED FOR DELIVERY TO THE MATERIAL RECOVERY FACILITY**

- **Glass (mixed cutlet/ food and beverage containers)**
- **Aluminum cans**
- **Aluminum foil and trays**
- **Tin cans (for food and beverage)**
- **Plastic PET**
- **Plastic HDPE natural**
- **Plastic HDPE color**
- **Newsprint**
- **Cardboard, including corrugated containers/boxes and grey cardboard**
- **Kraft II bags (brown paper bags)**
- **Magazines**
- **Junk mail**
- **Telephone books**

## Schedule B

### Sec. 825.30 Definitions. [Amended by L.L. No. 8-2008, § 1]

8. Recyclables means the following materials:
  - (a) Newsprint: Newspapers as purchased, including any glossy inserts.
  - (b) High-grade paper: Includes high quality paper such as letterhead, copier paper, typing paper, tablet sheets, computer printout paper, and all paper of similar quality. This term shall not include carbon paper, selfcarbonizing paper, coated or glossy paper, envelopes with windows or adhesive labels. Residential waste generators are permitted to commingle high-grade paper with newsprint; however, nonresidential waste generators are required to separate high-grade paper from newsprint.
  - (c) Glass: Glass jars, bottles and containers of clear, green or amber (brown) color, used to store food or beverages only, which must be empty and rinsed clean. This term excludes ceramics, window or automobile glass, mirrors and light bulbs.
  - (d) Metals: All ferrous and nonferrous food and beverage containers, including steel, aluminum and bimetal, which shall be empty and rinsed clean.
  - (e) Bulk metals: Large metal fixtures and appliances, including white goods such as washing machines, refrigerators, etc. This term excludes metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks.
  - (f) Plastics: All HDPE or PET type plastics coded 1 or 2, including food, beverage, detergent and shampoo containers, which shall be empty and rinsed clean. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (e.g., toys) and plastic foam materials.
  - (g) Yard waste: Leaves collected during the fall only.
  - (h) Vehicular batteries: Lead-acid batteries used in automobiles and heavy equipment; excludes household batteries (e.g., for flashlights, radios, cameras, etc.).
  - (i) Used motor oil: The type used in gasoline and diesel vehicle and equipment engines, delivered in an uncontaminated container.
  - (j) Cardboard including corrugated cardboard containers, which must be cleaned of excessive amounts of contaminants such as adhesives, metals and plastics; cereal boxes, tissue boxes, paper towel rolls or any other noncorrugated materials made from cardboard.

**Schedule C**  
**Solid Waste Delivery Point**

**South Columbus Transfer Station**

Larchmont/Mamaroneck  
Mamaroneck – V  
Mount Vernon  
New Rochelle  
Pelham  
Pelham Manor

**Brockway Transfer Station**

Harrison  
Port Chester  
Rye Brook  
Rye  
Scarsdale  
White Plains

**Thruway Transfer Station**

Yonkers  
Ardsley  
Dobbs Ferry  
Eastchester  
Elmsford  
Greenburgh  
Hastings  
Irvington  
Tarrytown  
Tuckahoe  
Bronxville

**Resco**

Cortlandt  
Croton  
Ossining – T  
Yorktown  
Sleepy Hollow  
Mt. Kisco  
Ossining – V  
Pleasantville  
Buchanan  
Peekskill  
Mt. Pleasant  
Briarcliff Manor

## **SCHEDULE "D "**

### **STANDARD INSURANCE PROVISIONS** **(MUNICIPALITY)**

1. Prior to commencing work, the Municipality shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the County of Westchester, as may be required and approved by the Director of Risk Management of the County. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Director of Risk Management of the County of Westchester by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, submit the same to the Department of Risk Management of the County of Westchester for approval and submit a certificate thereof. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated. Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification. All property losses shall be made payable to and adjusted with the County.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: [www.wcb.state.ny.us](http://www.wcb.state.ny.us) (click on Employers/Businesses, then Business Permits/Licenses/Contracts to see instruction manual).

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

(b) Employer's Liability with minimum limit of \$100,000.00.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000.00 for bodily injury and \$100,000.00 for property damage or a combined single limit of \$1,000,000.00 (c.s.l.), naming the County of Westchester as an additional insured. This insurance shall indicate the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.

(d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000.00 per occurrence for bodily injury and a minimum limit of \$100,000.00 per occurrence for property damage or a combined single limit of \$1,000,000.00 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County of Westchester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County of Westchester is named as an insured, shall not apply to the County of Westchester.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County of Westchester (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.



# CITY COUNCIL AGENDA

NO. 8

DEPT.: Police

DATE: November 2, 2009

CONTACT: Commissioner William R. Connors

**AGENDA ITEM:** Acceptance of Grant Award from Governor's Traffic Safety Committee in the amount of \$2,400 for participation in the "Child Passenger Safety" program.

**FOR THE MEETING OF:**

November 18, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Manger be authorized to accept the Grant Award from the Governor's Traffic Safety Committee in the amount of \$2,400.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The City of Rye Police Department has been awarded a grant of \$2,400 from the Governor's Traffic Safety Committee to participate in the "Child Passenger Safety" program. The goal of the program is to increase the proper use and installation of child safety seats thereby reducing serious injury and deaths that result from vehicle accidents.





William R. Connors  
*Police Commissioner*

## POLICE DEPARTMENT

City of Rye, New York  
21 McCullough Place  
Rye, N. Y. 10580  
Phone: (914) 967-1234  
FAX: (914) 967-8341



November 2, 2009

Memorandum for: Frank J. Culross, City Manager

Subject: **CHILD PASSENGER SAFETY GRANT**

I am pleased to report that the City of Rye Police Department has been awarded a grant of \$2,400 by the Governor's Traffic Safety Committee's Child Passenger Safety Program to participate in the statewide "Child Passenger Safety" program. The program's goal is to increase the proper use and installation of child safety seats in New York State. This grant follows a similar one that was awarded to the Department last year.

The Child Seat Program is a valuable safeguard for the safety of our city's children, and has been exceptionally well received by the community. Combined with donations received by grateful parents, this grant should cover all materials and supplies associated with the program.

A copy of the grant award letter is attached for your information.

A handwritten signature in cursive script, appearing to read "William R. Connors".

William R. Connors  
Police Commissioner

WRC/wrc

cc: Jean Gribbins, Comptroller  
Sgt. Susan Rigano



DAVID A. PATERSON  
Governor

STATE OF NEW YORK  
GOVERNOR'S TRAFFIC SAFETY COMMITTEE  
DEPARTMENT OF MOTOR VEHICLES



DAVID J. SWARTS  
Chair

October 29, 2009

Sergeant Susan Rigano  
Rye City Police Department  
21 McCullough Place  
Rye, New York 10580

Re: CPS-2010-Rye City PD -00062-(060)  
Child Passenger Safety Program  
EFFECTIVE DATE: October 1, 2009

Dear Sergeant Rigano:

On behalf of Governor David A. Paterson, I am pleased to notify you that the City of Rye has been awarded \$2,400 to participate in the statewide "Child Passenger Safety" program. Our goal is to increase the proper use and installation of child safety seats in New York State.

Thank you for participating in this very important statewide program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

David J. Swarts  
Chair and  
Commissioner of Motor Vehicles

DJS:et

Enclosure

cc: Joseph Fazzino  
William Connors ✓



# CITY COUNCIL AGENDA

NO. 12

DEPT.: City Clerk

DATE: November 12, 2009

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft of the unapproved minutes of the regular meeting of the City Council held on November 4, 2009, and the special meeting of the City Council held on November 9, 2009, as attached.

**FOR THE MEETING OF:**

November 18, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the draft minutes.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

Approve the Unapproved Minutes of the regular meeting of the City Council held on November 4, 2009, and the special meeting of the City Council held on November 9, 2009.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on November 4, 2009 at 8:00  
P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
PAULA J. GAMACHE  
CATHERINE F. PARKER  
GEORGE S. PRATT  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

1. Pledge of Allegiance

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

Announcements

Mayor Otis began the meeting by offering congratulations to the newly elected Mayor, Doug French and Council Members Peter Jovanovich, Suzanna Keith and Richard Filippi and wished them good luck for next year. He also congratulated his running mates Myles Lavelle, Joe Murphy and Andy Ball. The Mayor said the 12 years he has served the City was a tremendous honor and privilege. He said he wished all the best for Rye.

Mayor Otis also sent his congratulations to the Rye High School football team for their tremendous season that ended with their loss to Poughkeepsie in the final moments of the game last weekend. He also noted that the Manhattanville College hockey team's new season begins on Friday evening at Playland.

Councilman Cunningham said that the field hockey team would be playing their archrivals Lakeland at Manhattanville in a championship game. Councilman Sack noted that the girl's soccer team had won their last two games and would be playing again on Tuesday.

Councilman Pratt reminded commuters that the deadline for returning commuter parking renewals was Friday, November 6<sup>th</sup> at 5:00 p.m.

3. Residents may be heard who have matters to discuss that do not appear on the agenda

*Arthur Stampleman, 720 Milton Road*, updated the Council on the activities of the Aging in Place Task Force. He said they will be contacting Rye seniors and organizations important to seniors to familiarize them with the concept, and determine what interest there may be in such an organization because the needs and interests in each community are different. A one-page survey can be downloaded from the Rye Record website and returned by mail. He added that people can email him with ideas for additions to the Resource Directory. *Joe Murphy, 57 Franklin Avenue*, said he would like the City Council to endorse this endeavor.

4. Report from the City Manager on the acceptance of a quit claim deed between the Hannan Place Homeowners Association and the City of Rye

City Manager Culross reported that as part of the application process for federal stimulus money relating to this Safe Routes to School sidewalk project, it was determined that the City needed to acquire an additional 2,995 feet of right-of-way from the Hannan Place Homeowners Association to provide adequate sidewalk separation width requirements. The Association has offered the City a quit claim deed. The Council is asked to accept the deed and authorize the City Manager to execute the required real estate transfer tax forms.

Councilman Pratt made a motion, seconded by Councilwoman Gamache to adopt the following Resolution:

WHEREAS, the residents of Johnson and Hannan Place neighborhoods requested that the City of Rye (the "City") construct a sidewalk along Boston Post Road between the Mamaroneck line and Johnson Place to improve pedestrian access to Rye Neck School; and

WHEREAS, the City of Rye has been the fortunate recipient of Federal stimulus funding that it is able to put towards the \$130,000 project cost; and

WHEREAS, the permitting process for the stimulus money requires that the City be the owner of the property prior to receiving the funding for the sidewalk construction; and

WHEREAS, in order to construct the sidewalk, the City needs approximately 2,955 square feet of land (the "Property") that is part of the common property owned by the Rye Woods Homeowners Association (the "Rye Woods HOA"); and

WHEREAS, the Rye Woods HOA has agreed to deed the Property to the City for the purposes of constructing the sidewalk; and

WHEREAS, the Rye Woods HOA has provided the City with a Certificate dated October 30, 2009 certifying that a vote of the Rye Woods HOA was duly taken and that a majority of the homeowners voted in favor of deeding the Property to the City; and

WHEREAS, the Rye Woods HOA and the Preserve at Rye Homeowners Association have entered into an agreement regarding the future maintenance of the sidewalk and abutting property.

NOW, THEREFORE BE IT RESOLVED, that the City Council authorizes the City Manager to sign the necessary recording documents to file the deed with the Westchester County Clerk.

ROLL CALL

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Parker,  
Pratt and Sack

NAYS: None

ABSENT None

5. Miscellaneous communications and reports

Councilman Cunningham said the message of the election is that the public is looking for this and future Councils to eliminate tax increases. He said the challenge to the City Manager is to see what can be done to get to that goal. He said he believes it will be difficult to do so, but it is an opportunity to look at any areas within the City that can be cut back. He added that he believed any cuts made should be across the board, with no department taking a bigger hit than any other. The current fiscal year has been a response to last year; many expenditures have been cut back, but the City has certain obligations that must be met. He said any discussions of a 0% tax increase should include what the public could expect in terms of service levels and quality of life issues.

Councilman Pratt said the public needs to know the basic revenue model of the City, which is two-thirds of revenue comes from property taxes and one-third from elastic revenues. In the past, budget surpluses resulted from under-budgeting for elastic revenues. He said a report on why Police overtime is down from last year would be helpful because the current contract stipulates how overtime works and he believes it would be helpful to the community and future Councils to understand the process. Mr. Pratt added that he found the Interim Financial Report very enlightening and felt it should also be passed along to the community and incoming Council because many cuts have already been made by staff. He said that 98.2% of tax revenue is consumed by salaries and benefits, which is consistent with last year. The amount of elastic revenues received is what has to be considered when determining cuts and what services can be delivered to the City.

Councilman Ball referred to the Resolution passed by the Council under Agenda Item 4 and read from correspondence the Council recently received from the City Manager detailing the

“heroic” efforts of City Staff and consultants, led by Assistant City Manager Pickup, to secure stimulus funds for the City. A full design report, with a fully vetted construction management plan in complete compliance with Department of Transportation (DOT) review that normally takes six to nine months, was completed within 30 days. Mr. Ball congratulated them on a great job.

Mayor Otis reviewed the budget schedule:

- Budget presentation – Monday, November 9<sup>th</sup>.
- Workshop – Thursday, November 12<sup>th</sup> on Public Works, Capital Projects and Buildings and Vehicles.
- Workshop – Monday, November 16<sup>th</sup> on Police and Fire Departments.
- Workshop – Wednesday, November 18<sup>th</sup> on Rye Free Reading Room, Rye Golf Club and Boat Basin.
- Workshop – Monday, November 30<sup>th</sup> on Recreation Department, Rye Youth Council and Rye Nature Center.
- Public Hearing – Wednesday, December 2<sup>nd</sup>.
- Budget adoption – Wednesday, December 16<sup>th</sup>.

6     Old Business

Councilman Cunningham asked about the inquiry of a community advocate who was seeking to coordinate painting the Friends Meeting House. City Manager Culross said he had informed the person that the offer would not be appropriate for several reasons including the presence of lead paint; but ultimately because the restoration architect advised that historically the meeting house was an unpainted shingled building as opposed to part shingled and part clapboard. A decision will have to be made as to how to restore the building.

Councilman Ball inquired about a situation previously occurring in the City of a man living in his car in a driveway on Soundview Avenue. He said he believed the situation had been addressed but it has resurfaced. He asked if there is anything in the Code that prevents someone from living in a car in a driveway in front of a home, and if not, the Council should consider enacting something.

7.     New Business

Councilman Cunningham asked if anything could be done next year about reallocating the DPW schedule for leaf pickup to allow for increased pickup during the month of November when there are several holidays.

8.     Draft unapproved minutes of the regular meeting of the City Council held October 21, 2009

Councilman Cunningham made a motion, seconded by Councilwoman Parker and carried by voice vote with Councilman Pratt abstaining, to approve the minutes of the regular meeting of the City Council held on October 21, 2009.

9. Adjournment

There being no further business to discuss, Mayor Otis made a motion to adjourn the meeting at 8:35 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



***DRAFT UNAPPROVED MINUTES*** of the  
Special Meeting of the City Council of the City of  
Rye held in City Hall on November 9, 2009 at 7:00  
P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
PAULA J. GAMACHE  
CATHERINE F. PARKER  
GEORGE S. PRATT (arrived at 7:10 p.m.)

Councilmembers

ABSENT: JOSEPH A. SACK

1. Pledge of Allegiance

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3. Presentation of the FY 2010 Budget by the City Manager

Mayor Otis said the purpose of this meeting was for the City Manager's presentation of the 2010 Tentative Budget. He said that at the beginning of this year it was known that this would be a difficult year and that the 2010 budget would be a challenge. A great deal of work by the City Manager, City Comptroller and Department Heads went into coming up with the budget proposal.

City Manager Culross said that as proposed, services and programs are unchanged from the current year. The major contract service providers (Rye Free Reading Room, Emergency Medical Services, Rye Youth Council) are receiving the same funding in 2010 as they did in 2009. The budget calls for a property tax increase of 1.56%, which for the average \$1.3 million home in Rye equals less than \$4 per month. There is a modest adjustment in some user fees. This is not a "business as usual" year and the budget has not been treated as a "business as usual" budget. Early in 2009 Department Heads were asked to serve on a Recession Task Force where financial trends were identified and behaviors modified accordingly. Expenditures have been deferred where possible and a hard job freeze has been enforced. The proposed 2010 General Fund Budget is \$29.8 million, which is 2.9% less than the current budget and 4.2% less than

2008 actual expenditures. The only category to increase from the current budget is Employee Benefits and taxes, which includes the new MTA payroll tax. All other categories are less than the 2009 budget and except for contractual costs are less than the 2009 forecast. The proposed General Fund authorized work force is reduced by seven positions (4.5%) and the All Funds work force is down by ten positions (6%). Most of the positions are administrative support positions, one is a public works laborer, and two are police officers. With the exception of the nine CSEA Clerical employees who will receive a 4% increase effective January 1 under the terms of a multi-year contract that expires at the end of 2010, all other employee contracts will have expired by 12/31/09 and the proposed budget includes no salary or benefit increases for any other employees. Benefits and salaries are down altogether by over \$300,000 next year. 2010 will be a transitional year. The City depends on New York State for substantial revenues and the State has serious fiscal problems. The City is facing serious budget issues for the next two to three years. The 2010 proposed budget maintains service levels, while the work force becomes leaner, but going forward, expectations of service levels may have to be reexamined. We must evaluate what we do, why we do it and how we do it. The year-end Fund Balance in the proposed budget will remain at 8.2% of appropriations, which is about \$1 million above the policy goal of 5%, and allows flexibility for the City to react to events beyond our control.

City Comptroller Jean Gribbins provided an overview of the proposed 2010 budget. She began by saying the 2009 budget was unique with many challenges that increased throughout the year making 2010 another unique year. The 2010 Budget process began over the Summer with Department Heads inputting 2009 projections and 2010 budget data into the financial system. The City Manager, Comptroller and Deputy Comptroller then met with all Department Heads to review their budgets line by line in order to justify spending levels and support revenue projections. Due to the changing nature of the economy, each number was reviewed both independently, as a justifiable and reasonable amount of Revenue and Expense, as well as in comparison to prior and current year activity. The Budget presented reflects several months of work and preparation by City Staff and the efforts of the Recession Task Force. Ms. Gribbins summarized the proposed budget as follows:

- An increase of 1.56% over the fiscal 2009 tax rate is proposed. Expenditures are budgeted at \$29.8 Million and revenues at \$28.6 Million. \$1.2 Million of Fund Balance will be used for Capital items. The available fund balance at year end 2010 will equal 8.19% of expenditures. There is a contingency equal to 1% of operating expenditures.
- A 1.56% tax increase results in a tax rate of \$139.52 per \$1,000 of assessed valuation, which equates to a \$47.05 increase per year on the average home with an estimated market value of \$1,286,000.
- To change the tax rate increase by one percent would require a reduction in expenditures, increase in revenues or some combination of both by \$191,360.
- \$1.2 Million will be transferred from the General Fund for Capital purposes: \$434,320 for equipment and building and vehicle purchases and \$807,000 for capital projects. These items do not have an effect on the tax rate but reduce the Fund Balance.
- The total budgeted for capital projects is \$7,639,260 with only \$807,000 funded by the General Fund. \$5,660,260 is expected to be funded with Grants and Federal and State aid and \$1,172,000 by new debt, which can be approved by the City Council.
- The Cable TV, Golf and Boat Basin Funds continue to be self-supporting.

- The Debt Service Fund is designed to rely on annual transfers in from the General Fund for the payment of debt principal and interest. In 2010 the Debt Service Fund will use \$100,000 of its Fund Balance and the General Fund will transfer \$40,000 to the debt service fund to cover 2010 Debt Service payments of \$140,000.
- The Risk Retention Fund and the Building and Vehicle Maintenance Fund are designed as internal service funds, providing services to all other funds and charging all other funds a proportionate share of operating expenses.

Ms. Gribbins said there are several workshop meetings scheduled for the Council's review of the budget prior to the public hearing and final adoption that the City Charter requires by December 31. She thanked the departments for submitting reasonable and cost-conscious budgets and gave special thanks to Deputy Comptroller Joe Fazzino for his help.

The Council complimented the City Manager and Comptroller and staff for their hard work on the proposed budget. Other comment on the budget presentation included:

- The work of the Recession Task Force at the beginning of the year allowed the City to be prepared going into this budget process because staff was involved and spent the time to look carefully and assess what was needed or not needed.
- The document presented is a good one for the Council to work with.
- Almost 90% of the budget is for salaries, benefits and obligations mandated by the State. The City does not qualify for as much money in grants and aid as some other communities and, therefore, must fund capital projects.
- The City will be challenged going forward to find expenses that do not handicap our primary function of public safety and delivery of services to residents.
- The 1.56% proposed increase is testament to the good financial management of the City, especially when neighboring communities are looking at higher increases.
- Since there is no way of predicting how the State will honor their aid commitments this year, we must make contingency plans.
- 1.56% is a good starting point. The budget reflects the times. It is a good professional approach to let the community know that the elastic revenues will be difficult to predict.
- Be careful in managing the Undesignated Fund Balance because the only thing that creates a surplus is receipt of more elastic revenues than were budgeted for. The Fund Balance may be static or even decline before it begins to grow again.
- Thanks for putting the budget message in the simplistic terms of a "reset economy".
- It is important that no department is bearing the burden more than another.
- There are 14 fewer authorized salaried positions than two years ago. Since the jobs were necessary when they existed, it puts more pressure on those who remain.
- No other community in Westchester is receiving a better put together budget in these tough economic times.
- A 0% based assessment review of Building and Vehicles is a good idea.

Mayor-elect Douglas French said he felt the budget was a great first budget; that it reflects the times and sentiments of the people and that the number should be as low as possible.

4. Set public hearing on 2010 Budget for December 2, 2009

Mayor Otis made a motion, seconded by Councilman Ball and unanimously carried to adopt the following Resolution to set a Public Hearing on the 2010 Preliminary Budget for December 2, 2009.

**WHEREAS**, it is now desired to call a public hearing on the proposed 2010 budget, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on December 2, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such budget.

Section 2. Such notice of public hearing shall be in substantially the following form:

**CITY OF RYE  
PUBLIC NOTICE**

**PLEASE TAKE NOTICE** that a public hearing will be held by the Council of the City of Rye on Wednesday, the 2<sup>nd</sup> day of December, 2009 at 8:00 p.m. at City Hall, 1051 Boston Post Road, in said City, on the Proposed Budgets of the General Fund, Cable TV Special Revenue Fund, K.T. Woods Permanent Fund, Debt Service Fund, Capital Projects Fund, Boat Basin Enterprise Fund, Golf Club Enterprise Fund, Risk Retention Internal Service Fund, and Building and Vehicle Maintenance Internal Service Fund of the City of Rye for the ensuing fiscal year, January 1, 2010 through December 31, 2010, and at such time and place any person interested in said Proposed Budgets will be given an opportunity to provide written and oral comments on any and all of the aforementioned budgets.

**CITY OF RYE SUMMARY OF PROPOSED BUDGETS**

| <u>Fund/Program</u>               | <u>Proposed Budgets</u> |
|-----------------------------------|-------------------------|
| General Fund                      | \$29,790,216            |
| Rye Cable TV Special Revenue Fund | 299,033                 |
| K.T. Woods Permanent Fund         | -0-                     |
| Debt Service Fund                 | 139,987                 |

|  |                     |
|--|---------------------|
| Capital Projects Fund                                  | 7,639,260           |
| Boat Basin Enterprise Fund                             | 726,789             |
| Rye Golf Club Enterprise Fund                          | 7,679,398           |
| Risk Retention Internal Service Fund                   | 726,400             |
| Building and Vehicle Maintenance Internal Service Fund | <u>5,058,697</u>    |
| TOTAL - All Funds                                      | <u>\$52,059,780</u> |

Dawn F. Nodarse  
City Clerk  
Dated: November 18, 2009

5. Adjournment

There being no further business to discuss, Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the meeting at 7:40 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk