

PROPOSED ORDINANCE NO. 168- 2013

BOND ORDINANCE PROVIDING FOR A CAPITAL EXPENDITURE TO FINANCE THE CAPITAL PROJECTS SPECIFIED HEREIN WITHIN THE COUNTY OF NASSAU, AUTHORIZING \$463,726,221 OF BONDS OF THE COUNTY OF NASSAU TO FINANCE SAID EXPENDITURE, AND MAKING CERTAIN DETERMINATIONS PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, PURSUANT TO THE LOCAL FINANCE LAW OF NEW YORK AND THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY.

WHEREAS, pursuant to section 310 of the County Government Law of Nassau County, the Nassau County Legislature by Ordinance No. 86-2013 approved and adopted the Capital Budget of the County of Nassau for the fiscal year beginning January 1, 2013 and ending December 31, 2013 (the "Capital Budget"); and

WHEREAS, pursuant to section 310 of the County Government Law of Nassau County, the Nassau County Legislature by Resolution No. 101-2013 approved and adopted the four-year Capital Plan for the County of Nassau for the fiscal year beginning January 1, 2013 (the "Capital Plan"); and

WHEREAS, included in the Capital Budget, as amended, is project 35123, Superstorm Sandy Repair and Mitigation - Bay Park STP and Countywide Collection, included on Appendix A attached hereto and incorporated herein, in the amount of \$463,726,221, which is the County's current estimate of the cost of the project but which estimate may change over time due to the ongoing and evolving nature of the County's Superstorm Sandy repair, recovery and mitigation efforts, and therefore additional legislative Capital Budget and bond ordinance approval(s) may be requested in the future; and

WHEREAS, pursuant to section 310 of the County Government Law of Nassau County, the County Attorney of Nassau County is required to submit to the County Legislature such proposed bond ordinances as are necessary or desirable to authorize the bonds contemplated by the Capital Budget as approved and amended; and

WHEREAS, this bond ordinance is necessary to authorize such bonds for the purpose of funding the projects in the Capital Budget, as approved and amended, identified under the heading "Project" on Appendix A attached hereto and incorporated herein (each, a "Project"); and

WHEREAS, the Nassau County Department of Public Works submitted to the Nassau County Planning Commission an Environmental Assessment Form for each Project, if any, identified as "Type I" or "Unlisted" under the heading "SEQRA" on Appendix A attached hereto and incorporated herein (each a "Type I Project" or "Unlisted Project"); and

WHEREAS, the Nassau County Planning Commission, acting in an advisory capacity to the Nassau County Legislature, passed a resolution regarding such proposed action, if any, a copy of such resolution being attached hereto as Appendix B and incorporated herein, recommending that the Legislature conclude that no further environmental review or action is required on such proposed action; and

WHEREAS, all necessary Federal, State, County and local permits, approvals and determinations of environmental impact for the purpose or purposes hereinafter referred to have been obtained or will have been obtained prior to the expenditure of proceeds of obligations to be authorized pursuant to this ordinance; NOW, THEREFORE,

BE IT ORDAINED by the County Legislature of the County of Nassau as follows:

Section 1. It is hereby determined pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 N.Y.E.C.L. section 0101 *et seq.* and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County that each Project identified on Appendix A attached hereto and incorporated herein as "Type II" under the heading "SEQRA" is a "Type II Action" within the meaning of Section 617.5(c) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment and no further review is required. It is further hereby determined pursuant to the provisions of SEQRA, Part 617 of 6 N.Y.C.R.R. and Section 1611 of the County Government Law of Nassau County that each Project, if any, identified as "Type I" or "Unlisted" under the heading "SEQRA" on Appendix A attached hereto and incorporated herein, has been determined not to have a significant effect on the environment. A record of each such determination shall be maintained in a file, readily accessible to the public, at the office of the Clerk of the Legislature.

Section 2. A capital expenditure for financing the cost of the objects or purposes identified under the heading "Project Title" on Appendix A attached hereto and incorporated herein, in the County of Nassau, is hereby authorized upon recommendation of

the County Executive and by a two-thirds vote of the voting strength of the County Legislature, the amount of such capital expenditure to be \$463,726,221, which shall be financed with the proceeds from the issuance of \$463,726,221 bonds.

Section 3. The County of Nassau (the "County") may issue its bonds in the aggregate principal amount of \$463,726,221 pursuant to the Local Finance Law of New York (the "LFL" or "Law") in order to finance the specific objects or purposes or classes of objects or purposes (hereinafter referred to as the "Purpose") described in Section 2 hereof.

Section 4. The County Legislature has determined and hereby states that the estimated aggregate maximum cost of such Purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$463,726,221. The maximum estimated cost of each component Project of the Purpose is set forth under the heading "Bond Ord Total" on Appendix A attached hereto. The plan of financing, as set forth in the Capital Budget, as amended, and Capital Plan, includes \$463,726,221 to be raised by the issuance of bonds authorized by this ordinance, and the levy and collection of taxes on all the taxable real property of the County to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 5. The County Legislature hereby determines that the specific periods of probable usefulness (each, a "PPU") of each component Project of the Purpose for which said \$463,726,221 bonds authorized pursuant to this ordinance are to be issued, within the limitations of the applicable subdivision of paragraph a. of Section 11.00 of the Law identified under the heading "LFL" on Appendix A attached hereto and incorporated herein, are identified under the heading "PPU" on said Appendix A. The County Executive is hereby authorized and directed to make any necessary or desirable changes on Appendix A hereto to conform it to the Capital Budget and Capital Plan.

Section 6. Each of the bonds authorized by this ordinance and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the County, payable as to both principal and interest by general tax upon all the taxable real property within the County subject to applicable statutory limitations. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made

annually in the budget of the County by appropriation for (a) the amortization and redemption of said bonds and any notes issued in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. Subject to the terms and conditions of this ordinance and the Law, and pursuant to the provisions of Section 21.00, Section 30.00, Section 50.00, Sections 56.00 to 60.00 and Section 63.00 of the Law, the powers and duties of the County Legislature relative to authorizing bond anticipation notes and the renewals thereof, determining whether to issue bonds with substantially level or declining annual debt service, prescribing the terms, form and contents of the bonds herein authorized, bond anticipation notes issued in anticipation of said bonds and the renewals thereof, and any other powers or duties pertaining to or incidental to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds and the renewals thereof, are hereby delegated to the County Treasurer, the chief fiscal officer of the County.

Section 8. The County Treasurer is hereby authorized to cause such bonds and/or bond anticipation notes to be printed and to do such things as may be necessary to provide for the sale of such bonds and/or bond anticipation notes and to employ bond counsel to furnish to the purchaser or purchasers of such obligations an opinion as to their legality.

Section 9. The validity of any County bonds authorized by this ordinance and any County bond anticipation notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of this ordinance, or summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication; or
- (c) such obligations are authorized in violation of the provisions of the constitution of the State of New York.

Section 10. This ordinance shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as set forth in this ordinance, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or

otherwise set aside with respect to the permanent funding of the objects or purposes described herein.

Section 11. The Clerk of the County Legislature is hereby directed to publish this ordinance in full, or a summary thereof, together with a notice in substantially the form prescribed by Section 81.00 of the Law in the official newspaper of the County.

Section 12. This ordinance, including Appendix A, may be modified to allow for the correction of any mathematical and/or typographical errors subsequent to any approval and adoption of said ordinance without the necessity for a vote to be taken by the County Legislature or by the members of any Standing Committee of said Legislature if said ordinance is passed by the affirmative vote of a majority of said Legislature.

§ 13. This ordinance shall take effect immediately upon its adoption.

APPENDIX A

APPENDIX B

Project Number	Formatted Project Title	Bond Ord Total	PPU	LFL	6 NYGRR	SEQRA
35123	Superstorm Sandy Repair and Mitigation - Bay Park STP and Countywide Collection	\$463,726,221.00	40	11.00.a.4	617.4(b)(6)(i) and 617.4(b)(10)	Type I
SSW Total		\$463,726,221.00				