

**RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO
\$533,000 IN SERIAL BONDS OF THE TOWN OF QUEENSBURY
TO PAY THE COST OF EMERGENCY REPLACEMENT OF SEWER
MAIN ALONG QUAKER ROAD; AND AUTHORIZING THE ISSUANCE
OF UP TO \$533,000 IN BOND ANTICIPATION NOTES OF THE TOWN OF
QUEENSBURY FOR THE SAME PURPOSE**

RESOLUTION NO.: 175, 2020

**INTRODUCED BY: Mr. George Ferone
WHO MOVED ITS ADOPTION**

SECONDED BY: Mr. Harrison Freer

WHEREAS, the Queensbury Town Board duly established the Town of Queensbury Consolidated Sanitary Sewer District and the Route 9 Sanitary Sewer District (the "Districts") in accordance with New York Town Law, and

WHEREAS, as a result of a break that occurred on the Districts' sewer force main in the vicinity of 313 Quaker Road in early February 2020, which required notification of authorities through the New York State Alerts System, the Town Supervisor declared an emergency and the Town's Wastewater Director arranged for short-term, temporary repairs on an emergency basis for public health and safety reasons; and

WHEREAS, under Town Law Section 202-a the Town Board is required to maintain the sewer system; accordingly, additional replacement of the force main in this area must be permanently repaired immediately to avoid a breach of the temporary repairs; and

WHEREAS, such replacement shall benefit both such Districts and the cost of this project shall be apportioned between both Districts, and

WHEREAS, during the emergency repairs, it became clear that such problems with the sewer main extend significantly further and must be replaced on an emergency basis to prevent public health and environmental injuries; and

WHEREAS, the Town Board has received an engineer's proposal and cost estimate describing the necessary emergency improvements, and

WHEREAS, the Town Board has determined that the improvements are a Type II Action under the State Environmental Quality Review Act (SEQRA) and no further SEQRA review is required; and

WHEREAS, in light of the urgent nature of the necessary emergency repairs and concerns regarding possible injury to public health and the environment, the Town Board needs to expedite this emergency project; and

WHEREAS, the expense of such maintenance is a charge upon the Districts and the Town Board wishes to finance the improvements on behalf of the Districts;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF QUEENSBURY, WARREN COUNTY, NEW YORK, AS FOLLOWS:

Section 1. It is hereby found and determined that it is in the public interest to replace a portion of the District main in the area where the break took place at an estimated cost of \$533,000, such project is hereby authorized and the Town Supervisor is hereby authorized to take all actions necessary to effectuate the intent of this Resolution.

Section 2. The specific object or purpose for which the obligations authorized by this Resolution are to be issued is the acquisition, construction, and installation of approximately 1,400 feet of sewer main in the area where the break took place, and further including related preliminary and incidental costs (the "Project"), all as detailed in the engineer's proposal and cost estimate. Such specific object or purpose is hereby authorized at a maximum estimated cost of Five Hundred Thirty Three Thousand Dollars (\$533,000).

Section 3. The plan for the financing of such maximum estimated cost is the issuance of up to of Five Hundred Thirty Three Thousand Dollars (\$533,000) in serial bonds or bond anticipation notes of the Town on behalf of the Districts, hereby authorized to be issued pursuant to the Local Finance Law.

The proceeds of the bonds or bond anticipation notes may be used to reimburse expenditures paid by the Town from other funds or otherwise on or after the date of adoption of this Bond Resolution. The Town may submit applications for grants and/or low interest loans from the New York State Environmental Facilities Corporation (EFC) and/or other funding source(s) and, to the extent that any such moneys are received, may apply such funds to the payment of principal and interest on the bonds or bond anticipation notes. Pursuant to Local Finance Law Sections 107.00[d][3](1) and 107.00[d][9], no down payment from current funds is required.

Section 4. The Town Board anticipates that the Town may pay certain capital expenditures in connection with the Project prior to the receipt of the proceeds of the Bonds. The Town Board hereby declares its official intent to use Bond proceeds to reimburse the Town for such Project expenditures occurring within sixty (60) days prior to adoption of this Resolution. This section of the Resolution is adopted solely for the purpose of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations and does not bind the Town to make any expenditure, incur any indebtedness or proceed with the acquisition, construction and installation of the Project.

Section 5. It is hereby determined that the period of probable usefulness of the specific object or purpose is forty (40) years, pursuant to Section 11.00(a)[4] of the New York Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five (5) years.

Section 6. The faith and credit of the Town of Queensbury, Warren County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as they become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such years. There shall annually be levied on all the taxable real property of the Districts a fee

sufficient to pay the principal of and interest on such obligations as they become due and payable.

Section 7. For the purpose of paying the cost of the Project, including related preliminary and incidental costs, there are hereby authorized to be issued serial bonds of the Town up to a maximum amount of \$533,000, the maximum maturity of which shall not exceed the forty (40) year period of probable usefulness set forth above and which shall mature on or before the date of the expiration of the period of probable usefulness as measured from the date of the bonds or from the date of the first bond anticipation note issued in anticipation of the sale of such bonds, whichever date is earlier. The bonds may be issued in the form of a statutory installment bond.

Section 8. There are hereby authorized to be issued bond anticipation notes for the specific object or purpose in an amount up to but not exceeding the \$533,000 maximum amount of serial bonds authorized to be issued, in anticipation of the issuance and sale of the serial bonds authorized, including renewals of such bond anticipation notes.

Section 9. Any bond anticipation notes shall be payable from the proceeds derived from the sale of the bonds or otherwise redeemed in the manner provided by Section 23.00 of the Local Finance Law. The faith and credit of the Town are hereby irrevocably pledged for the payment of the bond anticipation notes and the interest on them.

Section 10. There are no bond anticipation notes outstanding which have been previously issued in anticipation of the sale of these bonds. Neither are the bond anticipation notes hereby authorized renewal notes. These bond anticipation notes will be issued in anticipation of bonds for an assessable improvement. These notes shall mature at such time as the Town may determine and may be renewed from time to time, provided that in no event shall such notes or renewals extend more than one (1) year beyond the original date of issue except as permitted in the Local Finance Law.

Section 11. Subject to the terms and conditions of this Resolution and of the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in

anticipation of the issuance of the serial bonds authorized by this Resolution and the renewal of these notes, and the power to prescribe the terms, form and contents of the serial bonds and bond anticipation notes and the power to sell and deliver the serial bonds and bond anticipation notes issued in anticipation of the issuance of the bonds is hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town. The Town Supervisor is hereby authorized to sign any serial bonds and bond anticipation notes issued in anticipation of the issuance of the serial bonds and bond anticipation notes issued pursuant to this Resolution by manual signature, and the Town Clerk is hereby authorized to affix or impress or imprint a facsimile of the seal of the Town to any of the serial bonds or bond anticipation notes and to attest such seal by manual signature. The Town Supervisor, as Chief Fiscal Officer of the Town, is authorized to execute and deliver any documents and to take such other action as may be necessary and proper to carry out the intent of the provisions of this Resolution.

Section 12. The exact date of issuance of the bonds and/or notes and the exact date upon which they shall become due and payable shall be fixed and determined by the Chief Fiscal Officer, provided, however, that the maturity of the notes or renewals shall not exceed one (1) year from the date of issue except as permitted by the Local Finance Law.

Section 13. The Chief Fiscal Officer shall prepare the bonds and/or notes and sell them in accordance with the provisions of the Local Finance Law including, but not limited to, the provisions of Section 169.00, if applicable, and at such sale shall determine the interest rate to be borne by such bonds and/or notes. The Town Board authorizes the Chief Fiscal Officer to establish substantially level annual debt service or a declining annual balance for the repayment of such Bonds if he believes it is in the best interests of the Town.

Section 14. If issued, the bonds and/or notes shall be in registered form, and shall bear interest at the determined rate.

Section 15. The Chief Fiscal Officer shall deliver the bonds and/or notes to the purchaser only against a certified check or other immediately available funds. The proceeds of the sale of the bonds and/or notes shall be deposited and/or invested as required by Section 165.00 of the Local Finance Law, and the power to invest the proceeds of sale is hereby

delegated to the Chief Fiscal Officer and the power to invest in any instruments described in Section 165.00 is expressly granted.

Section 16. To the extent that it is permitted to do so under the Internal Revenue Code of 1986, as amended to the date hereof (the "Code"), the Town hereby designates the bonds and/or notes as "qualified tax-exempt obligations" under Section 265(b)(3) of the Code. The Town hereby covenants that, to the extent permitted under the Code in effect as of the date of issuance of any bonds and/or notes, it will (i) take all actions on its part necessary to cause interest on the bonds and/or notes to be excluded from gross income for purposes of Federal income taxes and (ii) refrain from taking any action which would cause interest on the bonds and/or notes to be included in gross income for purposes of Federal income taxes.

Section 17. The Town of Queensbury is a town partially within the Adirondack Park. However, State lands subject to taxation within the Town's boundaries are assessed at less than thirty percent (30%) of the total taxable assessed valuation of the Town, so permission of the State Comptroller for the proposed expenditure and issuance of the bonds and/or notes is not required under Local Finance Law Section 104.10(3).

Section 18. Miller, Mannix, Schachner & Hafner, LLC, Glens Falls, New York, is hereby designated bond counsel.

Section 19. The validity of these serial bonds and bond anticipation notes may be contested only if:

- (1) These obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or
- (2) The provisions of law which should be complied with at the date of 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 such publication; or
- (3) Such obligations are authorized in violation of the provisions of the State Constitution.

Section 20. The full text of this Resolution or a summary thereof shall be published in *The Post Star*, which has been designated as the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 21. The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

ROLL CALL

AYES: Mr. Strough, Mr. Metivier, Mr. Freer, Mr. Ferone

NAYS: None

ABSENT: None

The Resolution was declared duly adopted by a vote of not less than two-thirds (2/3) of the full membership of the Town Board.

DATED: May 4, 2020