

EXTRACT OF MINUTES OF MEETING OF THE TOWN BOARD
ADOPTING SUPPLEMENTAL BOND RESOLUTION

At a special meeting of the Town Board of the Town of Bergen, Genesee County, New York, held at the Town Offices in Bergen, New York, on the 30th day of November, 2021:

PRESENT:

ABSENT:

_____ presented the following resolution and duly moved that it be adopted and was seconded by _____:

SUPPLEMENTAL BOND RESOLUTION DATED NOVEMBER 30, 2021 OF THE TOWN BOARD OF THE TOWN OF BERGEN, NEW YORK, AUTHORIZING GENERAL OBLIGATION SERIAL BONDS TO FINANCE WATER SYSTEM CAPITAL IMPROVEMENTS WITHIN THE TOWN, AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN CONTEMPLATION THEREOF, THE EXPENDITURE OF SUMS FOR SUCH PURPOSE, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Town of Bergen Water Improvement Benefit Area No. 1 is a Water District of the Town of Bergen, New York, duly established by the Town Board pursuant to the Town Law; and

WHEREAS, the Comptroller of the State of New York has duly made an Order, dated January 29, 2020, granting permission for the establishment of said Town of Bergen Water Improvement Benefit Area No. 1; and

WHEREAS, pursuant to a bond resolution dated February 11, 2020 (the "Original Resolution"), the Town Board of the Town of Bergen, New York (hereinafter referred to as the "Town") approved expenditures for, and the issuance and sale of, up to \$8,958,000 aggregate principal amount of general obligation bonds and bond anticipation notes relative to the construction of such water system capital improvements; and

WHEREAS, actual project costs have proved to be approximately \$1,527,000 higher than the maximum estimated project costs, the Town had duly authorized such increase in maximum amount pursuant to Section 209-h of the Town Law, and the Town now desires to provide for the financing thereof by supplementing the Original Bond resolution by adoption of this Supplemental Bond Resolution; and

WHEREAS, the Comptroller of the State of New York has duly made an Order, dated November 23, 2021, granting permission to increase the maximum amount to be expended on behalf of the Town of Bergen Water Improvement Benefit Area No. 1; and

WHEREAS, the Town, acting as lead agency under the State Environmental Quality Review Act and the applicable regulations promulgated thereunder ("SEQRA"), has completed its environmental review and, on January 22, 2019, has duly adopted a negative declaration and has determined that the implementation of the type I action as proposed will not result in any significant adverse environmental impacts; now therefor, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF BERGEN, NEW YORK, by the favorable vote of not less than two-thirds of all of the members of such Board, as follows:

Section 1. The Town of Bergen shall undertake certain capital improvements consisting of the acquisition and construction of the Town of Bergen Water Improvement Benefit Area No. 1, to include the installation of approximately 163,720 linear feet of water main, valves, hydrants, services, appurtenances along various roads in the Town, and the acquisition of land or rights in land necessary therefor, if any, and the acquisition of original furnishings, equipment, machinery or apparatus and other incidental improvements that may be required in connection therewith for such construction and district use, as set forth in the Original Bond Resolution (hereinafter referred to as "purpose") in an additional amount not to exceed \$1,527,000, and general obligation serial bonds in an additional aggregate principal amount not to exceed \$1,527,000 of the Town are hereby authorized to be issued to finance said purpose, and bond anticipation notes in anticipation thereof (and renewals thereof) of the Town are hereby authorized to be issued to finance said purpose.

Section 2. The estimated maximum aggregate cost to the Town of Bergen of said purpose, which may include preliminary costs and costs incidental thereto and costs of the financing thereof, is now estimated to be \$10,485,000. The plan for financing of said purpose is to provide (i) up to \$8,958,000 of such maximum cost by issuance of bonds or bond anticipation notes, as authorized under the Original Bond Resolution, to be offset and reduced dollar for dollar by the amount of grants received, presently estimated to be \$3,058,000 from United State Department of Agriculture, Rural Development; and (ii) up to \$1,527,000 of such maximum cost by issuance of bonds or bond anticipation notes, as herein authorized, to be offset and reduced dollar

for dollar by the amount of grants received, presently estimated to be \$577,000 from United State Department of Agriculture, Rural Development.

Section 3. It is hereby determined and declared that (a) said purpose is one of the class of objects or purposes described in Subdivision 1 of Paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years, (b) the proposed maximum maturity of said bonds authorized by this resolution will be in excess of five years, (c) current funds required to be provided prior to the issuance of the bonds or notes herein authorized, pursuant to Section 107.00 of the Local Finance Law, to the extent applicable, if any, will be provided, (d) the notes herein authorized are issued in anticipation of bonds for an assessable improvement, and (e) there are presently no outstanding bond anticipation notes issued in anticipation of the sale of said bonds.

Section 4. The bonds and notes authorized by this resolution shall contain the recital of validity prescribed in Section 52.00 of the Local Finance Law and such bonds and notes shall be general obligations of the Town and all the taxable real property in the Town is subject to the levy of *ad valorem* taxes to pay the principal thereof, and interest thereon, without limitation as to rate or amount, subject to applicable statutory limitations, if any, sufficient to pay the principal of and interest on said bonds and notes.

Section 5. It is hereby determined and declared that the Town reasonably expects to reimburse the general fund, or such other fund as may be utilized, not to exceed the maximum amount authorized herein, from the proceeds of the obligations authorized hereby for expenditures, if any, from such fund that may be made for the purpose prior to the date of the issuance of such obligations. This is a declaration of official intent under Treasury Regulation §1.150-2.

Section 6. The power to further authorize the sale, issuance and delivery of said bonds and notes and to prescribe the terms, form and contents of said bonds and notes, including, without limitation, the consolidation with other issues, the determination to issue bonds with substantially level or declining annual debt service, all contracts for, and determinations with respect to, credit or liquidity enhancements, if any, and to sell and deliver said bonds and notes, subject to the provisions of this resolution and the provisions of the Local Finance Law, including without limitation, the authority to determine whether to accept bids electronically to the extent allowed by Section 58.00 of the Local Finance Law, is hereby delegated to the Town Supervisor, the Town's chief fiscal officer. The Town Supervisor and the Town Clerk or Deputy Clerk are hereby authorized to sign by manual or facsimile signature and attest any bonds and notes issued pursuant to this resolution, and are hereby authorized to affix to such bonds and notes the corporate seal of the Town of Bergen.

Section 7. The faith and credit of the Town of Bergen, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds and notes as the same respectively become due and payable. Such bonds and notes shall

be payable from a levy on real property in such district benefitted or user charges therefor, in the manner provided by law, but if not paid from such source, all the taxable real property in the Town is subject to the levy of *ad valorem* taxes to pay the principal thereof, and interest thereon, without limitation as to rate or amount, subject to applicable statutory limitations, if any, sufficient to pay the principal of and interest on said bonds and notes. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 8. This resolution, or a summary hereof, shall be published in full by the Town Clerk of the Town of Bergen together with a notice in substantially the form prescribed by Section 81.00 of said Local Finance Law, and such publication shall be in each official newspaper of the Town, in the manner prescribed by law. The validity of said bonds or of any bond anticipation notes issued in anticipation of the sale of said bonds may be contested only if such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or 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 if said obligations are authorized in violation of the provisions of the Constitution.

Section 9. This resolution shall take effect immediately upon its adoption.

The motion having been duly seconded, it was adopted and the following votes were cast:

AYES

NAYS

NOTICE PURSUANT TO LOCAL FINANCE LAW SECTION 81.00

The supplemental bond resolution published herewith was adopted on November 30, 2021, and the validity of the obligations authorized by such supplemental bond resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Town of Bergen 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 (20) days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

Michele M. Smith, Town Clerk
Town of Bergen, New York