



RESOLUTION NO. 199 of 2020

DATED: November 24, 2020

RECOMMENDATION:

BOND RESOLUTION OF THE COUNTY OF MONTGOMERY, NEW YORK (THE "COUNTY"), DATED NOVEMBER 24, 2020, AUTHORIZING THE CONSTRUCTION OF A PUBLIC WORKS AND BUSINESS DEVELOPMENT FACILITY WITHIN THE COUNTY, ESTIMATING THE AGGREGATE COST THEREOF TO BE \$12,700,000.00; APPROPRIATING SAID AMOUNT THEREFOR AND AUTHORIZING THE ISSUANCE OF \$12,700,000.00 SERIAL BONDS OF THE COUNTY TO FINANCE SAID COST

Resolution by Legislator: Pepe

Seconded by: Headwell, Jr.

WHEREAS, the County Legislature has heretofore approved funding for the construction of a public works and business development facility within the County (the "Project"); and

WHEREAS, the County Legislature desires to approve the method of financing the costs of such Project;

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the County Legislature of the County of Montgomery, New York, (by a favorable vote of not less than two-thirds of all of its members), as follows:

SECTION 1

Pursuant to Sections 31.00 and 32.00 of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York (the "Law"), the County hereby authorizes financing of the Project. The maximum aggregate cost of the Project is hereby estimated to be \$12,700,000.00, which shall be paid from the issuance of \$12,700,000.00 serial bonds to finance such costs.

SECTION 2

It is determined that the period of probable usefulness of the aforesaid specific objects or purposes are as follows:

Building – thirty (30) years pursuant to Section 11.00.a.11(a)(1) of the Law

SECTION 3

The plan of financing includes the issuance of \$12,700,000.00 serial bonds, the levy of a tax upon all of the real property in the County to pay the principal of and interest on said bonds as the same shall become due and owing.

SECTION 4

The temporary use of available funds of the County, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized to be expended pursuant to Section 165.10 of the Local Finance Law for the specific objects or purposes described in Section 1 of this resolution. If such temporary funds are used for any expenditure authorized in this resolution, the County

intends to reimburse such funds with the proceeds of the tax-exempt borrowing authorized and identified pursuant to Section 1 above.

SECTION 5

The proposed average maturity date of the bonds authorized pursuant to this resolution is expected to exceed five (5) years.

SECTION 6

The serial bonds issued to finance the cost of each object or purpose described in Section 1 above shall mature no later than the date of the expiration of the period of probable usefulness for each such object or purpose.

SECTION 7

The County hereby covenants and agrees with the holders from time to time of the serial bonds of the County issued pursuant to this resolution, and any bond anticipation notes of the County issued in anticipation of the sale of said bonds, that the County will duly and faithfully observe and comply with all provisions of the United States Internal Revenue Code of 1986, as amended (the "Code"), and any proposed or final regulations of the Internal Revenue Service issued pursuant thereto (the "Regulations") unless, in the opinion of Bond Counsel to the County, such compliance is not required by the Code and Regulations to maintain the exemption of interest on said obligations from Federal income taxation.

SECTION 8

Pursuant to Section 617.5(a) of the regulations of the New York State Department of Environmental Conservation, in the event that certain components of the Project set forth in Section 1 of this resolution are subject to the procedures required by the State Environmental Quality Review Act ("SEQRA"), no "action", as the same is referred to in Article 9 of SEQRA and SEQRA regulations, shall be taken and no serial bonds shall be issued until all of the procedures and requirements set forth therein have been completed with respect to such project.

SECTION 9

Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial 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 a general tax upon all the real property within the County without legal or constitutional limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said serial bonds and any bond anticipation notes issued in anticipation of said bonds and provision shall be made annually in the budget of the County by appropriation for (a) the amortization and redemption of the bonds and notes to mature in such year, and (b) the payment of interest to be due and payable in such year.

SECTION 10

Subject to the provisions of this Bond Resolution and the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes, or the renewals of said obligations and of Section 50.00 and Section 60.00 of the Law, the powers and duties of the Montgomery County Legislature relative to authorizing serial bonds and bond anticipation notes and prescribing the terms, form and content as to sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Treasurer of the County, the chief fiscal officer of the County. Pursuant to the provisions of paragraph a of Section 56.00 of the Local Finance Law, the power to determine whether to issue bonds and bond anticipation notes having

substantially level or declining annual debt service, as provided in paragraph d of Section 21.00 of the Local Finance Law, is hereby delegated to the Treasurer of the County, the chief fiscal officer of said County. In addition to the delegation of powers described above, the powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the County Treasurer, who shall advertise such bonds for sale, conduct the sale and award the bonds in such manner as he shall deem best for the interests of the County; provided, however, that in the exercise of these delegated powers, he shall comply fully with the provisions of the Local Finance Law and any other order or rule of the State Comptroller applicable to the sale of municipal bonds.

SECTION 11

All costs and expenses in connection with the acquisition and development of the objects and purposes set forth in Section 1 above, and the financing thereof by the sale of bonds, including but not limited to, the fees and expenses of bond counsel, financial advisors, underwriters feasibility consultants, counsel for the County and other professionals, shall be paid to the extent permitted by law from the proceeds of the sale of such bonds.

SECTION 12

The validity of the bonds authorized by this bond resolution and of any notes issued in anticipation of said bonds may be contested only if:

- (a) Such obligations are authorized for any 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 such 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
- (c) Such obligations are authorized in violation of the provisions of the constitution.

SECTION 13

This resolution shall be published in full in the designated official newspapers of the County for such purpose, together with a notice of the Clerk of the Montgomery County Legislature in substantially the form provided in Section 81.00 of the Law.

SECTION 14

This resolution shall take effect immediately.

RESOLUTION VOTE passed with Aye(6). Legislators Sweet, Thayer and Purtell voted Nay. (11/24/2020)

Statement of Legislative and Financial Impact:

I. Nature of Request:

Authorization to issue bonds to fund the construction of DPW/Business Development Facility

II. *Justification:*

To relocate the two (2) departments into a new facility out of flood zone

III. *Legislative Impact:*

Approval of a super majority (2/3 vote in favor) to issue bonds in the name of the County.

IV. *Financial Impact:*

Principal and interest payments to be included in subsequent operating budgets. Paid over the next thirty (30) years.