

RESOLUTION NO.: 48
INTRODUCED BY: Councilman Galusha
SECONDED BY: Councilman Brown
DATED: 06-20-2024
BORROWING AMOUNT: \$4,500,000

RESOLUTION AUTHORIZING THE CONSTRUCTION OF A NEW HIGHWAY GARAGE; AND AUTHORIZING THE ISSUANCE OF UP TO \$4,500,000 IN SERIAL BONDS OF THE TOWN OF THURMAN TO PAY THE COST OF A NEW HIGHWAY GARAGE; AND AUTHORIZING THE ISSUANCE OF UP TO \$4,500,000 IN BOND ANTICIPATION NOTES OF THE TOWN OF THURMAN FOR THE SAME PURPOSE

WHEREAS, the Town of Thurman (the "Town") is responsible for maintaining its Town roads and keeping its Town roads free from snow and ice; and

WHEREAS, the Town Highway Superintendent and the Town Board have determined that construction of a new Town Highway Garage is necessary for these purposes; and

WHEREAS, the Town Board determined that this project is an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA), conducted Uncoordinated Review and, after reviewing and addressing all relevant portions of the Short Form Environmental Assessment Form, determined that the project would have no significant environmental impacts and adopted a SEQRA Negative Declaration on June 20, 2024 prior to consideration of this Resolution;

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

Section 1. The specific object or purpose for which the obligations authorized by this Resolution (the "Bond Resolution") are to be issued is the construction of a new Town Highway Garage on Town property (as detailed in plans by Cedarwood Engineering Services, PLLC), including related preliminary and incidental costs (the "Project"), and such specific object or purpose is hereby authorized at a maximum estimated cost of Four Million, Eight Hundred Sixty Thousand and 00/100 Dollars (\$4,860,000.00).

Section 2. The Project is hereby authorized by the Town Board. To the extent the Town may decide to use any current taxes to pay a portion of the cost of the project, such authorization of the Project by the Town Board is subject to permissive referendum per Town Law Sections 81 and 220.

Section 3. The Plan for financing of the authorized \$4,860,000 maximum estimated cost is (a) the issuance of up to \$4,500,000 in serial bonds and/or bond anticipation notes of the Town which are hereby authorized to be issued pursuant to the Local Finance Law; (b) \$150,000 in ARPA funds; and (c) \$210,000 from the Town's fund balance.

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, or up to 60 days prior in accordance with Section 4 below. Pursuant to Local Finance Law Section 107.00(d)(9), a down payment from current funds is not 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.

Section 5. It is hereby determined that the period of probable usefulness (“PPU”) of the specific object or purpose pursuant to Section 11.00(a)(11) of the Local Finance Law is 30 years. The highway garage will be a Class “A” building having a 30 year PPU. 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 Thurman, 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 in the Town of Thurman a tax 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, there are hereby authorized to be issued serial bonds of the Town up to a maximum amount of \$4,500,000 the maximum maturity of which shall not exceed the 30 year period of probable usefulness set forth above and which shall mature on or before such date 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 \$4,500,000 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 of Thurman 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 not 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 or facsimile 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 or facsimile signature. If executed by facsimile signature, such obligation shall be authenticated by the manual countersignature of the Town Supervisor or a designated fiscal agent. The Town Supervisor, as Chief Fiscal Officer shall be authorized to apply for financing with such appropriate entities as he shall choose. The Town Supervisor, as Chief Fiscal Officer of the Town, is authorized to execute and deliver any documents, complete such applications and forms, 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 at public or private sale and 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, and whether fixed or variable. 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 the Chief Fiscal Officer believes it is in the best interests of the Town. The Town Board authorizes the Chief Fiscal Officer to issue such serial bonds in the form of a statutory installment bond. Furthermore, the engagement of Fiscal Advisors & Marketing, Inc., or another qualified financial advisor, as may be determined by the Town Supervisor, is hereby authorized and the Town Supervisor, as Chief Fiscal Officer, is hereby authorized to sign a contract for such services and all documents relating to their engagement and the sale of the Town's debt using their services.

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 Town of Thurman is a town wholly within the Adirondack Park which has within its boundaries State lands assessed at more than thirty percent (30%) of the total assessed valuation of the Town. As required by Local Finance Law Section 104.10(3)(b), the Town will not issue the obligations herein authorized unless it first obtains a certificate of the State Comptroller consenting, on behalf of the State, to the original issuance of such obligations if such consent must be obtained. Such consent must be obtained if the amount of the Town's outstanding indebtedness evidenced by bonds, bond anticipation notes, capital notes, budget notes and certificates of indebtedness plus the amount of indebtedness herein authorized exceeds the sum of five percent (5%) of the Town's revenues for the last year the State Comptroller had such data by an amount exceeding \$100,000. The Town Supervisor is hereby authorized and directed to apply for such consent of the State Comptroller if it is determined to be necessary.

Section 16. 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 17. To the extent that it is permitted to do so under the Internal Revenue Code of 1986, as amended (the "Code"), the Town hereby designates the bonds and/or notes as "qualified tax-exempt obligations" under Section 265(b)(3) of the Code acknowledging that currently this does not apply if the Town will issue more than \$10,000,000 during a calendar year. 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 18. This Resolution is subject to permissive referendum pursuant to Section 35.00 of New York Local Finance Law and New York Town Law Section 81 and 220, and shall not take effect until such time as provided. The Town Clerk is hereby authorized and directed to post and publish the notice required for Resolutions subject to permissive referendum.

Section 19. MILLER, MANNIX, SCHACHNER & HAFNER, LLC, Glens Falls, New York, is hereby designated bond counsel.

Section 20. The validity of these serial bonds and bond anticipation notes may be contested only if:

- (A) These obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

