

TOWN OF AVON
ESTOPPEL NOTICE

The resolution published herewith has been adopted on the 25th day of February, 2010 by the Town Board of the Town of Avon, Livingston County, New York. The validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Town of Avon, Livingston County, New York 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 days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

At a Meeting of the Town Board of the Town of Avon, in the County of Livingston, New York, held at the Avon Town Hall, 23 Genesee Street, Avon New York 14414 on February 25, 2010

PRESENT: Supervisor David LeFeber

Councilman Donald Cook

Councilman James Blye

Councilman Thomas Mairs

ABSENT: Deputy Supervisor Kelly Cole

The following resolution was offered by Councilman Donald Cook, who moved its adoption, seconded by Councilman Mairs, to-wit:

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ISSUANCE OF \$227,370 IN SERIAL BONDS OF THE TOWN TO FINANCE THE COST OF ACQUIRING AND CONSTRUCTING CERTAIN IMPROVEMENTS TO THE TOWN OF AVON CONSOLIDATED WATER DISTRICT ALONG HENTY ROAD

WHEREAS, by Resolution #191, dated November 19, 2009, the Town Board of the Town of Avon (the "Town Board") adopted a Negative Declaration in accordance with the provisions of the State Environmental Quality Review Act, and the regulations thereunder (collectively, "SEQRA") with respect to the construction of certain improvements within the Town of Avon Consolidated Water District along Henty Road, between NYS Route 15 and Pole Bridge Road (the "Extension"), consisting of approximately 6,450 linear feet of 8" PVC water main; the installation of approximately seven (7) hydrants, service laterals, valves, and pumps (the "Improvements") and determined that such actions would not have an adverse impact on the environment and that such actions comply with the requirements of SEQRA; and

WHEREAS, by Resolution #192, dated November 19, 2009, the Town Board approved, in accordance with Sections 198 and 199 of the Town Law, the Improvements as shown on the Extension Map on file at the County Clerk's Office, and authorized the construction of the Improvements at a maximum cost not to exceed \$227,370; and

WHEREAS, the Town Board of the Town now wishes to appropriate funds for the Project (as defined below) and to authorize the issuance of the Town's serial bonds or bond anticipation notes to finance said appropriation.

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK, HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), AS FOLLOWS

SECTION 1. The Town is hereby authorized to issue \$227,370 principal amount of serial bonds (including, without limitation, statutory installment bonds) pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the “Law”) to finance the estimated cost of acquiring, constructing and equipping of the Improvements including, as necessary, the acquisition of lands and easements and other rights therein, the construction or reconstruction of curbs, gutters, drainage, landscaping and grading, and including any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith (the “Project”).

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$227,370, said amount is hereby appropriated therefore and the plan for the financing thereof shall consist of the issuance of up to \$227,370 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, or bond anticipation notes issued in anticipation of such serial bonds.

SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned specific objects or purposes is forty (40) years, pursuant to subdivision a.1. of Section 11.00 of the Law.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof, pursuant to subdivision d.3(a) of Section 107.00 of the Law.

SECTION 5. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bond or bond anticipation notes authorized by Section 1 of this resolution. This resolution shall constitute the declaration of the Town’s “official intent” to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by the United States Treasury Regulations Section 1.150-2.

SECTION 6. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to Section 1 of this resolution.

SECTION 7. 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 bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 8. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of serial bonds and/or bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing the terms, form and contents as to the sale and issuance of bonds, herein authorized, including without limitation, the determination whether to issue bonds having substantially level or declining annual debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor of the Town, the chief fiscal officer of the Town (the “Town Supervisor”). Further, the power to issue and sell bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law is hereby delegated to the Town Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of the Local Finance Law. Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for one or more of the objects or purposes authorized by this resolution are combined for sale, pursuant to subdivision c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Town Board, then the power of the Town Board to determine the “weighted average period of probable usefulness” (within the meaning of subdivision a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

SECTION 9. The Town Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific objects or purposes described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

SECTION 10. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 11. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchaser of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 12. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements, and instruments or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Town Board.

SECTION 13. This resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to cause a copy of this resolution to be published in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Law.

SECTION 14. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town 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.

The following vote was taken and recorded in the public or open session of said meeting:

AYES: NAYS:

Supervisor David LeFeber Deputy Supervisor Kelly Cole (Absent)

Councilman Donald Cook

Councilman James Blye

Councilman Thomas Mairs

This resolution shall take effect immediately.

Dated: February 25, 2010

PUBLISH MARCH 4, 2010

SHARON M. KNGIHT, CMC/RMC

AVON TOWN CLERK