

PROPOSED RESOLUTION NO. 172 – 2020

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN AGREEMENT WITH THE NASSAU COUNTY INTERIM FINANCE AUTHORITY IN RELATION TO THE RETURN TO THE NEW YORK STATE COMPTROLLER THE AMOUNT OF SALES TAX REVENUE NECESSARY TO ENABLE THE NEW YORK STATE COMPTROLLER TO MAKE THE DISTRESSED PROVIDER ASSISTANCE ACCOUNT PAYMENTS.

WHEREAS, State Tax Law § 1261(c)(3) provides that the New York State Comptroller (the “State Comptroller”) must pay to the Nassau County Interim Finance Authority (“NIFA”) sales and compensating use taxes, penalties and interest imposed by the County (other than amounts required by law to be withheld by the State Comptroller) (“Sales Tax”), so that NIFA may satisfy its statute and contracts with bondholders and then pay its operating expenses prior to transferring the remaining amounts to the County; and

WHEREAS, State Tax Law § 1261(c)(7) requires the State Comptroller, beginning by April 15, 2020, and by January 1st of each year thereafter, to withhold and pay quarterly into the New York State Agency Trust Fund, Distressed Provider Assistance Account (the “Distressed Provider Assistance Account”) a portion of the Sales Tax after payment to NIFA pursuant to State Tax Law § 1261(c)(3) and subsequent payment of a specified portion thereof to the towns and certain villages in the County as provided in State Tax Law § 1261(c)(5-a) (“AIM-related payments”); and

WHEREAS, Chapter 56 of the Laws of 2020, Part ZZ, § 3 requires the State Comptroller to defer withholding of the 2020 quarterly Distressed Provider Assistance Account payments until January 15, 2021; and

WHEREAS, the Office of the State Comptroller cannot effectuate the withholding of the Distressed Provider Assistance Account payments in the County because it is legally required to transfer all of the Sales Taxes to NIFA without reduction and, while State Tax Law § 1261(c)(5-a) requires NIFA to transfer the AIM-related payments to the State Comptroller, there is no similar direction to NIFA in State Tax Law § 1261(c)(7) for Distressed Provider Assistance Account payments; and

WHEREAS, it is necessary and proper for the County and NIFA to agree to allow NIFA, after satisfying its obligations to bondholders and funding its operating expenses and then returning the required AIM-related payments, to return to the State Comptroller the amount of Sales Tax necessary to enable the State Comptroller to make the Distressed Provider Assistance Account payments; and

WHEREAS, the County estimates that the Distressed Provider Assistance Account payments to be withheld on January 15, 2021 will be approximately \$7.3 million, and a similar amount for fiscal year 2021; and

WHEREAS, the County believes that it is in its best interests for the Distressed Provider

Assistance Account payments to be returned directly by NIFA to the State Comptroller to ensure their timely payments; and

WHEREAS, the County has requested that NIFA assist it by entering into an agreement to ensure the orderly withholding and distribution of Distressed Provider Assistance Account payments in accordance with State Tax Law § 1261(c)(7) and Chapter 56 of the Laws of 2020, Part ZZ, § 3, a copy of such agreement on file with the Clerk of the Legislature.

NOW, THEREFORE, be it

RESOLVED, that the Nassau County Legislature hereby authorizes the County Executive to execute the said agreement with NIFA in relation to the return to the State Comptroller the amount of Sales Tax necessary to enable the State Comptroller to make the Distressed Provider Assistance Account payments.