

ORDINANCE NO. 142-B- 2020

ORDINANCE MAKING CERTAIN DETERMINATIONS PURSUANT TO THE
STATE ENVIRONMENTAL QUALITY REVIEW ACT, APPROVING A
DECLARATION OF NEED FOR FINANCING OF COUNTY PURPOSES BY THE
NASSAU COUNTY INTERIM FINANCE AUTHORITY

WHEREAS, in order to assure the continued provision of essential County services without interruption, New York State (the “State”) enacted, on home rule message recommended by the Nassau County (the “County”) Executive and approved by this County Legislature, Article 10-D of the Public Authorities Law of the State (as amended, the “NIFA Act”), creating the Nassau County Interim Finance Authority (the “Authority” or “NIFA”); and

WHEREAS, the State recently enacted amendments to the NIFA Act to restore NIFA’s power to issue bonds, notes and other obligations in order to finance or refinance various County purposes to assist the County in its recovery from the devastating impact of the COVID-19 pandemic on the County’s finances; and

WHEREAS, the County has identified substantial budgetary savings that would result from NIFA’s restructuring of County bonds maturing in 2021 and 2022; and

WHEREAS, in the absence of such savings, the County would likely have to make substantial cuts to services and programs and its workforce in order to balance its budget; and

WHEREAS, the County has also identified net present value savings that would result from NIFA’s refunding of certain other County debt; and

WHEREAS, among other things, the NIFA Act authorizes NIFA to issue its bonds, notes and other obligations in order to finance or refinance various County purposes upon

the execution of a Declaration of Need by the County Executive and approval thereof by this County Legislature; and

WHEREAS, this County Legislature has heretofore authorized the execution and delivery of a Financing Agreement between the County and NIFA in order to finance various County purposes; and

WHEREAS, such agreement authorizes the County Executive to execute, and this County Legislature to approve, a Declaration of Need in the form set forth therein as a means of requesting a financing of County purposes; and

WHEREAS, the County has determined that it will require financing of County purposes; and

WHEREAS, all necessary federal, State, County and local permits, approvals and determinations of environmental impact for the purpose or purposes hereinafter referred to have been obtained or will have been obtained prior to the expenditure of proceeds of obligations to be authorized pursuant to this ordinance;

NOW, THEREFORE,

Be It Ordained by the County Legislature of the County of Nassau as follows:

Section 1. Pursuant to section 3655 of the NIFA Act, it is hereby determined and declared that the County has a need for financing by the Authority and that the County shall request the Authority to undertake financing of Financeable Costs (as defined in the NIFA Act). The form and substance of the Declaration of Need, as executed by the County Executive and presented to this meeting, are hereby approved, and the County hereby requests the Authority to finance Financeable Costs as provided therein. It is hereby further determined that the financing requested by the Declaration of Need is consistent with the 2020 County budget, the updated 2020-2023 multi-year financial plan, the proposed 2021 budget and the proposed 2021-2024 multi-year financial plan.

Section 2. The County Executive or her designee is hereby authorized and directed to deliver to the Authority the Declaration of Need in the form approved by this County Legislature or with such necessary or desirable changes therefrom as the County Executive or her designee shall approve, her approval to be conclusively evidenced by such

signature thereto. The Clerk of the Legislature is hereby authorized and directed to execute the Declaration of Need in the space provided to certify approval by this County Legislature.

Section 3. The County hereby pledges to and agrees with the holders from time to time of any series of bonds, notes or other obligations issued by NIFA pursuant to the NIFA Act and secured by such a pledge that the County will not limit, alter or impair the rights vested by the NIFA Act to fulfill the terms of any agreements made with such holders pursuant to the NIFA Act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations, as the case may be, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. Nothing contained herein is intended or shall be deemed to restrict any right of the County to amend, modify or otherwise alter local laws, ordinances or resolutions imposing or relating to the taxes imposed pursuant to the authority of article twenty-nine of the State Tax Law (the "Tax Law") or other taxes or fees or appropriations related to any such taxes or fees, so long as, after giving effect to such amendment, modification or other alteration, the amount of tax revenues projected by the Authority to be available during each of its fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on NIFA bonds, notes and other obligations then outstanding. Nothing contained herein is intended to obligate the County to make additional payments or impose taxes other than those imposed pursuant to the authority of paragraph one of subdivision (a) of section twelve hundred ten of the Tax Law to satisfy the debt service obligations of NIFA.

Section 4. It is hereby determined pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 N.Y.E.C.L. section 0101 *et seq.* and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the financing by NIFA of County purposes is a "Type II Action" within the meaning of Section 617.5(c) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment and no further review is required. A record of such determination shall be maintained in a file, readily accessible to the public, at the office of the Clerk of the Legislature.

Section 5. This ordinance shall take effect immediately upon its adoption.