

RESOLUTION NO. 148

SUPPLEMENTAL BOND RESOLUTION AMENDING CERTAIN TERMS OF BOND RESOLUTION NO. 569 OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF VARIOUS CAPITAL PROJECTS FOR THE TIMES UNION CENTER AND TIMES UNION CENTER PARKING GARAGE

Introduced: 4/8/19

By Audit and Finance Committee:

THE COUNTY LEGISLATURE OF THE COUNTY OF ALBANY, NEW YORK, HEREBY RESOLVES AS FOLLOWS:

WHEREAS, on December 3, 2018, the County Legislature of the County of Albany, New York adopted Bond Resolution No. 569 of 2018 entitled:

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF VARIOUS CAPITAL PROJECTS FOR THE TIMES UNION CENTER AND TIMES UNION CENTER PARKING GARAGE, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$3,272,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$3,272,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

(the “Bond Resolution”); and

WHEREAS, on the date the County Legislature adopted the Bond Resolution the maximum estimated cost of the undertaking of the project described in Section 1 of the Bond Resolution (the “Project”) was estimated to equal an amount not to exceed \$3,272,000; and

WHEREAS, since the date of the Bond Resolution, the County Legislature has received additional information and revised cost estimates which indicate that the maximum estimated cost of the Project will be equal to an amount not to exceed \$6,772,000; and

WHEREAS, Section 32.00 of the New York Local Finance Law requires, among other things, that any bond resolution adopted by the finance board of a municipality contain a statement of the maximum estimated cost of the object or purpose for which obligations are being authorized and the maximum amount of the bonds authorized to be issued for such purpose; and

WHEREAS, the County Legislature desires to amend the Bond Resolution for the purpose of increasing the maximum estimated cost of the Project, and, in particular,

Section 1 of the Bond Resolution, and the maximum principal amount of bonds authorized to be issued in the Bond Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the County Legislature of the County of Albany, New York, as follows:

SECTION 1. The Bond Resolution is hereby amended as follows:

(A) Section 1 of the Bond Resolution is amended to read as follows:

The County of Albany, New York (the “County”) is hereby authorized to undertake various capital projects at the Times Union Center (the “Center”), in the City of Albany, New York, consisting of renovation of the locker rooms, including replacement of existing equipment; upgrades and replacement of the Quad stairs and Atrium door; and replacement of flooring in the main arena and kitchen, together with any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, together with the preparation of planning, engineering and feasibility studies and review, as further described in the 2019 Capital Plan in the County’s 2019-2023 Capital Program, as amended and supplemented (hereinafter referred to as the “Capital Program”). The estimated maximum cost of said class of objects or purposes, including preliminary costs and costs incidental thereto and the financing thereof (including the costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$1,100,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$1,100,000 of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in such series and amounts as may be necessary to pay the cost thereof, but in no event in excess of \$1,100,000 to pay the costs of the capital projects.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$1,100,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00(a)(35) of the New York Local Finance Law (the “Law”), is five (5) years.

(B) A new Section 4 of the Bond Resolution will be inserted to read as follows:

The County is hereby authorized to undertake various capital projects at the Center garage, consisting of the reconstruction and renovation of the steel and concrete support structures, upgrades to the elevators, and stair replacement, together with any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, together with the preparation of planning, engineering and feasibility studies and review, as further

described in the 2019 Capital Plan in the County's Capital Program. The estimated maximum cost of said class of objects or purposes, including preliminary costs and costs incidental thereto and the financing thereof (including the costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$4,375,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$4,375,000 of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in such series and amounts as may be necessary to pay the cost thereof, but in no event in excess of \$4,375,000 to pay the costs of the capital projects.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$4,375,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00(a)(12)(a)(1) of the New York Local Finance Law (the "Law"), is twenty-five (25) years.

(C) The original Section 4 of the Bond Resolution will be renumbered to Section 5 and is hereby amended to read as follows:

Serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$6,772,000 to finance said appropriations are hereby authorized to be issued pursuant to the provisions of the Law.

(D) The original Section 5 through Section 9 of the Bond Resolution will be renumbered to Section 6 through Section 10.

(E) The original Section 10 of the Bond Resolution will be renumbered to Section 11 and is hereby amended to read as follows:

Pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the County must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the above referenced projects. Based upon an examination of the projects and memoranda from the Albany County Department of Economic Development, Conservation and Planning, the County hereby makes the following determination: The projects authorized by this resolution described in Sections 1, 2, 3, and 4 constitute a "Type II action" pursuant to 6 NYCRR 617.5(c)(1), (2) and (31), and therefore, pursuant to 6 NYCRR 617.6(a)(1)(i), the County has no further responsibilities under SEQRA with respect to the projects.

(F) The original Section 11 of the Bond Resolution will be renumbered to Section 12 and is hereby amended to read as follows:

The County may initially use funds from the General Fund or such other funds that may be available to pay the cost of the specific objects or purposes authorized by this resolution, pursuant to Section 165.10 of the Law. The County then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 5 of this resolution. This resolution shall constitute the declaration of the County's "official intent" to reimburse the expenditures authorized by Sections 1, 2, 3, and 4 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

(G) The original Section 12 through Section 13 of the Bond Resolution will be renumbered to Section 13 through Section 14.

SECTION 2. The County has complied with the provisions of the State Environmental Quality Review Act ("SEQRA") with respect to the Project as follows: the County determined that the Project is a Type II action under SEQRA pursuant to the Bond Resolution as stated in the amended and renumbered Section 11 referenced above and this amendment to the Bond Resolution does not affect that SEQRA determination.

SECTION 3. The Bond Resolution adopted by the County Legislature on December 3, 2018, as amended by this Supplemental Bond Resolution, shall otherwise remain in full force and effect in accordance with its terms, and is hereby ratified and confirmed.

SECTION 4. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with.

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 5. This resolution shall take effect immediately.

On long roll call vote the following members voted in favor: Messrs. Bullock, Burgdorf, Cahill, Ms. Chapman, Messrs. Clay, Commisso, Crouse, Ms. Cunningham, Messrs. Dawson, Domalewicz, Drake, Ethier, Feeney, Fein, Frainier, Grimm, Higgins, Hogan, A. Joyce, R. Joyce, Ms. Lekakis, Messrs. Mauriello, Mayo, Mss. McKnight,

*McLean Lane, Messrs. Mendick, Miller, O'Brien, Reinhardt, Smith, Stevens, Touchette,
Tunny, Ward and Ms. Willingham – 35*

Those opposed – 0

Adopted by unanimous vote – 4/8/19