

RESOLUTION NO. 398

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF THE ACQUISITION AND INSTALLATION OF A NEW TRANSFORMER AND SWITCH GEAR AT THE TIMES UNION CENTER, STATING THE ESTIMATED MAXIMUM ADDITIONAL COST THEREOF IS \$900,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$900,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

Introduced: 9/12/16

By Audit and Finance Committee:

WHEREAS, on December 7, 2015, the County of Albany, New York (the "County") approved a resolution authorizing \$1,100,000 to undertake a capital project consisting of the acquisition and installation of a new transformer and switch gear at the Times Union Center in the City of Albany, New York, including 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 (the "Project"); and

WHEREAS, on May 26, 2016 the County issued the Public Improvement Bond Anticipation Notes – 2016 of the County in the aggregate principal amount of \$102,023,089 (the "Notes"), which included the \$1,100,000 for the Project; and

WHEREAS, additional work in the amount of \$900,000 was required to complete the Project and the County needs to authorize the issuance of serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) as may be necessary to pay the additional cost thereof;

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

Section 1. The County is hereby authorized to undertake the Project, as further described in the 2016 Capital Plan in the County's 2016-2020 Capital Program, as amended and supplemented (hereinafter referred to as the "Capital Program"). The estimated maximum cost of said specific object or purpose, 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 \$2,000,000 and the amount of \$900,000 is hereby appropriated for the additional work required to complete the Project. The plan of financing is amended to include the issuance of the additional amount of not to exceed \$900,000 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 of the additional work to complete the Project, but in no event in excess of \$2,000,000 to pay the total costs of the Project.

The period of probable usefulness of the specific object or purpose herein authorized and for which \$900,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00a.13 of the New York Local Finance Law (the "Law"), is ten (10) years.

Section 2. The total costs of the Project are hereby revised under the plan of financing to \$2,000,000 with \$1,100,000 of such costs financed by the issuance of the Notes pursuant to the December 7, 2015 bond resolution of the County. Serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$900,000 to finance additional work required to complete the Project are hereby authorized to be issued pursuant to the provisions of the Law.

Section 3. The following additional matters are hereby determined and stated:

(a) The building described above is a class "A" building, as defined in Section 11.00a.11(a) of the Law.

(b) Current funds are not required by the Law to be provided as a down payment prior to the issuance of the serial bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof in accordance with Section 107.00 of the Law.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. The serial bonds authorized by this resolution and any notes issued in anticipation of the sale of such bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any notes issued in anticipation of said bonds shall be general obligations of the County, payable as to both principal and interest by a general tax upon all the taxable real property within the County without limitation of rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and provision shall be made annually in the budget of the County by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 63.00

and Section 164.00 of the Law, the powers and duties of the County Legislature pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the County Comptroller, the chief fiscal officer of the County.

Section 6. The County Comptroller is 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 7. The County Comptroller is further authorized to enter into a continuing disclosure undertaking with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser 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 8. 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 Project. Based upon an examination of the Project and a memorandum from the Albany County Department of Economic Development, Conservation and Planning, the County hereby makes the following determination: The Project authorized by this resolution constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c)(1), (2) and (25), and therefore, pursuant to 6 NYCRR 617.6(a)(1)(i), the County has no further responsibilities under SEQRA with respect to the Project.

Section 9. 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 2 of this resolution. This resolution shall constitute the declaration of the County'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 United States Treasury Regulation Section 1.150-2.

Section 10. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(1) (a) such obligations are authorized for an object or purpose for which the County 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 days after the date of such publication, or

(2) such obligations are authorized in violation of the provisions of the constitution.

Section 11. This bond resolution shall take effect immediately and the Clerk of the County Legislature is hereby authorized and directed to publish the foregoing resolution in full, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the Evangelist and the Times Union, newspapers designated as the official newspapers of the County for such publication.

On roll call vote the following voted in favor: Messrs. Beston, Bullock, Burgdorf, Messrs. Clenahan, Commisso, Crouse, Ms. Cunningham, Messrs. Dawson, Domalewicz, Drake, Ethier, Feeney, Fein, Grimm, Higgins, Hogan, A. Joyce, R. Joyce, Mss. Lekakis, Lockart, Messrs. Mackey, Mauriello, Ms. McKnight, Messrs. Miller, O'Brien, Reinhardt, Signoracci, Simpson, Smith, Ward and Ms. Willingham – 31.

Those opposed: - 0.

Abstained: Mr. Stevens – 1.

Resolution was adopted. 10/13/16