

RESOLUTION NO. 313

SUPPLEMENTAL BOND RESOLUTION DATED SEPTEMBER 14, 2009. A RESOLUTION AMENDING CERTAIN TERMS OF BOND RESOLUTION NO. 129 OF THE COUNTY OF ALBANY, NEW YORK, ADOPTED APRIL 14, 2003, AUTHORIZING THE CONSTRUCTION AND RENOVATION OF PORTIONS OF THE ALBANY COUNTY COURTHOUSE AND THE CONSTRUCTION OF A NEW COUNTY JUSTICE BUILDING LOCATED AT 6 LODGE STREET

Introduced: 9/14/09

By Court Facilities and Audit and Finance Committees:

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

WHEREAS, On April 10, 2000, the County Legislature of County of Albany, New York adopted Bond Resolution No. 199 of 2000 (the "2000 Bond Resolution") which authorized the County Legislature to issue serial bonds and bond anticipation notes in anticipation of such serial bonds in an amount not to exceed \$9,000,000 to finance certain costs relating to the construction and renovation of the Albany Court Facilities; and

WHEREAS, On April 14, 2003, the County Legislature of the County of Albany, New York adopted Bond Resolution No. 129 of 2003 entitled:

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, ADOPTED APRIL 14, 2003, AUTHORIZING THE CONSTRUCTION AND RENOVATION OF PORTIONS OF THE ALBANY COUNTY COURTHOUSE AND THE CONSTRUCTION OF A NEW COUNTY JUSTICE BUILDING LOCATED AT 6 LODGE STREET, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$60,790,778, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$60,790,778 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION.

(the "Bond Resolution"); and

WHEREAS, Under the 2000 Bond Resolution and the Bond Resolution, the aggregate maximum estimated cost of the undertaking of the project described in Section 1 of the Bond Resolution (the "Courthouse Project") is described as \$69,790,778, and the aggregate maximum principal amount of bonds that may be issued by County of Albany to finance such costs is \$69,790,778; 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 Courthouse Project will be equal to an amount not to exceed \$81,183,823; 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 Courthouse 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 the following purpose: (A) construct, reconstruct and renovate portions of the Albany County Courthouse, and (B) construct an approximately 83,444 square foot County Justice Building at 6 Lodge Street, including necessary site work and the acquisition and installation of equipment, machinery and apparatus for the foregoing purpose, pursuant to the 2009-2013 Albany County Capital Plan, as amended and the Albany County Court Facilities Plan. The estimated maximum cost of said purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$72,183,823 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$72,183,823 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 \$72,183,823.

The Albany County Courthouse is of Class "A" construction as defined by Section 11.00 a. 12(a) of the Local Finance Law (the "Law") and the period of probable usefulness of the specific object or purpose herein authorized and for which a portion of said serial bonds, as described in the 2009-2013 Albany County Capital Plan, as amended

and the Albany County Court Facilities Plan, are herein authorized to be issued, within the limitations of Section 11.00 a.12(a)(1) of the Law, is twenty (20) years.

The County Justice Building is of Class “A” construction as defined by Section 11.00 a. 11(a) of the Local Finance Law (the “Law”) and the period of probable usefulness of the specific object or purpose herein authorized and for which a portion of said serial bonds, as described in the 2009-2013 Albany County Capital Plan, as amended and the Albany County Court Facilities Plan, are herein authorized to be issued, within the limitations of Section 11.00 a.11(a)(1) of the Law, is thirty (30) years.

(B) Section 2 of the Bond Resolution 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 of \$72,183,823 to finance said appropriation are hereby authorized to be issued pursuant to the provisions of the Law.

SECTION 2. By separate resolution or resolutions, the County has complied with the provisions of the State Environmental Quality Review Act (“SEQRA”) with respect to the capital project described in this resolution and the Bond Resolution.

SECTION 3. The Bond Resolution adopted by the County Legislature on April 14, 2003, 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 Town 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 roll call vote the following voted in favor: Messrs. Aylward, Beston, Bullock, Clay, Clenahan, Commisso, Ms. Connolly, Messrs. Cotrofeld, Domalewicz, Ethier, Gordon, Houghtaling, Infante, Joyce, Ms. Maffia-Tobler, Messrs. Mayo, Ms. McKnight, Messrs. Morse, Nichols, Rahm, Reilly, Scavo, Steck, Ward and Ms. Willingham – 25.

Those opposed: Messrs. Carman, Clouse, Dawson, Higgins, Hoblock, Horstmyer, Ms. Lockart, Messrs. McCoy, Mendick, Timmins, Tunny and Zeilman - 12.

Resolution failed for lack of a two-thirds vote.

Discussion ensued regarding confusion over what subject matter was being voted on and in order to obtain a correct expression of the will of the Body, the Chair called for a new vote.

On roll call vote the following voted in favor: Messrs. Aylward, Beston, Bullock, Clay, Clenahan, Commisso, Ms. Connolly, Messrs. Cotrofeld, Domalewicz, Gordon, Houghtaling, Infante, Joyce, Ms. Maffia-Tobler, Messrs. Mayo, McCoy, Ms. McKnight, Messrs. Morse, Nichols, Rahm, Reilly, Scavo, Steck, Ward and Ms. Willingham – 25.

Those opposed: Messrs. Carman, Clouse, Dawson, Ethier, Higgins, Hoblock, Horstmyer, Ms. Lockart, Messrs. Mendick, Timmins, Tunny and Zeilman - 12.

Resolution again failed for lack of a two-thirds vote.

Discussion ensued regarding further clarification of the subject matter of the resolution and Mr. Horstmyer made a motion to reconsider which was duly seconded and carried.

On roll call vote the following voted in favor: Messrs. Aylward, Beston, Bullock, Clay, Clenahan, Commisso, Ms. Connolly, Messrs. Cotrofeld, Domalewicz, Ethier, Gordon, Houghtaling, Infante, Joyce, Ms. Maffia-Tobler, Messrs. Mayo, McCoy, Ms. McKnight, Messrs. Morse, Nichols, Rahm, Reilly, Scavo, Steck, Ward and Ms. Willingham – 26.

Those opposed: Messrs. Carman, Clouse, Dawson, Higgins, Hoblock, Horstmyer, Ms. Lockart, Messrs. Mendick, Timmins, Tunny and Zeilman - 11.

Resolution was adopted by a two-thirds vote. 9/14/09