

RESOLUTION NO. 129

SUPPLEMENTAL BOND RESOLUTION DATED MARCH 24, 2020: A RESOLUTION AMENDING CERTAIN TERMS OF BOND RESOLUTION NO. 153 OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING WITH THE COUNTY OF SARATOGA, NEW YORK, OF A REGIONAL ANAEROBIC DIGESTER PROJECT TO BE LOCATED AT THE ALBANY COUNTY WATER PURIFICATION DISTRICT NORTH PLANT WITH RELATED IMPROVEMENTS AT THE SOUTH PLANT

Introduced: 3/24/20

By Messrs. A. Joyce and Feeney:

WHEREAS, on April 8, 2019, the County Legislature of the County of Albany, New York adopted Bond Resolution No. 153 of 2019 entitled:

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING WITH THE COUNTY OF SARATOGA OF A REGIONAL ANAEROBIC DIGESTER PROJECT TO BE LOCATED AT THE ALBANY COUNTY WATER PURIFICATION DISTRICT NORTH PLANT WITH RELATED IMPROVEMENTS AT THE SOUTH PLANT, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$48,500,000, APPROPRIATING AN AMOUNT EQUAL TO \$24,250,000 THEREFOR, REPRESENTING THE PORTION OF SAID COST TO BE PAID BY THE COUNTY OF ALBANY, AND AUTHORIZING THE ISSUANCE OF \$23,839,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE A PORTION OF THE ALBANY COUNTY 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 \$48,500,000 with the plan of finance providing for the County and the County of Saratoga, New York to each pay fifty percent (50%) of said estimated maximum cost of \$48,500,000, or \$24,250,000 each; 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 \$56,000,000 with the plan of finance providing for the County and the County of Saratoga, New York to each pay fifty percent (50%) of said estimated maximum cost of \$56,000,000, or \$28,000,000 each; 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, with the County of Saratoga, New York, a Regional Anaerobic Digester Project to be located at the Albany County Water Purification District North Plant with related improvements at the South Plant. The project consists of the design, construction, installation, and operation of a regional anaerobic digester to energy facility at the Albany County Water Purification District North Plant with related improvements at the South Plant, together with any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes and the preparation of planning, engineering and feasibility studies and review, as further described in the 2020 Capital Plan in the County’s 2020-2024 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 costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$56,000,000. The plan of finance provides for the County and the County of Saratoga, New York to each pay fifty percent (50%) of said estimated maximum cost of \$56,000,000, or \$28,000,000 each. The County portion of said estimated maximum cost, or \$28,000,000, is hereby appropriated therefor. The plan of financing for the County portion includes the issuance of an amount not to exceed \$27,000,000 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 County portion of the costs of the capital project, but in no event in excess of \$27,000,000. The balance of the costs of the capital project in the amount of \$1,000,000 will be paid from appropriations from the County’s General Fund.

The period of probable usefulness of the specific object or purpose herein authorized and for which said serial bonds are herein authorized to be issued, within the limitations of Section 11.00(a)(4) of the New York Local Finance Law (the "Law"), is forty (40) 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 not to exceed \$27,000,000 to finance said appropriation are hereby authorized to be issued pursuant to the provisions of the Law.

SECTION 2. By separate resolution, 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 by issuing a negative declaration determining that the capital project described in this resolution will not have a significant effect on the environment.

SECTION 3. The Bond Resolution adopted by the County Legislature on April 8, 2019, 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 a long roll call vote, the following members voted in favor: Messrs. Beston, Bruschi, Burgdorf, Ms. Chapman, Messrs. Clay, Cleary, Commisso, Ms. Cunningham, Messrs. Domalewicz, Drake, Efekoro, Ethier, Feeney, Fein, Grimm, A. Joyce, R. Joyce, Kuhn, Langdon, Mss. Lekakis, Lockart, Messrs. Mauriello, Mayo, Ms. McLaughlin,

Messrs. Miller, O'Brien, Perlee, Peter, Reidy, Reinhardt, Ricard, Simpson, Smith, Tunny, Ward, Mss. Whalen and Willingham – 37

Those opposed: 0

Resolution was adopted. – 3/24/20