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RESOLUTION NO. 9

BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF VARIOUS CAPITAL PROJECTS FOR THE MVP ARENA, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$1,625,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$1,625,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

Introduced: 2/13/23

By Audit and Finance Committee:

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

Section 1. The County of Albany, New York (the "County") is hereby authorized to undertake a capital improvement project consisting of the acquisition and installation of additional show power and transformer replacement at the MVP Arena (the "Arena") 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, as further described in the 2023 Capital Plan in the County's 2023-2027 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 costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$200,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$200,000 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 \$200,000 to pay the cost of the capital project.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$200,000 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 County is hereby authorized to undertake a capital improvement project at the Arena consisting of the acquisition and installation of new network bandwidth, together with any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, as further described in the 2023 Capital Plan in the County's 2023-2027 Capital Program, as amended and supplemented. The estimated maximum cost of said class of objects or purposes, 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 \$250,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$250,000 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 \$250,000 to pay the cost of the capital project.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$250,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00a.32 of the New York Local Finance Law (the "Law"), is five (5) years.

Section 3. The County is hereby authorized to undertake a capital improvement project at the Arena consisting of the acquisition, reconstruction and installation of new loading dock, together with any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, as further described in the 2023 Capital Plan in the County's 2023-2027 Capital Program, as amended and supplemented. The estimated maximum cost of said class of objects or purposes, 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 \$425,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$425,000 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 \$425,000 to pay the cost of the capital project.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$425,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00a.12(a) of the New York Local Finance Law (the "Law"), is twenty-five (25) years.

Section 4. The County is hereby authorized to undertake a capital improvement project at the Arena consisting of the acquisition and installation of the East Side Stairwell enclosure, including any necessary site work and the acquisition, reconstruction 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 2023 Capital Plan in the County's 2023-2027 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 costs relating to the issuance of the obligations authorized by this resolution), is an amount not to exceed \$500,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of an amount not to exceed \$500,000 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 \$500,000 to pay the cost of the capital project.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$500,000 of said serial bonds are herein authorized to be

issued, within the limitations of Section 11.00a.12 of the New York Local Finance Law (the "Law"), is twenty-five (25) years.

Section 5. The County is hereby authorized to undertake a capital improvement project at the Arena consisting of various concourse upgrades, which shall include a walk-in cooler and replacement of flooring to the bathroom lobby stairs and kitchen, together with any necessary site work and the acquisition and installation of furnishings, equipment, machinery and apparatus for the foregoing purposes, as further described in the 2023 Capital Plan in the County's 2023-2027 Capital Program, as amended and supplemented. The estimated maximum cost of said class of objects or purposes, 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 \$250,000 and said amount is hereby appropriated ~~therefor~~. The plan of financing includes the issuance of an amount not to exceed \$250,000 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 \$250,000 to pay the cost of the capital project.

The period of probable usefulness of the class of objects or purposes herein authorized and for which \$250,000 of said serial bonds are herein authorized to be issued, within the limitations of Section 11.00a.12(a) of the New York Local Finance Law (the "Law"), is twenty-five (25) years.

Section 6. Serial bonds (and bond anticipation notes in anticipation of the issuance of such serial bonds) in the aggregate principal amount not to exceed \$1,625,000 to finance said appropriations are hereby authorized to be issued pursuant to the provisions of the Law.

Section 7. The following additional matters are hereby determined and stated:

(a) The facility 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 a portion of the bonds authorized by this resolution will exceed five (5) years.

Section 8. 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 9. 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 23.00, 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 10. 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 11. 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 12. 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, 4 and 5 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.

Section 13. 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 6 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, 4 and 5 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

Section 14. 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:

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

(2) 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

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

Section 15. 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 (or a summary as permitted by the Law), 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.