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County of Erie

MARK C. POLONCARZ
COMPTROLLER

FM

June 13, 2011

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Spaulding Fibre Bond Resolution

Dear Honorable Members:

Please find attached a proposed bond resolution for the construction of the Spaulding Fibre Access Road in the amount of \$1,120,000. The bond resolution is the county administration's submission to your Honorable Body. I am transmitting the resolution to you as required under the Erie County Charter.

Representatives of this office, the Department of Public Works, the Department of Law and the Division of Budget and Management are available to answer questions you may have concerning this resolution. Thank you in advance for your consideration.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Comptroller

MCP/dt
Encl.

13E-6

EXTRACT OF MINUTES

Meeting of the County Legislature of
the County of Erie, New York.

_____, 2011

* * *

A regular meeting of the County Legislature of the County of Erie, New York,
was held at the Chambers of the Erie County Legislature, in the Erie County Hall, Buffalo, New
York, in said County, on _____, 2011, at _____ o'clock P.M. (Prevailing Time).

The following Legislators were present:

There were absent:

Also present: Robert M. Graber, Clerk of the Legislature

* * *

Legislator _____ offered the following resolution and moved its
adoption:

RESOLUTION NO. __-2011

BOND RESOLUTION DATED _____, 2011

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING ACQUISITION OF LAND AND RELATED RIGHTS OF WAY FOR CONSTRUCTION THEREON OF AN ACCESS ROAD TO THE PROPOSED SPAULDING BUSINESS PARK SITE, IN THE CITY OF TONAWANDA, TO FACILITATE LIGHT INDUSTRIAL DEVELOPMENT ON SUCH SITE, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$1,120,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$1,120,000 BONDS OF THE COUNTY TO PAY THE COST THEREOF.

(Introduced) _____, 2011

(Adopted) _____, 2011

Recitals

WHEREAS, pursuant to Chapter 828 of the New York Laws of 1982 (the "Act"), the County is authorized to acquire, construct, operate and maintain roads to serve any industrial project as defined in the Act and to contract indebtedness for such specific object or purpose; and

WHEREAS, the Erie County Industrial Development Agency has undertaken to provide support for development of the proposed Spaulding Business Park site in the City of Tonawanda, providing the requisite involvement of a public corporation as required pursuant to the Act by (i) acting as a co-applicant and grantee with the County and the City of Tonawanda for a \$3.6 million grant from the New York State Department of Environmental Conservation under the Environmental Restoration Program; (ii) acting as the financial conduit for such grant; (iii) preparation of Requests for Proposals solicitations for engineering services for

environmental investigation of the Spaulding Fibre site from firms including URS Engineering and Liro Engineers; (iv) preparation of bid specifications for the demolition and remediation under such grant and other funding and hold demolition and remediation contracts for firms including Cambria Contracting Inc., Demco Demolition and Mark Cerrone Inc. for amounts exceeding \$5 million; (v) acting as grant manager for all funding sources used for investigation, remediation and demolition; (vi) assistance in the preparation of Requests for Proposals, selection of consultants and guidance in the preparation of a Comprehensive Plan revision and Zoning amendments to the City of Tonawanda Code for the new Spaulding Business Park Zoning; and (vii) assistance in the preparation of Requests for Proposals, selection of consultants and guidance in the preparation of an Environmental Impact Statement and the engineering of the roadway to allow access to the Spaulding Site for redevelopment and reuse; (viii) committing to assistance in the marketing of the site and offering of assistance through incentives such as business loans and/or Payment in Lieu of Tax arrangements for firms locating at the site; thereby ensuring that development of such site qualifies as an industrial project as defined in the Act; and

WHEREAS, the County will enter into an intermunicipal agreement with the City of Tonawanda to provide for cooperative governmental action and financing to ensure the acquisition, construction, operation and maintenance of a road to provide access to such site and thereby facilitate light industrial development on such site in conformity with the Act;

NOW, THEREFORE, BE IT

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. The County of Erie, New York (herein called "County"), is hereby authorized to acquire certain land and rights of way as described in the Wendel Survey Map dated June 13, 2011 and filed with the Legislature, and construct thereon an access road to the former Spaulding Fibre site, in the City of Tonawanda, to facilitate light industrial development on such site. To the extent that the details set forth in this resolution are inconsistent with any details set forth in the 2011 Capital Budget of the County, such Budget shall be deemed and is hereby amended. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$1,120,000 and said amount is hereby appropriated therefor. The plan of financing for such objects or purposes includes the issuance of \$1,120,000 bonds of the County to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the County to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the County in the amount of \$1,120,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law") to finance said appropriation.

Section 3. The period of probable usefulness applicable to the objects or purposes for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 91 of the Law, is fifteen (15) years.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the specific object or purpose described in Section 1 hereof, prior to the issuance of the bonds or bond anticipation notes herein authorized, out of any available funds of the County on an interim

basis, which respective amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County pursuant to this Resolution, in the respective maximum amounts of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to the issuance of bonds having substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by §52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County without limitation as to 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 any notes

issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. 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) 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 this Resolution, or a summary thereof, 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

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Resolution shall take effect immediately upon approval by the County Executive.

* * *

* * *

The adoption of the foregoing resolution was seconded by Legislator

_____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

THE RESOLUTION WAS DECLARED ADOPTED.

* * *

Dated: Buffalo, New York,
_____, 2011

The foregoing Bond Resolution is hereby approved

County Executive

I, Robert M. Graber, HEREBY CERTIFY that the County Executive of Erie
County approved a Bond Resolution of which the foregoing is a certified copy and returned the
same for filing in the office of the Erie County Legislature.

_____, 2011.

Robert M. Graber
Clerk of the Erie County
Legislature

APPROVED AS TO CONTENT:

By _____
Erie County Comptroller

APPROVED AS TO FORM:

By _____
Erie County Attorney

Legislator _____ offered the following resolution and moved its adoption:

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. The Clerk of the Erie County Legislature is hereby directed to publish the foregoing bond resolution, in summary, in the _____, _____ and the _____ the official newspapers of the County for such publication, together with a notice in substantially the form prescribed in Section 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

* * *

CERTIFICATE

I, Robert M. Graber, Clerk of the Erie County Legislature, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Erie County Legislature duly called and held on _____, 2011, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said County Legislature and is a true, complete and correct copy thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County this ____ day of _____, 2011.

Robert M. Graber
Clerk of the Erie County
Legislature

(NOTICE TO BE ATTACHED TO AND **TO BE PUBLISHED**
WITH COPY OF SUMMARY OF BOND RESOLUTION AFTER ADOPTION)

NOTICE

The resolution, a summary of which is published herewith, has been adopted by the County Legislature on the ____ day of ____, 2011 and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Erie, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

ROBERT M. GRABER
Clerk of the County Legislature

RESOLUTION NO. _-2011

BOND RESOLUTION DATED _____, 2011

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object or purpose: acquisition of certain land and rights of way as described in the Wendel Survey Map dated June 13, 2011 and filed with the Legislature, and construction thereon of an access road to the proposed Spaulding Business Park site, in the City of Tonawanda, to facilitate light industrial development on such site

period of probable usefulness: fifteen (15) years

amount of obligations to be issued: \$1,120,000

A complete copy of the Bond Resolution summarized above and maps, plans and report referred to above shall be available for public inspection during normal business hours at the office of the Clerk of the Erie County Legislature, at the Erie County Hall, in Buffalo, New York.

Dated: _____, 2011
Buffalo, New York