

Authorizing The Settlement Of The Federal Lawsuit Regarding The Construction Of The Ulster County Law Enforcement Center

Chairman Donaldson and Legislators Cahill, Lomita and R.A. Parete offer the following:

WHEREAS, on or about June of 2004, a federal lawsuit (hereinafter referred to as “the lawsuit”) entitled Rotondo Weirich Enterprises, Inc. v. County Ulster, New York, Docket No.: 04 CIV. 0658) was commenced in the United States District Court, Northern District of New York, alleging certain claims against the County of Ulster (hereinafter referred to as “the County”) regarding the construction of the Ulster County Law Enforcement Center, and

WHEREAS, thereafter the County of Ulster commenced a Third-Party action within that lawsuit against Third-Party Defendants David Christa Construction, Inc., Crandell Associates Architects and Facility Planners, P.C., and Bovis Lend Lease LMB, Inc., seeking damages for the County alleging breach of contract against the third-party defendants, and

WHEREAS, thereafter Bovis Lend Lease LMB, Inc. counterclaimed against the County alleging unpaid charges in the amount of \$81,957.70; and Crandell Associates Architects and Facility Planners, P.C. counterclaimed against the County alleging unpaid charges in the amount of \$211,181.00, and

WHEREAS, thereafter Crandell Associates Architects and Facility Planners, P.C. commenced a Fourth-Party action within the lawsuit against Fourth-Party defendants, Clough Harbour & Associates, LLP, Rosser International, Inc., and Brinnier and Larios, P.C., and

WHEREAS, thereafter the County settled that portion of the lawsuit with Rotondo Weirich Enterprises, Inc., and David Christa Construction, Inc., and

WHEREAS, the County, through its Special Counsel, Edward P. Beane, Esq., of Keane and Beane, P.C., has participated in court required mediation sessions with the remaining parties; and

WHEREAS, a proposed settlement has been reached between the parties that would settle the lawsuit in its entirety and result in a settlement payment to the County, and

WHEREAS, the Laws and Rules Committee has met with a majority of members approving the within resolution as a late resolution, and

WHEREAS, the Ways and Means Committee has met and reviewed said request with a majority of members voting approval, and

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WHEREAS, Special Counsel has recommended approval of the proposed settlement, now, therefore, be it

RESOLVED, that the Ulster County Legislature hereby approves and authorizes the proposed settlement, the economic terms of which shall provide as follows:

1. Defendants and Third-Party and Fourth-Party Defendants Crandell Associates Architects and Facility Planners, P.C., and Bovis Lend Lease LMB, Inc., Clough Harbour & Associates, LLP, Rosser International, Inc., and Brinnier and Larios, P.C., collectively shall pay the County the sum of \$1,730,000.00; and
2. All counterclaims and cross-claims will be discontinued, with prejudice, including the Bovis Lend Lease LMB, Inc., cross-claim against the County for Eighty-One Thousand Nine Hundred Sixty-Seven Dollars (\$81,967.00) and Crandell Associates Architects and Facility Planners, P.C. counterclaim against the County for Two Hundred Eleven Thousand One Hundred Eighty-One Dollars (\$211,181.00),

and, be it further

RESOLVED, that the Chairman of the Ulster County Legislature is hereby authorized to execute the settlement agreement set forth herein together with any and all other stipulations, releases or legal documents as may be prepared by Special Counsel and required for the settlement of this lawsuit,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 31 NOES: 0
(Absent: Legislators Harris and R.A. Parete)

A friendly amendment was offered by Legislator Lomita, seconded by Legislator R.S. Parete to add \$1,730,000.00 to the "RESOLVED" and to the "FINANCIAL IMPACT". All in favor.

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FINANCIAL IMPACT:
\$1,730,000.00 –REVENUE DOLLARS

0332

STATE OF NEW YORK

ss:

COUNTY OF ULSTER

This is to certify that I, the undersigned Clerk of the Legislature of the County of Ulster have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 11th Day of March, 2009, and that the same is a true and correct transcript of said resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 12th Day of March in the year Two Thousand and Nine.

/s/ Mary L. Carey
Mary L. Carey, Clerk
Ulster County Legislature

Submitted to the County Executive this
13th Day of March, 2009.

/s/ Mary L. Carey
Mary L. Carey, Clerk
Ulster County Legislature

Approved by the County Executive this
13th Day of March, 2009.

/s/ Michael P. Hein
Michael P. Hein, County Executive