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MAY 2 - 2005

ERIE COUNTY
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At a Term of this Court, held in and for
the County of Erie at the City Court
Building in Buffalo, New York, on the
29th day of April, 2005.

PRESENT: HONORABLE JOSEPH G. MAKOWSKI, J.S.C.
Justice Presiding

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF ERIE

ERIE COUNTY MEDICAL CENTER CORPORATION

Plaintiff,

v.

CONSENT DECREE
INDEX NUMBER:
I2005-1853

COUNTY OF ERIE, NEW YORK

Defendant.

By Order to Show Cause granted February 18, 2005, the plaintiff, Erie County Medical Center Corporation [hereinafter "ECMCC"] moved for preliminary relief from this court that, among other things, included an order requiring the defendant, County of Erie, New York [hereinafter "County"] to appropriate capital funds as required by New York Public Authorities Law and a certain Sale, Purchase and Operation Agreement between ECMCC and the County, as amended [hereinafter the "SPOA"]. ECMCC and the County have agreed to the entry of a decree of the court, upon consent, to resolve certain capital funding issues between them.

Upon the consent of the parties, it is hereby ordered:

1. That the Public Authorities Law requires the County to fully fund capital projects for ECMCC for the years 2004 through 2006, as reflected in the County 2003

Capital Budget Program in the total amount of \$23,037,300 [hereinafter the "Capital Funding Amount"].

2. That the County is statutorily required to fund \$7,737,625 of the Capital Funding Amount to ECMCC for 2004; and it is the duty of the parties to cooperate to effect payment of that amount.

3. That the County is statutorily required to fund \$7,444,925 of the Capital Funding Amount to ECMCC for 2005; and it is the duty of the parties to cooperate to effect payment of that amount.

4. Separately, the SPOA contractually required the County to provide capital improvement work for ECMCC in the amount of \$3,183,585 during 2004, subject to compliance by the County and ECMCC with certain conditions.

5. No part of the Capital Funding Amount or capital improvement work has been funded to date. The total unfunded amount to date is \$18,366.135 [hereinafter the "Present Balance"].

6. That on April 19, 2005, ECMCC provided the County with revised descriptions of the projects [hereinafter the "ECMCC Capital Projects"] that will be funded once the County funds the Present Balance through bonds or proceeds of the Eric County Tobacco Litigation Settlement [hereinafter "Tobacco Proceeds"]. The County has approved of the adequacy of the descriptions of the ECMCC Capital Projects following review and approval of those descriptions by the County's bond counsel.

7. The County will use its best efforts to work with bond counsel to file with the Eric County Legislature, on or before May 3, 2005, a bond resolution containing the ECMCC Capital Projects in the minimum amount of \$15,182,550. At the same time, the

County agrees to also file all other related legislative and/or administrative documentation that may be required for full consideration of the ECMCC Capital Projects bond resolution by the Erie County Legislature.

8. That on or before June 17, 2005, the County will use its best efforts to cause the Erie County Legislature to adopt a bond resolution that, among other things, amends the 2005 County Capital Budget and authorizes the issuance of County bonds for the ECMCC Capital Projects. The County will use its best efforts to cause said bonds to be sold no later than September 1, 2005. Any costs of issuance associated with the use of bonds or Tobacco Proceeds shall be borne exclusively by the County. In the event that a firm closing date for the sale of bonds to fund the ECMCC Capital Projects is not set by August 15, 2005, the County shall deliver papers opposing the April 15, 2005 ECMCC motion for summary judgment no later than August 22, 2005 and a hearing shall be conducted on or before September 2, 2005.

9. It is the County's present intention to use Tobacco Proceeds to fund capital improvement work (as described in paragraph 4 above) in the amount of \$3,183,585. Notwithstanding any provisions in this Consent Decree to the contrary, the County Budget Director may, with the approval of the Erie County Legislature, direct that additional ECMCC Capital Projects also be paid, in whole or in part, with Tobacco Proceeds. The Budget Director shall communicate his intentions concerning the use of Tobacco Proceeds in writing to ECMCC no later than May 3, 2005. The County will use its best efforts to have the Erie County Legislature approve of the expenditure of Tobacco Proceeds for the ECMCC Capital Projects on or before June 17, 2005. In the event that Tobacco Proceeds are used to fund all or a part of the Present Balance, the County will

use its best efforts to make funds available for use by ECMCC by fifteen (15) business days after approval by the Erie County Legislature, subject to applicable provisions of the SPOA.

10. The County may employ audit procedures and arbitrage regulation reviews that it deems appropriate in connection with any bond issue or expenditure of Tobacco Proceeds. ECMCC shall not enter into any contract or take any action subjecting or purporting to subject the County to any liability. ECMCC shall present vendor invoices, approved by ECMCC, to the County Comptroller for audit and payment. No such invoices will be paid by ECMCC without the express written consent of the County. The County shall be responsible for processing payments up to the limit of \$18,366.135 (exclusive of the amount owed by the County to ECMCC for 2006). The County will only pay amounts due vendors when bond proceeds or Tobacco Proceeds actually become available. The County shall make a good faith effort to pay vendors as soon as practicable after receiving invoices from such vendors. Should the County determine that an invoice contains errors, irregularities or inaccuracies, the County shall promptly advise ECMCC's Chief Financial Officer and reasonably cooperate with ECMCC in order to facilitate payment.

11. The rights and duties of the parties under this Consent Decree are subject to adoption of an appropriate bond resolution by at least a two-thirds vote of the Erie County Legislature, or valid authorization by the Erie County Legislature of alternative funding. In the event that a bond resolution is not adopted by June 17, 2005 or alternative funding is not approved by June 17, 2005, the County shall deliver papers opposing plaintiff's pending summary judgment motion no later than June 24, 2005 and

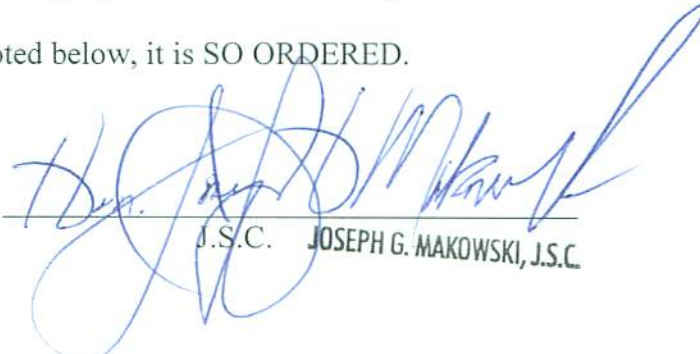
ECMCC shall be entitled to a hearing on or before August 1, 2005 on its motion for summary judgment, dated April 15, 2005.

12. ECMCC shall reasonably cooperate in providing information and the opinion of its counsel as may be necessary and/or incidental to the transactions contemplated in this decree.

13. The matters set forth in this decree are without prejudice to any other claim or defense that ECMCC may have against the County or the County may have against ECMCC under the Public Authorities Law, the SPOA or otherwise. Counts I, IV and V of the Complaint in this matter are severed from the other counts in the above-captioned litigation. This Consent Decree shall not limit any of the other claims or defenses pending in the above-captioned litigation.

14. Except as otherwise set forth in this Consent Decree, the matters set forth in this decree do not constitute a waiver of any other rights that ECMCC or the County may have under the Public Authorities Law or any agreement between the parties.

Upon the consent of the parties, as noted below, it is SO ORDERED.


J.S.C. JOSEPH G. MAKOWSKI, J.S.C.


GRANTED:

GRANTED

MAY 02 2005

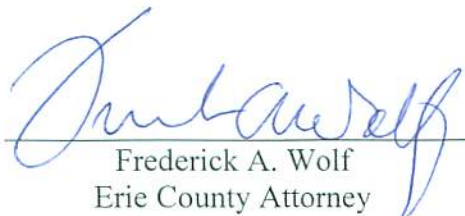
BY 
LORRAINE R. CECCARELLI
COURT CLERK

UPON CONSENT:
Erie County Medical Center Corporation

By: 

Anthony J. Colucci, III
Counsel for Plaintiff

UPON CONSENT:
County of Erie, New York

By: 

Frederick A. Wolf
Erie County Attorney