



Lake County Illinois

Legislation Text

File #: 13-0847, Version: 1

Resolution authorizing the execution and delivery of a third supplement to indenture between the County of Lake, Illinois and American Chartered Bank and a Supplemental Tax Exemption Certificate and Agreement in connection with the County's Industrial Development Revenue Bond, series 1998 (Valenti Properties, L.L.C. Project); approving certain other agreements; and related matters.

- To promote economic development in the County, from time to time the County issues industrial development bonds. Lake County Partners assists the County in connection with these transactions.
- The funds generated by these types of bonds are used for the purpose of assisting companies in establishing and expanding businesses and job opportunities in the County. The interest on these bonds is tax-exempt under federal law.
- In 1998, the County authorized a \$4,460,000 bond to Valenti Properties, L.L.C. for a facility in Libertyville, Illinois that manufactures tags, labels and similar facilities, known as Chicago Tag & Label.
- From time to time, the interest rate on these bonds is adjusted, and County Board approval of such a change is required.
- This is the third proposed change in the interest rate, reducing it from 4.54% to 3.82%.

WHEREAS, the County of Lake, Illinois, (the "*Issuer*"), is a duly constituted and validly existing unit of local government under Section I of Article VII the 1970 Constitution of the State of Illinois and is a body politic and corporate operating under the general laws of the State of Illinois and is not a home rule unit of local government; and is authorized pursuant to the Industrial Building Revenue Bond Act, 50 ILCS 445/1 *et seq.*, as amended (the "*Act*"), to issue its special, limited obligation revenue bonds for the purpose of providing financing in whole or in part, for an "industrial project," as defined in Section 2 of the Act, and located within the Issuer; and

WHEREAS, in order to finance, in whole or in part, the costs of constructing, acquiring, and improving a facility for the manufacture of tags, labels and similar items, which constitutes an "industrial project," as defined in Section 2 of the Act, to be located in the Village of Libertyville, Illinois (the "*Project*"), Valenti Properties, L.L.C. (the "*Borrower*") requested that the Issuer finance in whole or in part, costs of the Project through the issuance and sale of the Issuer's Industrial Development Revenue Bond, Series 1998 (Valenti Properties, L.L.C. Project), and on August 6, 1998 the Issuer did issue such Bond for such purpose in the aggregate principal amount of \$4,460,000 (the "*Bond*"); and

WHEREAS, the Bond was issued pursuant to an Indenture of Trust dated as of August 1, 1998, as supplemented by a First Supplement to Indenture dated as of August 1, 2003 (as supplemented, the "*Original Indenture*") between the Issuer and First American Bank, as Trustee, and the proceeds of the Bond were loaned to the Borrower pursuant to a Loan Agreement dated as of August 1, 1998 (the "*Loan Agreement*") between the Issuer and the Borrower; and

WHEREAS, the Project consists of land and buildings located at 2501 Commerce Drive in Libertyville, Illinois, owned by the Borrower and leased to and operated by Chicago Tag & Label, Inc., an Illinois corporation (the "*Lessee*"); and

WHEREAS, the Bond is not a charge against the general revenues or the taxing powers of the Issuer, but is payable solely from the proceeds of the Bond issued to finance, in whole or in part, the Project, the earnings on such proceeds, and from the revenues and receipts derived from payments made by the Borrower, and no holder of any of the Bond has the right to compel any exercise of the taxing power of the Issuer, the State of Illinois, or any political subdivision thereof to pay the Bond or the interest or any premium thereon, and the Bond and the interest thereon do not constitute an indebtedness or a loan of credit of the Issuer, the State, or any political subdivision thereof; and

WHEREAS, on September 26, 2008, American Chartered Bank purchased the Bond in whole from First American Bank and, in connection therewith, the Issuer and American Chartered Bank, as the owner of the Bond (the "*Bondholder*"), entered into a Second Supplement to Indenture dated as of September 1, 2008 (the "*Second Supplement*") further amending the Original Indenture (the Original Indenture, as amended by the First Supplement and the Second Supplement, being referred to herein as the "*Indenture*"); and

WHEREAS, the Borrower and the Bondholder have now requested that the Issuer agree to amend the Indenture by the execution and delivery of a Third Supplement to Indenture (the "*Supplemental Indenture*") between the Issuer and the Bondholder, a proposed form of which is before the County Board at this meeting as **Exhibit A**; and

WHEREAS, the Supplemental Indenture revises the interest rate on the Bond and provides for certain other amendments to the Indenture; and

WHEREAS, it is necessary and desirable for the Issuer, the Borrower and the Bondholder to enter into a Supplement to Tax Exemption Certificate and Agreement a proposed form of which is before the County Board at this meeting as **Exhibit B** (the "*Supplemental Tax Agreement*"), governing the investment of the gross proceeds of the Bond and certain other matters relating to the exclusion of interest on the Bond from federal gross income.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of Lake County, Illinois as follows:

Section 1. The Supplemental Indenture (including the proposed amendments to the Bond) and the Supplemental Tax Agreement, in substantially the forms presented at this meeting and on file with the County Clerk and containing substantially the terms and provisions set forth therein, are hereby authorized, approved and confirmed, subject to such changes and revisions therein as shall be required or approved by the officers of the Issuer executing and attesting the same, their signatures thereon to constitute conclusive evidence of such approval, and the Chairman of the County Board (the "*Chairman*") and, as applicable, the County Clerk of the Issuer (the "*County Clerk*"), or any other authorized officer of the Issuer are hereby authorized and directed to execute and, as necessary, attest and seal the Supplemental Indenture, the Supplemental Tax Agreement and the amended Bond.

Section 2. The Chairman and the County Clerk are hereby authorized and directed to execute and deliver an amended Bond pursuant to the terms of the Supplemental Indenture.

Section 3. (a) No pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in this Resolution and no other pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in any other document executed by the Issuer in connection with the Project or the amended Bond shall give rise to any pecuniary liability of the Issuer or charge against its general credit, or shall obligate the Issuer financially in any way except out of payments to be made by the Borrower under the Loan Agreement other than payments to be made by the Borrower pursuant to the Issuer's Reserved Rights (as defined in the Loan Agreement). No failure of the Issuer to comply with any term, condition, covenant, obligation or agreement therein shall subject the Issuer to liability for any claim for damages, costs, or other financial or pecuniary charge except to the extent the same is paid by the Borrower; and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or other property of the Issuer. The same shall be plainly stated on the face of each amended Bond.

(b) The principal of, premium, if any, and the interest on the amended Bond are special limited obligations of the Issuer. No holder or owner of the amended Bond has the right to compel any exercise of the taxing power of the Issuer, the State or any political subdivision thereof to pay the amended Bond or the interest or premium, if any, thereon. The amended Bond does not and shall never constitute or give rise to any pecuniary liability of the Issuer or a charge against its general credit or taxing powers. The amended Bond does not and shall never constitute or evidence an indebtedness of the Issuer, the State or Illinois, or any political subdivision thereof or a loan of credit thereof within the meaning of any constitutional or statutory provision. The amended Bond and all other bonds of the series of which it forms a part are issued under, and in full compliance with, the Constitution of the State of Illinois and particularly under the provisions of the Act. The same shall be plainly stated on the face of each amended Bond.

Section 4. The Issuer hereby elects to have the provisions of Section 144(a)(4) of the Code apply to the amended Bond.

Section 5. All authorized acts of the officials of the Issuer which are in conformity with the purposes and intent of this Resolution and the terms and conditions of the Supplemental Indenture and Supplemental Tax Agreement are, in all respects, approved and confirmed.

Section 6. The Chairman of the County Board and the County Clerk of the County are hereby authorized and directed to execute and deliver and, as applicable, attest and seal, any and all documents and do any and all things deemed necessary to effect the amendments described herein, the execution and delivery of the Supplemental Indenture and the Supplemental Tax Agreement, and to carry out the intent and purposes of this Resolution, including the preambles hereto, including without limitation, any amendment to the Loan Agreement deemed necessary by the parties to conform the Loan Agreement to the amendments made by the Supplemental Indenture. In the absence of the Chairman of the County Board or the County Clerk, any officer of the County so authorized by law may perform any of the actions required hereby in lieu of the Chairman and the County Clerk, as the case may be.

Section 7. The provisions of this Resolution are hereby declared to be separable, and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect

the validity of the remainder of the sections, phrases and provisions; *provided, however*, that no holding of invalidity shall require the Issuer to make any payments from revenues other than the proceeds derived from the sale of the Bond issued under the Indenture and the proceeds derived from the Loan Agreement (except such proceeds as may be derived from the Issuer pursuant to its Reserved Rights, as defined in the Loan Agreement and the Indenture) or impose any personal liability on any director, member, elected or appointed officer, official, employee, attorney, or agent of the Issuer.

DATED at Waukegan, Illinois, on August 13, 2013.