

CITY OF LE ROY
COUNTY OF MCLEAN
STATE OF ILLINOIS

RESOLUTION NO. 01-06-01-30

A RESOLUTION FOR AUTHORIZING THE ISSUANCE OF UP TO \$2,000,000
AGGREGATE PRINCIPAL AMOUNT INDUSTRIAL DEVELOPMENT
REVENUE BONDS, SERIES 2001 (OMNI-TECH/PERMABILT PROJECT), OF
THE CITY OF LE ROY, ILLINOIS

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY
THIS 18TH DAY OF JUNE, 2001

PRESENTED: JUNE 18TH, 2001

PASSED: JUNE 18TH, 2001

APPROVED: JUNE 18TH, 2001

RECORDED: JUNE 18TH, 2001

PUBLISHED: JUNE 18TH, 2001


In Pamphlet Form

Voting "Aye" 5

Voting "Nay" 0

The undersigned being the duly qualified and acting City Clerk of the City of Le Roy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned resolution and that such resolution was presented, passed, approved, recorded and published as above stated.

(SEAL)


City Clerk of the City of Le Roy,
McLean County, Illinois
Dated: JUNE 18TH, 2001

A RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$2,000,000 AGGREGATE PRINCIPAL AMOUNT INDUSTRIAL DEVELOPMENT REVENUE BONDS, SERIES 2001 (OMNI-TECH/PERMABILT PROJECT), OF THE CITY OF LEROY, ILLINOIS; AUTHORIZING THE ISSUANCE OF THE SERIES 2001 BONDS; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF THE SERIES 2001 BONDS; AUTHORIZING A LOAN AGREEMENT AND AN ESCROW AGREEMENT APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE THE SERIES 2001 BONDS; AUTHORIZING A TAX REGULATORY AGREEMENT AND AN ESCROW AGREEMENT; AND AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE SERIES 2001 BONDS

WHEREAS, the City of LeRoy, a political subdivision, body politic and non-home rule municipality duly organized and validly existing under the laws of the State of Illinois (the **"Issuer"**), including particularly The Industrial Project Revenue Bond Act (65 ILCS 5/11-74-1 *et seq.*), as supplemented and amended, including by the Illinois Bond Replacement Act, the Registered Bond Act, and the Bond Authorization Act (collectively, the **"Enabling Act"**), is authorized and empowered among other things **(a)** to make a loan to finance the acquisition, construction, installation and equipping of qualifying **"industrial projects"** under the Enabling Act, **(b)** to issue and sell its industrial development revenue bonds to provide moneys for such a loan and **(c)** to enact this resolution and execute and deliver the related agreements, documents and instruments hereinafter identified; and

WHEREAS, the Issuer hereby determines that the financing of manufacturing facilities for prefabricated panels and trusses and other construction products, located at Lots 3-8 and 11013, inclusive, in Demma Industrial Park, in LeRoy, Illinois (collectively, the **"Project"**) will create and preserve jobs and employment opportunities and promote the health and economic welfare in the State of Illinois, and that the Issuer, through the issuance of one or more Industrial Development Revenue Bonds, Series 2001 (Omni-Tech/Permabilt Project) (the **"Series 2001 Bonds"**) in not to exceed the aggregate principal amount of \$2,000,000, to finance the Project will be acting in the manner consistent with and in furtherance of the provisions of the Enabling Act.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEROY, ILLINOIS, as follows:

Section 1. Definitions. All defined terms used herein and those not otherwise defined herein shall have the respective meanings given to them in the Loan Agreement with respect to the Series 2001 Bonds (the **"Agreement"**) by and among the Issuer, Omni-Tech Systems, Inc. and Omni-Tech, LLC (collectively, the **"Borrowers"**), and Bank One, Illinois, N. A. (the **"Lender"**).

Any reference herein to the Issuer, the Mayor or the City Council, or to any officers or other members thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "hereby," "hereto," "hereunder," and similar terms, mean this resolution.

Section 2. Determinations of Issuer. The City Council hereby makes certain determinations, as follows: (a) pursuant to the Enabling Act the Project constitutes a qualifying "industrial project", and is consistent with the provisions of the Enabling Act; and (b) the Issuer hereby reaffirms its initial inducement resolution (Res. No. 00-11-01-30, adopted November 20, 2000) related to the financing and the Project; and (c) the Issuer expressly does not designate the Series 2001 Bonds as "qualified tax-exempt obligations" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). With notice duly published on June 2, 2001 in *The Pantagraph*, published in Bloomington, Illinois, and of general circulation in LeRoy, Illinois, the City Council this date held and conducted the public hearing required by Section 147(f) of the Code. The City Council hereby approves the issuance of the Series 2001 Bonds.

Section 3. Authorization of Series 2001 Bonds. It is hereby determined to be necessary to, and the Issuer shall, issue, sell and deliver, as provided herein and pursuant to the authority of the Enabling Act, the Series 2001 Bonds for the purpose of financing the Project, including authorized costs incidental thereto and of the financing thereof, all in accordance with the provisions of the Agreement. The Series 2001 Bonds shall each be designated: "**Industrial Development Revenue Bond, Series 2001 (Omni-Tech/Permabilt Project)**". The aggregate maximum principal amount of the Series 2001 Bonds to be issued hereunder and under the Agreement is not to exceed \$3,000,000.

Section 4. Terms and Execution of the Series 2001 Bonds. The Series 2001 Bonds shall be issued in the form and denomination, shall be numbered, dated and payable as provided in the Agreement. The Series 2001 Bonds shall be amortized over not to exceed a 20-year period and mature in such period and have such terms, bear interest at the adjustable rate or rates per annum, subject to the Bond Authorization Act, and be subject to mandatory and optional redemption, the Put Option and other applicable provisions, all as provided in the Agreement. The City Council hereby authorizes the rate or rates in effect from time to time on the Series 2001 Bond in the manner and pursuant to the provisions of the Agreement. The Series 2001 Bonds shall be executed on behalf of the Issuer by the manual or facsimile signatures of the Mayor and City Clerk, under the Issuer's seal. In case any officer whose signature or a facsimile thereof shall appear on the Series 2001 Bonds shall cease to be such officer before the issuance or delivery of the Series 2001 Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until after that time.

The form of the Series 2001 Bonds as set forth in the Agreement, subject to appropriate insertions and revisions unique to such series and in order to comply with the provisions of the Agreement and the Enabling Act, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Agreement, in an aggregate principal amount of not to exceed \$2,000,000, shall represent the approved form of the Series 2001 Bonds of the Issuer.

Section 5. Sale of the Series 2001 Bonds. The Series 2001 Bonds are being sold through a private placement arrangement, pursuant to the Agreement, and are hereby awarded to Bank One, Illinois, N. A. (with authorization for participants therein consistent with applicable securities laws) at the purchase price set forth, and on the terms and conditions described, in the Agreement. The appropriate officers of the Issuer are authorized and directed to make on behalf of the Issuer the necessary arrangements to establish the date, location, procedure and conditions for the delivery of the Series 2001 Bonds to the Lender, and to take all steps necessary to effect due execution and delivery to the Lender of the Series 2001 Bonds (or typewritten bonds delivered in lieu of a definitive Series 2001 Bonds, as the case may be) under the terms of this resolution, and the Agreement. It is hereby determined that the price for and the terms of the Series 2001 Bonds, and the sale thereof, all as provided in the Agreement, are in the best interests of the Issuer.

Section 6. Arbitrage Provisions. The Issuer will restrict, or cause to be restricted, the use of the proceeds of the Series 2001 Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Series 2001 Bonds are delivered to the Lender, so that they will not constitute arbitrage bonds under Section 148 of the Code. The Mayor, City Clerk or any other officer having responsibility with respect to the issuance of the Series 2001 Bonds, is authorized and directed, alone or in conjunction with the Borrowers or any officer, employee, consultant or agent of the Borrowers, to deliver a certificate for inclusion in the transcript of proceedings for the Series 2001 Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to Section 148 of the Code and regulations thereunder. In its performance of these covenants, and other covenants of the Issuer pertaining to federal income tax laws, the Issuer may rely upon the written advice of Evans, Froehlich, Beth & Chamley or other nationally recognized bond counsel which is provided to the Borrowers and to the Lender.

Section 7. Authorization of Agreement, Tax Regulatory Agreement and Related Documents to be Executed by the Issuer. In order to better secure the payment of the principal of, premium, if any, and interest on the Series 2001 Bonds as the same shall become due and payable, the Mayor, City Clerk or other officers, under the Issuer's seal, as the case may be, are authorized and directed to execute, acknowledge and deliver in the name and on behalf of the Issuer, the Agreement, the Tax Regulatory Agreement and the Escrow Agreement in substantially the forms submitted to the Issuer at the meeting of the City Council at which this resolution is adopted, which are hereby approved, with such changes therein not inconsistent with this resolution and not substantially adverse to the Issuer, as may be permitted by the Enabling Act and approved by the officers executing the same on behalf of the Issuer. The approval of such changes by such officers, and provided that they are not substantially adverse to

the Issuer, shall be conclusively evidenced by the execution of such Agreement and Tax Regulatory Agreement by such officers.

The Issuer has not confirmed, and assumes no responsibility for, the accuracy, sufficiency or fairness of any representations, statements, reports, financial information, offering or disclosure documents or other information submitted to the Lender relating to the Series 2001 Bonds, the Project, the Borrowers or the history, businesses, properties, organization, management, financial condition, market area or any other matter relating to the Project.

The Mayor, City Clerk and other appropriate officers of the Issuer are each hereby separately authorized to take any and all actions and to execute such financing statements, assignments, certificates and other instruments that may be necessary or appropriate in the opinion of Evans, Froehlich, Beth & Chamley, as Bond Counsel, in order to effect the issuance of the Series 2001 Bonds and the intent of this resolution and the Agreement. The City Clerk, or other appropriate officer of the Issuer, shall certify a true transcript of all proceedings had with respect to the issuance of the Series 2001 Bonds, along with such information from the records of the Issuer as is necessary to determine the regularity and validity of the issuance of the Series 2001 Bonds.

Section 8. Covenants of Issuer. In addition to other covenants of the Issuer in this resolution, the Issuer further covenants and agrees as follows:

(a) Payment of Principal, Premium and Interest. The Issuer will, solely from the special and limited sources herein or in the Agreement and Escrow Agreement provided, and not otherwise, pay or cause to be paid the principal of, premium, if any, and interest on the Series 2001 Bond on the dates, at the places and in the manner provided herein, in the Agreement and Escrow Agreement and in the Series 2001 Bonds.

(b) Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Series 2001 Bonds, Tax Regulatory Agreement and Escrow Agreement and Agreement, and in all proceedings of the Issuer pertaining to the Series 2001 Bonds. The Issuer warrants and covenants that it is, and upon delivery of the Series 2001 Bonds will be, duly authorized by the laws of the State of Illinois, including particularly and without limitation the Enabling Act, to issue the Series 2001 Bonds and to execute the Agreement, the Tax Regulatory Agreement and the Escrow Agreement, and all other related documents, instruments and certificates to be executed by it, to provide for the security for payment of the principal of, premium, if any, and interest on the Series 2001 Bonds in the manner and to the extent herein and in the Agreement set forth; that all actions on its part for the issuance of the Series 2001 Bonds and execution and delivery of the Agreement, the Tax Regulatory Agreement, the Escrow Agreement and all other related documents, instruments and certificates to be executed by it in connection with the issuance of the Series 2001 Bonds, have been or will be duly and effectively taken; and that the Series 2001 Bonds will be the valid and enforceable special and limited obligations of the Issuer according to the terms thereof. Each provision of this resolution, the Agreement, the Tax Regulatory Agreement, the Escrow Agreement and the Series 2001 Bonds, and all other related documents, instruments and certificates to be executed

by the Issuer in connection with the issuance of the Series 2001 Bonds, is binding upon each officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; and each duty of the Issuer and of its officers and employees undertaken pursuant to such proceedings for the Series 2001 Bonds is established as a duty of the Issuer and of each such officer and employee having authority to perform such duty.

Section 9. No Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this resolution, or in the Series 2001 Bonds, or in the Agreement, the Tax Regulatory Agreement or the Escrow Agreement, or under any judgment which maybe obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against the Mayor, City Clerk, any member of the City Council or other officer of the Issuer as such, past, present, or future, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of the Series 2001 Bonds, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Series 2001 Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to the owner or any holder of any Series 2001 Bonds, or otherwise, of any sum that may remain due and unpaid upon the Series 2001 Bonds, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Agreement, the Tax Regulatory Agreement, the Escrow Agreement and the issuance of the Series 2001 Bonds.

Section 10. No Debt or Tax Pledge. Anything in this resolution, the Agreement, the Series 2001 Bonds or any other agreement or instrument to the contrary notwithstanding, neither this resolution, the Series 2001 Bonds, the Agreement nor the Escrow Agreement shall represent or constitute a debt or pledge of the faith and credit of the taxing power of the Issuer or the State of Illinois or other political subdivision thereof, and the Series 2001 Bonds shall contain on the face thereof a statement to that effect.

Section 11. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

Section 12. Open Meetings. The City Council hereby finds and determines that all actions relative to the adoption of this resolution were taken in open meetings of the City Council, and that all deliberations of the City Council and of its committees, if any, which resulted in formal action, were in meetings open to the public and otherwise in full compliance with applicable law, including the Open Meetings Act (5 ILCS 120/1 *et seq.*).

Section 13. Compliance with IRC Section 147(f). For purposes of complying with Section 147(f) of the Code, the City Council hereby approves the issuance of the Series

2001 Bonds up to the maximum aggregate principal amount of \$2,000,000 to be loaned to the Borrowers for financing the Project.

Section 14. Effective Date. This resolution shall take effect and be in force immediately upon its adoption.


Upon motion by Alderman Dave McClelland, seconded by Alderman Steve Dean, adopted this 18th day of June, 2001, by at least a three-fifths affirmative roll call vote (the Mayor also voting), as follows:

Voting "yes" (names): Dave McClelland, Grace Anderson, Steve Dean, John Haney, Mayor Bob Rice


Voting "no" (names): None

Absent (names): Gary Koerner, Dawn Thompson

Approved this 18th day of June, 2001.



City Clerk



Mayor

STATE OF ILLINOIS)
)
COUNTY OF MCLEAN)

CERTIFICATION OF RESOLUTION

I, Sue Marcum, do hereby certify that I am the duly selected, qualified and acting City Clerk of the City of LeRoy, Illinois, a political subdivision, body politic and non-home rule municipality duly organized and validly existing under the laws of the State of Illinois (the "Issuer"), and as such official I am the keeper of the records and files of the Issuer and of the City Council of the Issuer (the "Corporate Authorities").

I do further certify that the attached resolution constitutes a full, true and correct excerpt from the proceedings of the meeting of the Issuer's Corporate Authorities held on June 18, 2001, insofar as same relates to the adoption of Resolution No. 01-06-01-30, entitled:

A RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$2,000,000 AGGREGATE PRINCIPAL AMOUNT INDUSTRIAL DEVELOPMENT REVENUE BONDS, SERIES 2001 (OMNI-TECH/PERMABILIT PROJECT), OF THE CITY OF LEROY, ILLINOIS; AUTHORIZING THE ISSUANCE OF THE SERIES 2001 BONDS; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF THE SERIES 2001 BONDS; AUTHORIZING A LOAN AGREEMENT AND AN ESCROW AGREEMENT APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE THE SERIES 2001 BONDS; AUTHORIZING A TAX REGULATORY AGREEMENT AND AN ESCROW AGREEMENT; AND AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE SERIES 2001 BONDS,

a true, correct and complete copy of which resolution as adopted at such meeting appears in the minutes of such meeting and is hereto attached. Such resolution was adopted and approved on the date thereon set forth by not less than the concurrence of a 3/5ths extraordinary majority of the Corporate Authorities (the Mayor also voting) and approved by the Mayor on the date indicated thereon.

I do further certify that the deliberations of the Corporate Authorities on the adoption of the above resolution were taken openly, that the vote on the adoption of such resolution was taken openly, that such meeting was held at a specified time and place convenient to the public, that notice of said meeting was duly given to all of the news media requesting such notice, that such meeting was called and held in strict compliance with the provisions of the open meetings laws of the State of Illinois, as amended, and that the Corporate Authorities have complied with all of the applicable provisions of such laws and such Act and their procedural rules in the adoption of such resolution.

IN WITNESS WHEREOF, I hereunto affix my official signature and the seal of the City of LeRoy, Illinois, this 18th day of June, 2001.



City Clerk