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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

September 17, 2012

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

RE: **Right-of-Way (ROW) Acquisition**
Zoar Valley Road (CR 457) Reconstruction
FEMA Disaster DR -1857-NY
Town of Concord, Erie County

Dear Honorable Members:

Please find enclosed a proposed resolution authorizing the County of Erie to acquire right-of-way to facilitate construction of the Federal Emergency Management Agency declared disaster project on Zoar Valley Road.

Should your Honorable Body require further information, I encourage you to contact Commissioner John C. Loffredo at the Department of Public Works. Thank you for your consideration on this matter.

Sincerely,

Mark C. Poloncarz, Esq.
Erie County Executive

Enclosure

cc: John Loffredo, Department of Public Works

MEMORANDUM

COMPTROLLER'S
RECEIVED
12 JUN 26 PM 1:51

To: Honorable Members of the Erie County Legislature
From: Department of Public Works
Re: Right-of-Way (ROW) Acquisition
Zoar Valley Road (CR 457) Reconstruction
FEMA Disaster DR-1857-NY- Town of Concord, Erie County
Date: ~~June 5, 2012~~
Aug 29, 2012

SUMMARY

Department of Public Works is requesting authorization for the County of Erie to acquire Right-of-Way (ROW) along Zoar Valley Road and Cattaraugus Creek for roadway reconstruction at FEMA DR-1857-NY sites (the Project) in the Town of Concord, Erie County. To accomplish the necessary work, ROW will also be required from a parcel in the Town of Ashford, Cattaraugus County. Easements and/or fee acquisitions will be required. Included in the acquisition process is contracting with D&S Realty Consultants for ROW consulting services.

FISCAL IMPLICATIONS

ROW acquisition costs of this Project, including D&S Realty Consultants, are currently estimated not to exceed $49,300.00 - from Business Area 123, Fund 420, SAP B.21025, 2010 FEMA Zoar Valley Road Right of Way. ROW acquisitions will be negotiated within the budgeted allowance.

REASONS FOR RECOMMENDATION

The acquisition of ROW for the Project is necessary for appropriate reconstruction of the subject sections of Zoar Valley Road

BACKGROUND INFORMATION

The project consists of complete reconstruction of an aggregate of approximately 1500 linear feet of Zoar Valley Road including drainage system upgrades and reconstruction/protection of failed embankments.

CONSEQUENCES OF NEGATIVE ACTION

The project will not be constructed. The damage from FEMA DR-1857-NY will not be repaired and the road will progressively deteriorate prejudicing future reconstruction and continuing to impair the mobility and safety of the travelling public.

STEPS FOLLOWING APPROVAL

The County Executive will execute the necessary Contracts of Sale, and ROW will be acquired to facilitate reconstruction of the roadway.

COMPTROLLER'S OFFICE REVIEW

The proposed legislation has been reviewed by the Comptroller's Office and is related to an authorized capital project for which there are sufficient appropriations for the action proposed.

·Cash available/Availability of Funds: $49,300.00

Lorne H. Steinhart

LORNE H. STEINHART 6/27/12
Deputy Comptroller
Comptroller's Office

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS

RE: Right-of-Way (ROW) Acquisition
Zoar Valley Road (CR 457) Reconstruction
FEMA Disaster DR-1857-NY
Town of Concord, Erie County

WHEREAS, the County wishes to reconstruct portions of Zoar Valley Road damaged in FEMA DR-1857-NY, the "Project"; and

WHEREAS, in order to facilitate this reconstruction, it will be necessary for the County to acquire by easement and/or fee, parcels that are portions of real property in the vicinity of the Project as follows:

PORTION OF TAX MAP SBL NUMBER	TOWNSHIP
SBL 353.00-3-12.11	Concord
SBL 353.00-2-12	Concord
SBL 353.00-3-6	Concord
SBL 353.00-2-11	Concord
SBL 353.00-2-10	Concord
Tax ID 10.003-2-2	Ashford, Cattaraugus Co.

such property to be acquired by the County is herein referred to as the "Subject Properties"; and

WHEREAS, in order to acquire the ROW for the Project, it will be necessary for the County to establish an amount which it believes to represent just compensation for the real property interest to be acquired and to thereafter make a written offer to purchase the real property interest for the respective just compensation amount; and

WHEREAS, in order to advance the acquisition process, it will be necessary to retain the services of a ROW consultant and D&S Realty Consultants is an approved provider of such services; and

WHEREAS, the acquisition of the portions of the Subject Properties is expected to be de minimis in nature so that the public interest will not be prejudiced by the reconstruction and other general improvements to the subject sections of Zoar Valley Road (CR 457); and

WHEREAS, should one or more owners of the Subject Properties refuse to convey such portion of their real property to the County for an amount not exceeding fair market value, it will be necessary for the County to acquire the Subject Property by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the acquisition of the ROW required to construct the project; and be it further

RESOLVED, that the sum of $49,300.00 from Business Area 123, Fund 420, SAP B.21025, 2010 FEMA Zoar Valley Road Right of Way be made available to cover all costs of ROW acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquire the necessary real property interests from the aforementioned Subject Properties for the purpose of reconstructing and improving the aforementioned Zoar Valley Road sites; and be it further

RESOLVED, that the County of Erie is authorized to enter into a contract with D&S Realty Consultants to provide the ROW services necessary for the acquisition of the required ROW; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to establish the amounts which he believes to represent just compensation for the real property interests to be acquired; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to negotiate and offer just compensation amounts to the owners of the Subject Properties for the purpose of acquiring the necessary real property interest in portions of their respective parcels of real property by easement and/or fee, which acquisition is necessary for the Zoar Valley Road reconstruction project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are authorized to act on behalf of the County of Erie in connection with the acquisition of the portions of the aforementioned Subject Properties; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring fee and/or easement interests in the Subject Properties; and be it further

RESOLVED, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not to exceed the just compensation determined by the Commissioner of Public Works, or his authorized representatives , the County is authorized to commence eminent domain procedures; and be it further

RESOLVED, that the Clerk of the Legislature forward three (3) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, and also one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.

TO: LORNE H. STEINHART, COMPTROLLER'S OFFICE

PROPOSED RESOLUTIONS REQUIRING RULE 55

CONTRACT APPROVAL CHECKLIST
CONFIRMATION OF AVAILABILITY OF FUNDS IN CAPITAL PROJECTS

REQUESTING DEPARTMENT	COMPLETE ITEMS 1 THROUGH 5
1. CONTRACTOR'S NAME	Parcel owners D&S Realty Consultants
2. AMOUNT OF CONTRACT	Total Not to Exceed $49,300.00
3. PROJECT NUMBER	B.21025
4. PROJECT TITLE	2010 FEMA Zoar Valley Road Right of Way
5. DEPARTMENT CONTACT	Funding questions: Charles A. Sickler, PE at 8372 Letter pickup: Diane Bukowski at 8301

COMPTROLLER'S OFFICE	COMPLETE ITEMS 6 AND 7
6. AVAILABILITY OF FUNDS	$
7. PERFORMED BY	
Date Sent to Comptroller's Office:	August 29, 2012

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