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COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

May 7, 2013

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

**RE: Right-of-Way Acquisition (ROW) - Reconstruction of Penora Street (CR23)
Phase II - Como Park Blvd. to Broadway - Town of Lancaster, Erie County**

Dear Honorable Members:

We are forwarding for your approval a proposed resolution authorizing the County of Erie to acquire Right-of-Way to facilitate reconstruction of the above noted roadway.

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

Sincerely,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP:dab
Enclosure

cc: John C. Loffredo, Commissioner

MEMORANDUM

COMPTROLLER'S
RECEIVED

To: Honorable Members of the Erie County Legislature
From: Department of Public Works
Re: Right-of-Way Acquisition – Reconstruction of Penora Street (CR 23)
Phase II - Como Park Blvd. to Broadway - Town of Lancaster, Erie County
Date: April 25, 2013

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SUMMARY

Department of Public Works is requesting authorization for the County of Erie to acquire Right-of-Way (ROW) to facilitate reconstruction of Penora Street (CR 23), Phase II.

FISCAL IMPLICATIONS

Right-of-Way acquisition phase cost of this project is currently estimated at \$7,000.00 and is available in SAP B.00062, Purchase of Permanent Right-of-Way. Right-of-Way acquisition is recommended for four parcels and will be negotiated within the budgeted allowance.

REASONS FOR RECOMMENDATION

The acquisition of ROW for the Project is necessary for appropriate reconstruction of Penora Street, Phase II.

BACKGROUND INFORMATION

This road reconstruction project has been approved by the Erie County Legislature, and the project will be let in the spring of 2013.

CONSEQUENCES OF NEGATIVE ACTION

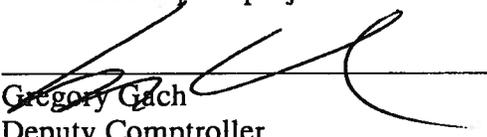
This action is required to ensure meeting safety standards for reconstruction of the roadway. Negative action will halt project progress and have detrimental fiscal, health and safety implications.

STEPS FOLLOWING APPROVAL

The County Executive will execute the Contract of Sale, and Right-of-Way 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.



Gregory Gach
Deputy Comptroller
Comptroller's Office

WS:dab
File (hgwy.penora.4.25.13)

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

**RE: Right-of-Way Acquisition (ROW) - Reconstruction of Penora Street (CR 23)
Phase II - Como Park Boulevard to Broadway-Town of Lancaster**

WHEREAS, a project for the reconstruction of Penora Street (CR 23) in the Town of Lancaster, Erie County, was authorized by this Honorable Body via Communication 24E-17 (2010); and

WHEREAS, in order to facilitate reconstruction of the roadway, it will be necessary for the County to acquire the parcel by fee, portions of real property in the vicinity of the roadway:

<u>PORTIONS OF TAX MAP SBL NUMBERS</u>	<u>TOWNSHIP</u>
SBL 115.06-4-32.2	Lancaster
SBL 115.06-4-31.121	Lancaster
SBL 115.06-4-19.1	Lancaster
SBL 115.06-4-20.11	Lancaster

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

WHEREAS, in order to acquire the parcels 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 portion of the subject property is de minimis in nature so that the public interest will not be prejudiced by the reconstructed road and other general improvements to the section of Penora Street (CR 23); and

WHEREAS, 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 exceeding fair market value, it will be necessary for the County to acquire the property by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie is authorized to acquire the necessary real property interests from the below Subject Properties for the purpose of reconstructing and improving the Penora Street project:

PORTIONS OF TAX MAP SBL NUMBERS

TOWNSHIP

SBL 115.06-4-32.2	Lancaster
SBL 115.06-4-31.121	Lancaster
SBL 115.06-4-19.1	Lancaster
SBL 115.06-4-20.11	Lancaster

and be it further

RESOLVED, that the sum of \$7,000.00 is made available from the purchase of permanent Right-of-Way, SAP B.00062, to cover the cost of Right-of-Way acquisition; 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 amount to the owners of the subject properties for the purpose of acquiring the necessary real property interest in portions of their respective parcel of real property by permanent easement or temporary easement, for the Penora Street Reconstruction Project, Phase II; 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 subject properties; and be it further

RESOLVED, that based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisition of the aforementioned subject properties are de minimis in nature; 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 refuse to convey such portion 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: GREGORY GACH, DEPUTY, COMPTROLLER'S OFFICE

PROPOSED RESOLUTIONS REQUIRING RULE 55

CONTRACT APPROVAL CHECKLIST
CONFIRMATION OF AVAILABILITY OF FUNDS IN CAPITAL PROJECTS

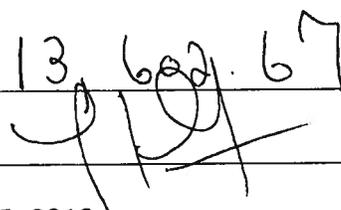
REQUESTING DEPARTMENT

COMPLETE ITEMS 1 THROUGH 5

- 1. CONTRACTOR'S NAME D& S Realty; and various owners
- 2. AMOUNT OF CONTRACT \$7,000.00
- 3. PROJECT NUMBER B.00062
- 4. PROJECT TITLE Purchase of Permanent ROW
- 5. DEPARTMENT CONTACT Funding questions: Charles Sickler, PE at 8372
Letter pickup: Diane Bukowski at 8301

COMPTROLLER'S OFFICE

COMPLETE ITEMS 6 AND 7

- 6. AVAILABILITY OF FUNDS \$ 13,600.67
- 7. PERFORMED BY 
- Date Sent to Comptroller's Office: April 25, 2013

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