

March 2, 2011

ECONOMIC DEVELOPMENT COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR KOZUB.  
CHAIR MILLER-WILLIAMS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following item is hereby received and filed:
  - a. COMM. 4M-13 (2011)  
**NFTA:** “Copies of the 17A Report & Capital Expenditure Reports for the Third Quarter of Fiscal Year Ending 3/31/2011”  
(5-0)
2. COMM. 4E-9 (2011)  
**COUNTY EXECUTIVE**  
WHEREAS, the Division of Real Estate and Asset Management received bids on January 19, 2011 for the Erie County Holding Center – Roof Replacement – Phase 2; and

WHEREAS, the County Executive finds it desirable to proceed with awarding a construction contract for the Phase 2 work; and

WHEREAS, the first phase of the work was bid through the Department of Purchasing and the work was started in 2010; and

WHEREAS, the Erie County Division of Real Estate and Asset Management is recommending award of contract to the lowest responsible bidder, along with the engineer; and

WHEREAS, your honorable body has previously approved a General Architectural/Engineering Agreement with the Engineering firm of E.I. Team, Inc. for providing professional services on County projects via Comm. 14E-19 (2008) and specific design fees associated with this project were approved via Comm. 27E-13 (2009); and

WHEREAS, the County Executive is seeking authorization from your honorable body to enter into a construction contract with Weaver Metal & Roofing for the Erie County Holding Center – Roof Replacement – Phase 2 project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into a contract with the lowest responsible bidder for the Erie County Holding Center – Roof Replacement – Phase 2 project as follows:

Roofing Work

Weaver Metal & Roofing for a base bid and total contract in the amount of \$854,000.00; and be it further

RESOLVED, that the sum of \$150,000.00 be allocated to a construction contingency fund in addition to the base bid amount of \$854,000.00 with authorization for the County Executive to approve change orders in an amount not to exceed the contingency; and be it further

RESOLVED, that deduct change orders will result in these funds returned to the contingency fund; and be it further

RESOLVED, that the Comptroller’s Office be authorized to make payment for all the above from SAP Project accounts as follows:

A.00333 - 2008 Roof Replacement – Holding Center in the amount of \$1,004,000.00, allocated to WBS element A.00333.5.1, Weaver Metal and Roofing, \$854,000.00 and WBS element A.00333.5.99, Contingency, \$150,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Division of Real Estate and Asset Management, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

3. COMM. 4E-10 (2011)  
**COUNTY EXECUTIVE**

WHEREAS, a Project for the Reconstruction with Widening of CR 299, East Robinson and North French Roads, from US Route 62, Niagara Falls Blvd. to CR 301, Sweet Home Road, in the Town of Amherst, Erie County, P.I.N. 5755.43 (the “Project”) is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds; and

WHEREAS, the County of Erie advanced the Project by making a commitment of 100% of the non-Federal share of the costs of the Preliminary Engineering (Scoping and Design I-VI) phase of the Project via Comm. 14E-20(B), adopted on July 6, 2000; and

WHEREAS, the County of Erie desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Scoping & Design I-VI) phase of the Project, PIN 5755.43 through a Supplemental Agreement that increases the previous Project Agreement’s Preliminary Engineering (Scoping & Design I-VI) phase by \$525,800.00 in the new agreement amount of \$1,033,000.00; and

WHEREAS, the local share is available from Project Fund B.20911 - 2009 East Robinson Design Project as General Obligated Bond Proceeds in the amount of \$60,000.00, and in order to enter into the agreement the budget needs to be increased by the anticipated revenue of \$465,800.00; and

WHEREAS, the contract for design and engineering services for the above noted Project between the County of Erie and the engineering firm of Greenman-Pedersen, Inc. of Cheektowaga, New York was approved on July 12, 2001, via Comm. 16E-21, and it has been determined that the contract must be increased to include additional engineering design services due to unanticipated work scope changes.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the above subject project; and be it further

RESOLVED, that the County Legislature of the County of Erie, hereby authorizes the County of Erie to pay in the first instance 100% of the Federal and non-Federal shares of the cost of the Preliminary Engineering (Scoping and Design I-VI) phase of the Project or portions thereof; and be it further

RESOLVED, that the sum of \$508,000.00 of which the local share required is \$25,400.00 has been appropriated from B.00011 via Comm. 14E-20(B) adopted on July 6, 2000 for Preliminary Engineering (Scoping & Design I-VI) phase, and the increased Project Preliminary Engineering (Scoping & Design I-VI) amount of \$525,800.00 of which the local share required is \$59,200.00 is hereby appropriated from capital account B.20911 2009 East Robinson and North French Roads Design; and be it further

RESOLVED, that the budget for Project Fund SAP B.20911, 2009 East Robinson Design, fund center 123, fund 420, be increased by the anticipated Federal and State Marchiselli revenue in the amount of \$465,800.00 as follows:

REVENUE

| Account | Description         | Current Budget | Increase/ (Decrease) | Revised Budget |
|---------|---------------------|----------------|----------------------|----------------|
| 410170  | Federal Aid – Road  | \$ 0           | \$ 420,000           | \$ 420,000     |
| 405160  | NYS Marchiselli Aid | \$ 0           | \$ 45,800            | \$ 45,800      |
| 475000  | Gen Oblig Bond Proc | \$ 60,000      | \$ 0                 | \$ 60,000      |

|               |           |            |            |
|---------------|-----------|------------|------------|
| TOTAL REVENUE | \$ 60,000 | \$ 465,800 | \$ 525,800 |
|---------------|-----------|------------|------------|

APPROPRIATIONS

|                  |                     |           |            |            |
|------------------|---------------------|-----------|------------|------------|
| CAPITAL PROJECTS | Capital Project Exp | \$ 60,000 | \$ 465,800 | \$ 525,800 |
|------------------|---------------------|-----------|------------|------------|

|                      |           |            |            |
|----------------------|-----------|------------|------------|
| TOTAL APPROPRIATIONS | \$ 60,000 | \$ 465,800 | \$ 525,800 |
|----------------------|-----------|------------|------------|

and be it further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and non-Federal shares of the cost of the Project's Preliminary Engineering (Scoping and Design I-VI) phase exceeds the amount appropriated, \$525,800.00 and/or 100% of the full Federal and non-Federal shares of the cost of the Project's Preliminary Engineering (Scoping and Design I-VI) phase exceeds the total Project allowance of \$1,033,000.00, the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and be it further

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the County of Erie with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal-Aid and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and be it further

RESOLVED, that the County Executive be authorized to execute a negotiated Change Order in an amount not to exceed the allowable Project design increase between the County of Erie and project engineer Greenman-Pedersen, Inc. of Cheektowaga, New York for unanticipated work scope changes; and be it further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation, by attaching it to any necessary Agreement in connection with the Project; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

4. COMM. 4E-15 (2011)

**COUNTY EXECUTIVE**

WHEREAS, the New Road Repaving Project is necessary to improve roadway conditions along New Road and the local roads in the Town of Amherst; and

WHEREAS, the County of Erie and the Town of Amherst have joint responsibilities and obligations to address the waterline and roadway conditions in this area; and

WHEREAS, the County of Erie and the Town of Amherst have agreed to enter an Intermunicipal Agreement (IMA) to address the necessary waterline work and roadway conditions on New Road; and

WHEREAS, in order to advance the work it is necessary to enter into an Intermunicipal Agreement with the Town of Amherst for the purposes of reimbursing Erie County in the amount of \$78,000.00.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature authorizes the County Executive to enter into an Intermunicipal Agreement with the Town of Amherst to perform work on New Road; and be it further

RESOLVED, the Town of Amherst will reimburse the Erie County Department of Public Works, Division of Highways for Erie County's share of the work in the amount of \$78,000.00. Erie County's share of the work will be funded from SAP Project B.210026 – 2010 Preservation of Roads; and be it further

RESOLVED, that the Project Budget B.21026 be increased in appropriations and revenue in the amount of the reimbursement of \$78,000.00 as follows:

ADJUSTMENTS      REVISED  
BUDGET

| REVENUES             |                                  | INITIAL BUDGET     |                 |                    |
|----------------------|----------------------------------|--------------------|-----------------|--------------------|
| Account              | Description                      |                    |                 |                    |
| 420180               | Sale – Support Other Governments | \$ 0               | \$78,000        | \$ 78,000          |
| 475000               | Gen Oblig Bond Proc              | <u>\$4,200,000</u> | <u>\$ 0</u>     | <u>\$4,200,000</u> |
| TOTAL REVENUES       |                                  | <u>\$4,200,000</u> | <u>\$78,000</u> | <u>\$4,278,000</u> |
| APPROPRIATIONS       |                                  | INITIAL BUDGET     | ADJUSTMENTS     | REVISED BUDGET     |
| 516020               | Pro Ser Cnt and Fees             | \$ 0               | \$78,000        | \$ 78,000          |
| CAPITAL PROJECTS     |                                  | <u>\$4,200,000</u> | <u>\$ 0</u>     | <u>\$4,200,000</u> |
| TOTAL APPROPRIATIONS |                                  | <u>\$4,200,000</u> | <u>\$78,000</u> | <u>\$4,278,000</u> |

and be it further

RESOLVED, that the County Executive be authorized to accept any and all funds from the Town of Amherst for their share of the work relating to this project; and be it further

RESOLVED, that the Clerk of the Legislature forward five (5) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the Town of Amherst; and also, one copy each to the Office of the County Executive, the Office of Budget and Management, and the Office of the Comptroller.  
(5-0)

5. COMM. 4E-22 (2011)  
**COUNTY EXECUTIVE**

WHEREAS, a project for reconstruction of BR 215-RR1, Seneca Street Bridge, over Norfolk Southern Railroad, West Seneca, Erie County, PIN 5755.25 (the "Project") was authorized by this honorable body on May 19, 2005 via Communication 8E-36; and

WHEREAS, via Communication 5E-19 (2009) of March 26, 2009 this Honorable Body approved the acquisition of 10 identified Parcels for the purpose of this Project; and

WHEREAS, in order to facilitate the reconstruction of the bridge, it will be necessary for the County to acquire three additional parcels by permanent easement or temporary easement, portions of real property in the vicinity of the bridge;

PORTIONS OF TAX MAP SBL NUMBERS

SBL 134.17-3-7  
SBL 134.17-3-10  
SBL 134.14-4-32

TOWNSHIP

West Seneca  
West Seneca  
West Seneca

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

WHEREAS, in order to acquire the permanent easement or temporary easement 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, the acquisition of the portion of the Subject Properties are de minimis in nature so that the public interest will not be prejudiced by the reconstructed bridge and other general improvements to the subject section of Seneca Street (CR 215); 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 Subject Properties by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the above subject actions; and be it further

RESOLVED, that the sum of \$94,000.00 has previously been appropriated from the 1999 Federal Aid Road and Bridge Project Program (SAP B.00007) via County Resolution 8E-36 adopted May 19, 2005 and made available to cover the cost of Right-of-Way acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquire easement title to the aforementioned Subject Properties for the purpose of reconstructing and improving the aforementioned Seneca Street Bridge (BR 215-RR1) Project; 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 properties 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 interests in portions of their respective parcel of real property by permanent easement or temporary easement, which acquisitions are necessary for the Seneca Street Bridge (BR 215-RR1) 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 based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisitions of portions 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 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 ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation and also one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

6. **COMM. 4E-25 (2011)**  
**COUNTY EXECUTIVE**

WHEREAS, a Project for the Reconstruction with Widening of CR 299, East Robinson and North French Roads, from US Route 62, Niagara Falls Blvd, to CR 301, Sweet Home Road, in the Town of Amherst, Erie County, P.I.N. 5755.43 (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the

ratio of 80% Federal funds and 20% Non-Federal funds, or 90% Federal funds and 10% Non-Federal funds, depending on the Federal Funding Program; and

WHEREAS, the County of Erie desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Right-of-Way (ROW) Incidentals and Right-of-Way Acquisition Phases of the Project or portions thereof, with the Federal share of such costs to be applied directly by the New York State Department of Transportation pursuant to Agreement; and

WHEREAS, the Non-Federal share is available from funded program B.20905, 2009 East Robinson Right-of-Way General Obligated Bond Proceeds; and

WHEREAS, the New York State Department of Transportation requires the County of Erie to agree to accept ownership of any property acquired by the State or rights therein to all involved property in connection with the Project being more specifically set forth in Schedule A, attached hereto.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the Project; and be it further

RESOLVED, that the County Legislature of the County of Erie, hereby authorizes the County of Erie to pay in the first instance 100% of the Non-Federal share of the cost of the ROW Incidentals and ROW Acquisition Phases of the Project or portions thereof; and be it further

RESOLVED, that the required Non-Federal share in the sum of \$341,925.00 is hereby appropriated from fund center 123, fund 420, funded program B.20905 – 2009 E. Robinson and N. French Roads Right-of-Way as follows:

APPROPRIATIONS

| Account              | Description             | Amount              |
|----------------------|-------------------------|---------------------|
| Capital Projects     | Capital Project Expense | <u>\$341,925.00</u> |
| TOTAL APPROPRIATIONS |                         | <u>\$341,925.00</u> |

and made available to cover the cost of participation in the above phases of the Project; and be it further

RESOLVED, that in the event the Non-Federal share of the cost of the Project's ROW Incidentals and ROW Acquisition Phases exceeds the amount appropriated above, the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and be it further

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the County of Erie with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of the Non-Federal share of Project costs and permanent funding of the local share of Federal-Aid and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and be it further

RESOLVED, that the County of Erie hereby agrees to accept all acquired property from the State or its agencies upon completion of the project and to keep the property as set forth in Schedule A, attached hereto, for the length of time required; and be it further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation, by attaching it to any necessary Agreement in connection with the Project; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget and Management and the Office of the Comptroller.  
(5-0)

**TIMOTHY J. WHALEN**  
**CHAIR**