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## COUNTY OF ERIE

**CHRIS COLLINS**  
COUNTY EXECUTIVE

March 30, 2011

The Honorable  
Erie County Legislature  
92 Franklin Street – Fourth Floor  
Buffalo, New York 14202

**RE: Right-of-Way Acquisition  
Harris Hill Road (CR 276) Intersections  
At Wehrle Drive (CR 275) and Pleasant View Drive (CR 161)  
Towns of Clarence and Lancaster  
PIN 5756.47, Erie County**

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 intersections.

Should your honorable body require further information, I encourage you to contact the Department of Public Works, Office of the Commissioner. Thank you for your consideration on this matter.

Sincerely,

**CHRIS COLLINS**  
Erie County Executive

## **MEMORANDUM**

To: Honorable Members of the Erie County Legislature  
From: Department of Public Works, Office of the Commissioner  
Re: Right-of-Way Acquisition  
Harris Hill Road (CR 276) Intersections  
At Wehrle Drive (CR 275) and Pleasant View Drive (CR 161)  
Towns of Clarence and Lancaster, PIN 5756.47, Erie County  
Date: March 30, 2011

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### **SUMMARY**

To pass a resolution authorizing the County of Erie to acquire Right-of-Way.

### **FISCAL IMPLICATIONS**

Right-of-Way Acquisition Phase costs of this Project are currently estimated at \$8,437.00 in SAP B.00197.1 Harris Hill at Wehrle Drive and Pleasant View Drive Intersection Improvements Program of which up to 95% is Federal and State reimbursable. Right-of-Way Acquisition is recommended for two parcels and will be negotiated within the budgeted allowance.

### **REASONS FOR RECOMMENDATION**

To allow the County to acquire necessary additional Right-of-Way for reconstruction of the intersections.

### **BACKGROUND INFORMATION**

This Project has been approved by the New York State Department of Transportation in their current Capital Program to be funded with Federal Aid funds and to be let in the spring/summer of 2011.

### **CONSEQUENCES OF NEGATIVE ACTION**

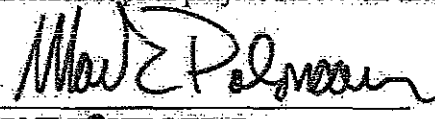
This action is required to insure meeting Federal and State guidelines for reconstruction of these intersections. Negative action will halt Project progress and have detrimental fiscal, health and safety implications.

### **STEPS FOLLOWING APPROVAL**

The County Executive will execute the Contract of Sale and Right-of-Way will be acquired to facilitate reconstruction of the intersection.

### **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.

  
**LORNE H. STEINHART**  
Deputy Comptroller  
Comptroller's Office

GJS/lc

File Copy (DPW.3.30.11-3.Harris Hill ROW.docx)

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

RE: Right-of-Way Acquisition  
Harris Hill Road (CR 276) Intersections  
At Wehrle Drive (CR 275) and Pleasant View Drive (CR 161)  
Towns of Clarence and Lancaster  
PIN 5756.47, Erie County

WHEREAS, a project for reconstruction of the intersections of Harris Hill Road (CR276) at Wehrle Drive (CR275) and Pleasant View Drive (CR161) in the Towns of Clarence and Lancaster, Erie County, PIN 5756.47 (the "Project") was authorized by this honorable body on July 9, 2009 via Communication 12E-19; and

WHEREAS, in order to facilitate the reconstruction of the intersections, it will be necessary for the County to acquire parcels by fee, portions of real property in the vicinity of the intersections;

PORTIONS OF TAX MAP SBL NUMBERS

TOWNSHIP

SBL 93.11-1-29.1  
SBL 93.11-1-30

Lancaster  
Lancaster

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

WHEREAS, in order to acquire the fee 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, 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 road and other general improvements to the subject section of Pleasant View Drive (CR161); 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 \$8,437.00, previously appropriated from the 2007 Harris Hill at Wehrle Drive and Pleasant View Drive Intersection Improvement Program, SAP B.00197.1, via County Resolution 12E-19 adopted July 9, 2009, is 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 Harris Hill Road Intersections at Wehrle Drive and Pleasant View Drive 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 property 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 Property 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 Harris Hill Road Intersections at Wehrle Drive and Pleasant View Drive Improvement 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 Property; 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.

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., JULY 9, 2009

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 14th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the Ninth day of July, 2009 A.D., a Resolution was adopted, of which the following is a true copy:

WHEREAS, a Project for the Reconstruction of the CR 276, Harris Hill Road at Wehrle Drive (CR 275) and CR 161, Pleasantview Drive Intersection, in the Towns of Clarence and Lancaster, Erie County, PIN 5756.47 (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, that the Design and Right-of-Way phases of the Project have increased to \$276,000.00 of which a sum of \$225,000.00 was previously authorized via County Resolution No. 7E-30 adopted May 25, 2006 from the 2002 Harris Hill/Wehrle/Pleasantview Intersection Design Program B.00042 and made available to cover the cost of participation in the above phases of the Project; 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 V & VI), Right of Way Incidentals and Right-of-Way Acquisition Phases of the Project, PIN 5756.47.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature 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 costs of Preliminary Engineering (Scoping and Design V-VI), Right-of-Way Incidentals and Right-of-Way Acquisition Phases of the Project or portions thereof; and be it further

RESOLVED, that the Project increase of \$51,000.00 (\$2,545.00 Erie County's local share) be appropriated from 2009 Harris Hill/Wehrle/Pleasantview ROW only Federal Aid Design Right-of-Way B.00197; and be it further

RESOLVED, that the Project budget be equally increased in revenue and appropriation to represent this agreement; 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 & Design V & VII), Right-of-Way Incidentals and Right-of-Way Acquisition Phase exceeds the amount appropriated, and/or 100% of the Full and Non-Federal shares of the cost of the Project (\$276,000.00), 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

ATTEST

  
ROBERT M. GRABER  
Clerk of the Legislature of Erie County

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., JULY 9, 2009

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 14th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the Ninth day of July, 2009 A.D., a Resolution was adopted, of which the following is a true copy:

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary Agreements, certifications or reimbursements 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 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 also one copy each to the Office of the County Executive, the Office of Budget, Management and Finance.

REFERENCE:

COMM 12E-19 (2009)

AS AMENDED

ATTEST



ROBERT M. GRABER

Clerk of the Legislature of Erie County

## OFFICE OF THE COMPTROLLER REVIEW

DATE: 3/31/11

PROJECT TITLE: B.00197 2007 Harris Hill @ Wehrle &amp; Pleasantview ROW

- 1) IS THE REASON FOR THIS CONTRACT CONSISTENT WITH THE PURPOSE  
OF THE PROJECT: YES \_\_\_\_\_ NO \_\_\_\_\_

IF NO, RETURN THIS REQUEST TO THE DEPARTMENT

IF YES, COMPLETE THE FOLLOWING VERIFICATION

2) PROJECT AVAILABLE APPROPRIATION

TOTAL PROJECT REVENUES	\$ 23,450.00
TOTAL PROJECT APPROPRIATIONS	\$ 23,450.00
LESS: TOTAL EXPENDITURE TO DATE	\$ 4.62
TOTAL COMMITMENTS	\$ 13,563.00
AVAILABLE APPROPRIATIONS AS OF DATE OF REQUEST	\$ 9,882.38
LESS: CONTRACT AMOUNT:	8,437.00
NET AVAILABLE APPROPRIATIONS	\$ 1,445.38

COMMENTS: Cash in project: \$2,545.38 (the local share is covered here). The remaining  
funding is 95% reimbursable - Marchiselli State/Federal Aid once claims are sent out.

REQUEST APPROVED: Mark Polmeary

REQUEST DENIED: \_\_\_\_\_

DATE: March 31 2011

2007 Consolidated Reso and Amendments

2007 Consolidated Reso & Amendments											
2007 CAPITAL BUDGET BOND RESOLUTION - PROJECT COMPONENTS											
Resp # 120-2007 Dtd. 4/19/07 Comm. 3E-40											
UMN #	A	B	C	D	E	F	G				
VE	SAP PROJ. NO.	PROJECT DESCRIPTION (object or purpose)	SPECIFIC DR. CLASS	ESTIMATED MAXIMUM COST	AMOUNT OF BONDS AUTHORIZED	MAY 2008 BAN PROCEEDS	STATE or FEDERAL AID EXPECTED	LOCAL SOURCE REVENUE	PPU Sec. 11.00a reference	PROJECT DETAILS	CAPITAL BUDGET PAGE REFERENCE
1-b	B.00197	INTERSECTION IMPROVEMENTS VARIOUS (right-of-way acquisition) HARRIS HILL @ WEHRLE & PLEASANTVIEW, PIN 6756.47 ROW	S	\$ 61,000	\$ 2,560	\$ 2,560	\$ 48,450		30 yrs. par. 21	This project will provide funding for ROW acquisition. The location for the proposed acquisition is Harris Hill at Wehrle and Pleasant View (PIN 6756.47). The total cost of this project in 2007 is estimated to be \$61,000. The State reimburse \$7,550 and Federal government \$40,800 for the majority of the project. County cost represents the balance.	P. B233 & B238
2	B.00172, B.00198	TONAWANDA CREEK ROAD RECONSTRUCTION	S	\$ 3,200,000	\$ 675,000		\$ 2,625,000		10 yrs. par. 20(b)	This project will fund the reconstruction of Tonawanda Creek road, between Westphalenger and Transit Roads. A slope failure along the south bank of Tonawanda Creek resulted in the loss of the roadway for approximately 250 feet. The Federal government will reimburse \$2,250,000 and the State government \$375,000 of the construction costs for the majority of the project. County cost represents the balance.	P. B233 & B238
1-b	B.00198	TONAWANDA CREEK ROAD RECONSTRUCTION (construction only)	S	\$ 3,150,000	\$ 825,000	\$ 625,000	\$ 2,625,000		10 yrs. par. 20(b)	This project will fund the reconstruction of Tonawanda Creek road, between Westphalenger and Transit Roads. A slope failure along the south bank of Tonawanda Creek resulted in the loss of the roadway for approximately 250 feet. The Federal government will reimburse \$2,298,875 and the State government \$328,125 of the construction costs for the majority of the project. County cost represents the balance.	P. B233 & B238
1-b	B.00172	TONAWANDA CREEK ROAD RECONSTRUCTION (right-of-way acquisition only)	S	\$ 50,000	\$ 50,000	\$ 50,000			30 yrs. par. 21	This project will fund the acquisition of rights-of-way for Tonawanda Creek road, between Westphalenger and Transit Roads. County cost represents 100 percent of the total cost of the project.	P. B233 & B238
3	B.00170, B.00177, B.00178, B.00179 & B.00180	BRIDGE RECONSTRUCTION PROJECTS FEDERAL AID PROGRAM - OPW (COUNTYWIDE)	C	\$ 17,650,000	\$ 882,500		\$ 18,767,500		20 yrs., par. 10	The Capital Budget provides \$882,500 to finance the County share of funding for the reconstruction of various bridges which are eligible for State and Federal aid. County cost represents five (5) percent of the total project. The State reimburses 15 percent (\$2,647,800) and Federal government 80 percent (\$14,120,000). Bridges to be completed are Freeman Road Bridge (PIN 5755.38), Seneca Street Bridge (PIN 5755.25), Cemetery Road Bridge (PIN 5755.27) and Pavement Road Bridges (PIN 5755.38).	P. B233 & B239
1-a	B.00170, B.00177, B.00178, B.00179 & B.00180	BRIDGE RECONSTRUCTION PROJECTS FEDERAL AID PROGRAM - OPW (COUNTYWIDE) (construction only)	C	\$ 15,838,000	\$ 791,900		\$ 16,048,100		10 yrs. par. 20(b)	The Capital Budget provides \$791,900 to finance the County share of funding for the reconstruction of various bridges which are eligible for State and Federal aid. County cost represents five (5) percent of the total project. The State reimburses 15 percent (\$2,376,700) and Federal government 80 percent (\$12,670,400). Bridges to be completed are Freeman Road Bridge (PIN 5755.38), Seneca Street Bridge (PIN 5755.25), Cemetery Road Bridge (PIN 5755.27) and Pavement Road Bridges (PIN 5755.38).	P. B233 & B239

Fund/Group 410..520  
 Funds Center \*  
 Funded Program B.00197 (2007 Harris Hill @ Wehrle & Pleasantview ROW )

Commitment Item	Original Budget	Adjustments	Current Budget	Commitment	Actuals
405160 Marchiselli Aid		3,300.00-	3,300.00-		
414000 Federal Aid		17,600.00-	17,600.00-		
445070 Prem On Obligations					229.52-
475000 Gen Oblig Bond Proc		2,550.00-	2,550.00-		2,320.48-
Revenue		23,450.00-	23,450.00-		2,550.00-
516020 Pro-Ser Cnt And Fees				13,563.00	
550110 Bond Issue Costs					4.62
CAPITALPROJECTS Capital Project Exp		23,450.00	23,450.00		
Expense		23,450.00	23,450.00	13,563.00	4.62
Commitment Item				13,563.00	2,545.38-

und(s): 400..599

Fiscal Year: 2011

Project(s): B.00197

2007 Harris Hill @ Wehrle & Pleasantview ROW

Period: 1 to 16

account	Prev Yr	YTD Debit	YTD Credit	End Bal
117000 CASH CONTROL ACCOUNT	2,545.38			2,545.38
200000 ACCOUNTS PAYABLE CONTROL ACCT				
240510 BOND ANTICIPATION NOTES - CAPITAL				
389999 UNRESERVED/UNDESIGNATED FUND BALANCE				
Balance Sheet	2,545.38			2,545.38
445070 PREMIUM ON OBLIGATIONS - BONDS	229.52-			229.52-
475000 GENERAL OBLIGATION BOND PROCEEDS	2,320.48-			2,320.48-
Revenues	2,550.00-			2,550.00-
550110 BOND ISSUE COSTS	4.62			4.62
Expenditures	4.62			4.62
* Total				

COMPTROLLER'S  
RECEIVED

11 MAR 31 AM 8:01

TO: LORNE 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 Owner
2. AMOUNT OF CONTRACT Not to exceed \$8,437.00
3. PROJECT NUMBER B.00197.1
4. PROJECT TITLE 2007 Harris Hill at Wehrle Drive and Pleasant View Drive Intersections Improvement Program
5. DEPARTMENT CONTACT Funding questions: Charles A. Sickler, PE at 8372  
Letter pickup: Lynn Sacha at 8301

COMPTROLLER'S OFFICE

COMPLETE ITEMS 6 AND 7

6. AVAILABILITY OF FUNDS \$ 2,545.38 cash \*
7. PERFORMED BY *Janie Ruben*
- Date Sent to Comptroller's Office: March 31, 2011

[55 compt\_10]

\* The local share is covered by the cash.  
The remaining funding is 95% reimbursable -  
Marchiselli State/Federal Aid, once claims  
are sent out.