



# COUNTY OF ERIE

MARK C. POLONCARZ  
COUNTY EXECUTIVE

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July 16, 2013

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

## **IMMEDIATE CONSIDERATION REQUESTED**

**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**

Dear Honorable Members:

Please find attached for your approval a proposed resolution authorizing the County of Erie to acquire Right-of-Way to facilitate reconstruction of the intersections for the Harris Hill at Wehrle Drive and Pleasant View Drive projects.

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 yours,

Mark C. Poloncarz, Esq.  
Erie County Executive

Enclosure  
MCP:br/dab

cc: John Loffredo, Department of Public Works

## MEMORANDUM

To: Honorable Members of the Erie County Legislature  
From: Department of Public Works  
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: June 3, 2013

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### SUMMARY

The purpose of this resolution is to allow additional acquisition by the County of Erie of a parcel of land adjacent to the Harris Hill Road/Wehrle Drive Intersection reconstruction that is required for the reconstruction.

### FISCAL IMPLICATIONS

Additional ROW acquisition costs not to exceed \$33,500.00 to be allocated from Fund 420, BA 123, SAP B.00197 – 2007 Harris Hill Right of Way funds contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation. This is a federal aid project with costs allocated as follows: Federal - 80%, State - 15%, Erie County – 5%.

### REASONS FOR RECOMMENDATION

The acquisition of the additional Right-of-Way is necessary for construction of the project.

### BACKGROUND INFORMATION

Need for additional Right-of-Way determined during construction. Acquisition of this Right-of-Way is necessary to complete the project in compliance with NYSDOT and FHWA requirements.

### CONSEQUENCES OF NEGATIVE ACTION

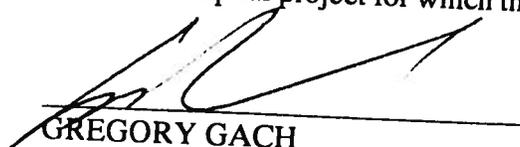
Project cannot be completed as designed, and objectives of the project cannot be met.

### STEPS FOLLOWING APPROVAL

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

### 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

JCL/BR/dab

**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 a parcel by fee portions of real property in the vicinity of the intersections;

PORTIONS OF TAX MAP SBL NUMBERS

TOWNSHIP

SBL 82.03-2-38.2

Lancaster

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

WHEREAS, in order to acquire the fee parcel 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 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 subject section of Wehrle Drive (CR275); 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, contingent upon execution of Supplemental Agreement #4 with the New York State Department of Transportation; and be it further

RESOLVED, that the sum of no more than \$33,500.00 from Fund 420, Business Area 123, SAP B.00197 - 2007 Harris Hill Right of Way funds shall be made available to cover all costs of the ROW acquisition, contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation; and be it further

RESOLVED, that the County of Erie is authorized to acquire fee title to the aforementioned Subject Property for the purpose of reconstructing and improving the aforementioned Harris Hill Road Intersections at Wehrle Drive and Pleasant View Drive contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation; 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 contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation: 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 the necessary real property interest in a portion of the respective parcel of real property by fee, permanent easement or temporary easement, which acquisitions are necessary for the Harris Hill Road Intersections at Wehrle Drive and Pleasant View Drive Improvement Project contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation; 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 contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation; 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 a portion of the aforementioned Subject Property is 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 interest in the Subject Property contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation; and be it further

RESOLVED, should one or more owners of the Subject Property 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 contingent upon the execution of Supplemental Agreement #4 with the New York State Department of Transportation; 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, 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.