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# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

June 1, 2016

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

**RE: Right-of-Way Acquisition  
Replacement of Salt Road Bridges over Beeman Creek  
BR 560-2 (BIN 3326800) & BR 560-4 (BIN 3326810)  
PIN 5759.91- Project No. FA560-2-4-16  
Town of Clarence - County of Erie**

Dear Honorable Members:

We are forwarding for your approval a proposed resolution authorizing the County of Erie to acquire Right-of-Way to facilitate the Replacement of Salt Road Bridges over Beeman Creek project.

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

Sincerely,

A handwritten signature in black ink that reads "Mark C. Poloncarz".

Mark C. Poloncarz, Esq.  
Erie County Executive

MCP:br/dab

cc: John C. Loffredo, Department of Public Works

## MEMORANDUM

**TO:** Honorable Members of the Erie County Legislature  
**FROM:** Department of Public Works  
**RE:** Right-of-Way Acquisition  
Replacement of Salt Road Bridges over Beeman Creek  
BR 560-2 (BIN 3326800) & BR 560-4 (BIN 3326810)  
PIN 5759.91- Project No. FA560-2-4-16  
Town of Clarence - County of Erie  
**DATE:** June 1, 2016

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### **SUMMARY**

A project for replacement of the Salt Road Bridges over Beeman Creek BR 560-2 (BIN 3326800) & BR 560-4 (BIN 3326810) on Salt Road in the Town of Clarence, Erie County, PIN 5759.91 (the "Project") was authorized by your Honorable Body on November 21, 2013 via Communication 19E-10 (2013). The purpose of this resolution is to authorize the County of Erie to acquire the Right-of-Way required to facilitate replacement of the subject bridges on Salt Road. Execution of a Supplemental Agreement with NYSDOT for the work described herein is pending approval of the authorizing resolution.

### **FISCAL IMPLICATIONS**

Right-of-Way Acquisition Phase costs of this Project are currently estimated not to exceed \$35,000, in SAP B.14004 Salt Road Bridges 5759.91 ROW of which 100% is Federal and State reimbursable. Right-of-Way Acquisition is recommended for five parcels and will be negotiated within the budgeted allowance.

### **REASONS FOR RECOMMENDATION**

To allow the County to acquire necessary additional Right-of-Way for replacement of the subject bridges.

### **BACKGROUND INFORMATION**

This Project has been approved by the New York State Department of Transportation in their current Capital Program to be funded with State and Federal funds and to be let in the spring/summer of 2016.

### **CONSEQUENCES OF NEGATIVE ACTION**

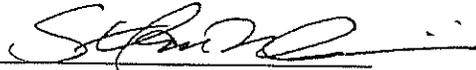
This action is required to comply with Federal and State guidelines for replacement of these bridges. Negative action will halt Project progress and jeopardize successful completion of the project.

### **STEPS FOLLOWING APPROVAL**

The County Executive will execute the Contracts of Sale and Right-of-Way will be acquired to facilitate replacement of the subject bridges.

**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 Gaeh~~ Stefan I. Mychajliw  
~~Deputy Comptroller~~  
Comptroller's Office

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

RE: Right-of-Way Acquisition  
Replacement of Salt Road Bridges over Beeman Creek  
BR 560-2 (BIN 3326800) & BR 560-4 (BIN 3326810)  
PIN 5759.91- Project No. FA560-2-4-16  
Town of Clarence - County of Erie

WHEREAS, a project for replacement of the Salt Road Bridges over Beeman Creek (BIN 3326800 (BR 560-2) and BIN 3326810 (BR 560-4) on Salt Road in the Town of Clarence, Erie County, PIN 5759.91 (the "Project") was authorized by this honorable body on November 21, 2013 via Communication 19E-10 (2013); and

WHEREAS, execution of a Supplemental Agreement with NYSDOT for the work described herein is pending approval of the authorizing resolution; and

WHEREAS, in order to facilitate the replacement of the bridges, it will be necessary for the County to acquire by fee and/or easement portions of real property in the vicinity of the bridges;

<u>PORTIONS OF TAX MAP SBL NUMBERS</u>	<u>TOWNSHIP</u>
SBL 45.00-2-50	Clarence
SBL 45.00-2-51.11	Clarence
SBL 45.00-2-8.512	Clarence
SBL 19.00-5-26.2	Clarence
SBL 19.00-5-10.1	Clarence

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

WHEREAS, in order to acquire the fee and/or easement 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 portions of the Subject Properties is de minimis in nature so that the public interest will not be prejudiced by the construction of the new bridges; 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 a not to exceed sum of \$35,000, SAP B.14004 Salt Road Bridges 5759.91 ROW, be made available to cover the cost of Right-of-Way acquisition; and be it further

RESOLVED, that pending approval and execution of the Supplemental Agreement with NYSDOT the County of Erie is authorized to acquire fee and/or easement title to the aforementioned Subject Properties for the purpose of the replacement of the subject Salt Road Bridges; and be it further

RESOLVED, that pending approval and execution of the Supplemental Agreement with NYSDOT 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 pending approval and execution of the Supplemental Agreement with NYSDOT 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 parcels of real property by fee and/or easement, which acquisitions are necessary for the Salt Road Bridge Replacement Project; and be it further

RESOLVED, that pending approval and execution of the Supplemental Agreement with NYSDOT 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 pending approval and execution of the Supplemental Agreement with NYSDOT 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.

TO:

GREGORY GACH, 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  | <u>Parcel Owners</u>   |
| 2. AMOUNT OF CONTRACT | <u>Not to exceed \$35,000</u>  |
| 3. PROJECT NUMBER     | <u>B.14004, 2014 SRB ROW = \$35,000</u>  |
| 4. PROJECT TITLE      | <u>Replacement of Salt Road Bridges</u>  |
| 5. DEPARTMENT CONTACT | <u>Funding questions: Charles A. Sickler, PE at 8372<br/>Letter pickup: Diane Bukowski at 8301</u> |

COMPTROLLER'S OFFICE

COMPLETE ITEMS 6 AND 7

- |                                    |                               |
|------------------------------------|-------------------------------|
| 6. AVAILABILITY OF FUNDS           | <u>\$ 43,000.00</u>           |
| 7. PERFORMED BY                    | <u><i>Jeff R. Mindell</i></u> |
| Date Sent to Comptroller's Office: | <u>May 17, 2016</u>           |

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