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COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

March 15, 2019

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

**RE: Right-of-Way (ROW) Acquisition for
Pontiac Road Bridge over Big Sister Creek**

Dear Honorable Members:

Please find enclosed a resolution from the Department of Public Works, Division of Highways, seeking legislative authorization to acquire Right of Way (ROW) to facilitate construction of the above-noted project.

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

Sincerely yours,

A handwritten signature in blue ink that reads "Mark C. Poloncarz". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/jtd
Enclosure

cc: William E. Geary, Jr. Department of Public Works

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Public Works/Division of Highways
Re: Right-of-Way (ROW) Acquisition for
Pontiac Road Bridge over Big Sister Creek
Date: March 15, 2019

SUMMARY

The Department of Public Works (DPW) is requesting authorization for the County of Erie to acquire a temporary easement from the owners of the parcel of land, SBL 253.00-3-4, in the Town of Evans. This easement is necessary for the replacement of bridge, BIN 3327820 (BR 490-02) on Pontiac Road, which is a project benefiting from Federal and Marchiselli Aid from a New York State Department of Transportation (NYSDOT) Supplemental Agreement.

FISCAL IMPLICATIONS

Funds for this easement are available in Project B.17077, 2017 Replacement of Pontiac Road Bridge, Fund 420, Funds Center 123 for an amount not to exceed \$3,000. This Project is a Federal Aid Project with costs being borne at 80% Federal Funds, 15% State (Marchiselli) Funds, and 5% Local Funds.

REASONS FOR RECOMMENDATION

A temporary easement is necessary for the reconstruction of the bridge, specifically for the removal and replacement of the wingwall in the northwest quadrant of the bridge.

BACKGROUND INFORMATION

The project consists of the replacement of a bridge on Pontiac Road, BIN 3327820 (BR 490-02). This is a Locally Administered Federal Aid Project. Acquisition of ROW is necessary to construct the project. An agreement with NYSDOT for the final design and ROW acquisition phases was approved via COMM 14E-35 (2018) and 24E-10 (2018).

CONSEQUENCES OF NEGATIVE ACTION

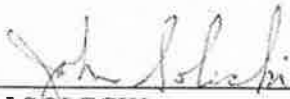
If ROW is not acquired the project will not be able to be constructed and the bridge will continue to deteriorate and hinder travel for the general public.

STEPS FOLLOWING APPROVAL

A temporary easement (TE) necessary to construct the project will be acquired.

COMPTROLLER'S OFFICE REVIEW

The proposed legislation has been reviewed by the Comptroller's Office and is related to an authorized capital, Federal Aid, project for which there are sufficient appropriations for the action proposed.



JOHN SOLECKI

Director of Accounting Services/Cash Management
Comptroller's Office

B.17077

Right-of-Way (ROW) Acquisition for
Pontiac Road Bridge over Big Sister Creek
BIN 3327820/BR 490-02
NYS DOT PIN 5761.77

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

RE: Right-of-Way (ROW) Acquisition for
Pontiac Road Bridge over Big Sister Creek
BIN 3327820/BR 490-02
NYS DOT PIN 5761.77
Town of Evans, Erie County

WHEREAS, in order to begin the construction of the replacement of Pontiac Road Bridge over Big Sister Creek, BIN 3327820/BR 490-02 (the "Project"), in the Town of Evans, it will be necessary for the County to acquire the Right-of-Way (ROW) by easement and/or fee, such parcels as may become necessary for construction, including a parcel, herein referred to as the "Subject Property," that is a portion of real property in the vicinity of the Project as follows:

<u>PORTIONS OF TAX MAP SBL NUMBER</u>	<u>TOWNSHIP</u>
SBL 253.00-3-4	Evans

; and

WHEREAS, the acquisition of the portion of the Subject Property is to be de minimis in nature so the public interest will not be prejudiced by the construction of the Project; and

WHEREAS, should one or more owners of the Subject Property refuse to convey such portion 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 Property by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the acquisition of the temporary easement required to construct the Project; and be it further

RESOLVED, that the County of Erie is authorized to acquire the necessary real property interests from the aforementioned Subject Property for the purpose of constructing the Project; and be it further

RESOLVED, that the County of Erie is authorized to enter into all necessary contracts and agreements for the acquisition of the required ROW to construct the Project; and be it further

RESOLVED, that funding is available in the previously approved 2017 Capital Project B.17077, 2017 Replacement of Pontiac Road Bridge, Fund 420, Funds Center 123, in an amount not to exceed \$3,000 for all costs of ROW acquisitions; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, including Foit Albert Associates, 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, including Foit Albert Associates, 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 portions of their respective parcels of real property by easement and/or fee, which acquisition is necessary for construction of the Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, including Foit Albert Associates, are authorized to act on behalf of the County of Erie in connection with the acquisition of the required ROW from the owners of the Subject Property; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring easement and/or fee interests in the necessary ROW; 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, including Foit Albert Associates, 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 one copy each to the Office of the County Executive, the Division of Budget and Management, the Office of the Comptroller, and the County Attorney's Office.

OFFICE OF THE COMPTROLLER REVIEW

DATE: 3/12/2019

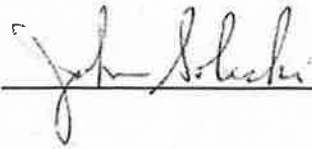
PROJECT TITLE: B.17077 2017 REPL OF PONTIAC RD BR OV BIG SIS CK

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

2) PROJECT AVAILABLE APPROPRIATION

Total Project Revenues	\$ <u>34,535.08</u>
Total Project Appropriations	\$ <u>315,600.00</u>
Less: Total Expenditure To Date	\$ <u>84,090.48</u>
Total Commitments	\$ <u>73,909.52</u>
Available Appropriations As Of Date Of Request	\$ <u>157,600.00</u>
Less: Contract Amount	\$ <u>3,000.00</u>
Net Available Appropriations	\$ <u><u>154,600.00</u></u>

Comments: There is currently no cash in the project.

Request Approved: 

Request Denied: _____

Date: 3/12/19

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

Property Owners

2. AMOUNT OF CONTRACT

Not to Exceed \$3,000

3. PROJECT NUMBER

B.17077.3

4. PROJECT TITLE

Pontiac Road over Big Sister Creek
BIN 3327820/BR 490-02
PIN 5761.77

5. DEPARTMENT CONTACT

Funding questions:
Jonathan Rivera at 2210
Letter pickup: Christy Weber at 8301

COMPTROLLER'S OFFICE

COMPLETE ITEMS 6 AND 7

6. AVAILABILITY OF FUNDS

\$ 157,600.00

7. PERFORMED BY

John R. Marshall

Date Sent to Comptroller's Office:

3/12/19

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