

JANUARY 12, 2006

ECONOMIC DEVELOPMENT COMMITTEE
REPORT NO. 1

ALL MEMBERS PRESENT. CHAIRMAN MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. INTRO 10-4 (2005)
RANZENHOFER & CUSACK: Request that Federal Government And/Or State of New York Assume Erie County and City of Buffalo Share of Financing for Bass Pro Superstore (4-0)
 - b. INTRO 10-5 (2005)
RANZENHOFER & CUSACK: The Forthcoming Bass Pro Superstore (4-0)
 - c. COMM. 25M-2 (2005)
BUFFALO PLACE: 2006 Budget (4-0)
 - d. COMM. 31M-2 (2005)
BUFFALO NIAGARA CONVENTION CENTER: Copy of Letter to DPW Commissioner Re: Condition of Buffalo Niagara Convention Center Roof (4-0)
2. COMM. 27E-24 (200)
COUNTY EXECUTIVE
WHEREAS, Erie County Sewer District No. 2 has plans for sanitary sewer improvements in the vicinity of Lake Shore Road and Lake Street in the Town of Evans, and

WHEREAS, the Erie County Department of Public Works has plans for reconstruction of Lake Shore Road, including bridge replacement in the vicinity of Lake Shore Road and Lake Street, in the Town of Evans, and

WHEREAS, the Erie County Department of Public Works and the Erie County Department of Environment & Planning have combined their construction projects in this area into one contract known as Reconstruction of Lake Shore Road Bridge 111-5 over Delaware Creek, in order to alleviate inconvenience to the public and reduce costs to the rate payers, and

WHEREAS, bids were taken for the Reconstruction of Lake Shore Road Bridge 111-5 over Delaware Creek in the Town of Evans, on June 16, 2005, and the low bidder was Donald J. Braasch Construction, Inc. of Lakeview, New York, at a low bid amount of \$1,508,100.88 (Alternate A), and

WHEREAS, a contract was previously awarded for design and engineering services for the above noted project to the engineering firm of Parsons Transportation Group and it has been determined that the contract must be increased to include additional Engineering Services and construction inspection services for the Erie County Department of Public Works' portion of the contract.

NOW, THEREFORE, BE IT,

RESOLVED, that the County Executive be authorized and is hereby directed to execute a contract for Project Number FA 111-5-05 for the Reconstruction of Lake Shore Road Bridge 111-5 over Delaware Creek, in the Town of Evans, between the County of Erie and the low bidder, Donald J. Braasch Construction, Inc. of Lakeview, New York, at a low bid amount of \$1,508,100.88 (Alternate A), and be it further,

RESOLVED, that a total amount of \$1,508,100.88 (Alternate A) be allocated as follows, \$780,801.02 from the 1996 Various Highway and Bridge Federal Aid Design Construction Program (SAP B.00089), \$399,439.01 from the 2001 Highway Reconstruction Program (SAP B.00017) and \$327,860.85 from Erie County Department of Environment and Planning Sewer District No. 2 (SAP C.00011 (430-340)) and an additional total amount of \$60,000.00 be allocated for a Department of Public Works Division of Highways construction contingency fund with authorization for the Commissioner of Public Works to approve change orders in an amount not to exceed \$60,000.00 with \$25,000.00 allocated from the 1996 Various Highway and Bridge Federal Aid Design Construction Program (SAP B.00089) and \$35,000.00 allocated from the 2001 Highway Reconstruction Program (SAP B.00017), and be it further

RESOLVED, that a total amount of \$ 150,000.00 be allocated as follows: \$100,000.00 from the 1996 Various Highway and Bridge Federal Aid Design Construction Program (SAP B.00089) and \$50,000.00 from the 2001 Highway Reconstruction Program (SAP B.00017) for a change order for Construction Inspection to the contract for engineering services with Parsons Transportation Group, and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward three (3) certified copies of this resolution to the Deputy Commissioner - Highways, Department of Public Works, and one copy to the Department of Public Works, Office of the Commissioner, the Office of the County Executive, the Division of Budget, Management & Finance, the Department of Environment & Planning, and the Office of the Comptroller.
(4-0)

3. COMM. 32E-10 (2005)
COUNTY EXECUTIVE

WHEREAS, the 2003 capital budget contains \$1,500,000 for Convention Center Renovations and Improvements, and

WHEREAS, the firm of Barton Hovey Nardini Tries currently has a term contract with the Department of Public Works to provide Architect/Engineering services at the Convention Center, and

WHEREAS, on May 24, 2001, your Honorable Body authorized the County Executive to enter into a General Architectural/Engineering Contract covering services for miscellaneous County projects with Barton Hovey Nardini Tries, and

WHEREAS, it is now desired to start design work for the 2006 Roof Replacement at the Convention Center so this project can be completed in 2006.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to issue a supplemental agreement to Barton Hovey Nardini Tries to prepare contract documents and provide inspection services for the Buffalo Convention Center – 2006 Roof Replacement, and be it further,

RESOLVED, that the total amount paid for consulting services shall be in an amount, not to exceed \$75,000.00, including reimbursables, and be it further,

RESOLVED, that the fee allocation be taken from the 2003 Convention Center Renovations & Improvements Bond Account, SAP A.00078, and be it further,

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner; one copy to the Division of Budget Management & Finance; and one copy to the Office of the Comptroller.
(4-0)

4. COMM. 1E-28 (2006)

AS AMENDED

COUNTY EXECUTIVE

WHEREAS, the New York Power Authority (NYPA) is seeking a fifty-year license from the Federal Energy Regulatory Commission (FERC) to continue to operate the Niagara Power Project, and

WHEREAS, The Federal Power Act, Section 10, directs FERC to provide mitigation compensation/settlements for damages to the natural environment, including lost recreational opportunities and environmental quality, and

WHEREAS, NYPA made an initial offer to the city of Buffalo and the county of Erie of \$2 million annually for fifty years, and

WHEREAS, in May of 2005, US Representative Brian Higgins advanced an alternative settlement of \$10 million per year, with those funds being directed to the newly established Erie Canal Harbor Development Corporation (ECHDC) for uses restricted to the design and construction of new waterfront projects including parks, public access and transportation infrastructure improvements, and

WHEREAS, the initial NYPA offer was clearly insufficient to address the impact of the Niagara Power Project in this region; its insufficiency was transmitted to NYPA via resolutions adopted unanimously by this Honorable Body, as well as by other public officials and legislative bodies, and

WHEREAS, in May of 2005, the Erie County Legislature quickly and unanimously supported Congressman Higgins' alternative proposal and its focus on local control of increased resources directed to repairing the damaged natural environment and reclamation of lost recreational opportunity due to the industrial use at the waterfront, and

WHEREAS, in a parallel action, the Buffalo Common Council stood alongside this Honorable Body and also unanimously adopted a resolution in support of the Higgins proposal, thus rejecting as insufficient the initial NYPA offer, and

WHEREAS, armed with the support of the Erie County Legislature and Buffalo Common Council, the fight for a fair and equitable settlement for Western New York gained the backing of other members of the federal congressional delegation, County Executive Joel Giambra, then-Mayor Anthony Masiello and Mayor Byron Brown of the City of Buffalo, Mayor Norman Polanski of the City of Lackawanna, state and local elected officials and boards and councils representing many towns and villages including Hamburg, Angola, Eden, Evans, Marilla, Holland, labor leaders, Buffalo Place, the Southtowns Walleye Association and thousands of citizens, and

WHEREAS, in early December, 2005, the County Executive, together with the City of Buffalo obtained an offer from NYPA that nearly tripled the \$2 million a year to \$279 million directed to waterfront remediation and redevelopment over a fifty year period, and

WHEREAS, this settlement requires adoption of an inter-municipal agreement which must be in the best interests of the County of Erie and approved by the Erie County Legislature,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby reaffirm its commitment to the successful and expeditious redevelopment of the Lake Erie shoreline and of the waterfront areas of the city of Buffalo in particular, and be it further

RESOLVED, that this Honorable Body does hereby authorize the County Executive to execute such agreements as may be recommended by the Erie County Attorney as necessary and appropriate to obtain a settlement with NYPA in connection with the County's interests in the relicensing of the Niagara Power project, only if such agreements are consistent with each and all of the terms outlined herein:

1. Such agreement must provide that NYPA will make available to the ECHDC \$2.5 million annually, or an amount equal to the sum of one million dollars and the proceeds of the sale of five megawatts of Niagara hydropower, whichever is greater, each year for a period of fifty years, commencing with the issuance of the license for the Niagara Power Project in 2007;
2. Such agreement must provide that NYPA will additionally provide, either directly or via Empire State Development, \$1 million per year each year for a period of fifty years, commencing with the issuance of the license for the Niagara Power Project in 2007, or a lump sum payment equivalent to the estimated value of \$1 million per year over fifty years, either directly or via Empire State Development, such estimation being made using a generally accepted method and a generally accepted assumed rate of inflation, such as the Federal Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers, and not a discounted assumed rate of inflation;
3. Such agreement must provide that NYPA will additionally provide the ECHDC with \$2 million within sixty days of the execution of this settlement agreement for the construction of interpretive design elements in the vicinity of the Erie Canal Harbor Commercial Slip, and an additional \$2 million payment for the same purpose on the one-year-anniversary of the initial payment;
4. Such agreement must provide that NYPA shall relocate the ice boom to another location subject to approval by the ECHDC and any national or international agencies which must approve such a move from the land upon which the Ice Boom is presently stored at Buffalo's Outer Harbor, and that ECHDC will pay no more than \$1 for said transfer, and that said transfer shall occur as soon as the ice boom is moved to its new site, or within five years of the execution of this settlement, whichever is sooner;
5. Such agreement must provide that NYPA direct all payments which result from this settlement, other than the \$2 million provided annually for the Erie County Greenway Fund, to the ECHDC to be used solely for acquisition, remediation, demolition, design, engineering and construction associated with development and revitalization activities in the vicinity of Buffalo's Inner and Outer Harbor areas, and
6. Such agreement must provide that NYPA will make available \$2 million to the Erie County Greenway Fund each year for a period of fifty years, commencing with the issuance of the license for the Niagara Power Project in 2007.

RESOLVED, that the Clerk of the Erie County Legislature shall forward certified copies of this resolution to the Erie County Executive; to the Honorable Mayor and Common Council of the City of Buffalo; to the members of the state and federal legislative delegations; to the ECHDC; to the Olmsted

Parks Conservancy; to the Niagara Greenway Commission; and to the Secretary of the Board of Trustees of NYPA.
(4-0)

TIMOTHY M. KENNEDY
CHAIRPERSON