

JULY 15, 2008

ECONOMIC DEVELOPMENT COMMITTEE  
REPORT NO. 12

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR RATH.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 9M-2 (2008)  
**STATE COMPTROLLER:** Acknowledgement and Update Concerning Receipt of Certified Resolution  
(4-0)
  - b. COMM. 10M-4 (2008)  
**NFTA:** NFTA Five-Year Capital and Operating Plan  
(4-0)
  - c. COMM. 10M-14 (2008)  
**NFTA:** Final Five-Year Capital Plan for Fiscal Years Ending March 31, 2009-2013  
(4-0)
  - d. COMM. 11M-7 (2008)  
**NFTA:** Notice of Proposed Rulemaking Regarding 21 NYCRR Part 1159, NFTA's Procurement Guidelines  
(4-0)
  - e. COMM. 13M-2 (2008)  
**ECIDA:** 2007 Annual Report and Annual Independent Audit Report & Management Letter  
(4-0)
  - f. COMM. 14M-1 (2008)  
**ECIDA:** 2007 Audited Financial Statements & Management Letter  
(4-0)
  - g. COMM. 14M-2 (2008)  
**ECIDA:** Buffalo Redevelopment Fund Joint Report  
(4-0)
  - h. COMM. 14M-3 (2008)  
**NFTA:** NFTA Board Minutes for Meeting Held on May 27, 2008  
(4-0)

- i. COMM. 14M-4 (2008)  
**NFTA:** Audited Financial Statements for Fiscal Year Ending March 31, 2008  
(4-0)
- j. COMM. 14M-5 (2008)  
**NFTA:** FY 2008 Annual 17A Report  
(4-0)
- k. COMM. 14M-8 (2008)  
**NYS URBAN DEVELOPMENT CORPORATION:** Notice of Proposed Lead Agency Designation for Richardson Olmsted Complex Master Plan  
(4-0)
1. COMM. 14M-9 (2008)  
**NFTA:** PARIS Report for Fiscal Year Ending March 31, 2008  
(4-0)
2. COMM. 13E-19 (2008)  
**COUNTY EXECUTIVE**  
WHEREAS, a Project for the Replacement of Cedar Street Bridge (261-4) over Tonawanda Creek, BIN 332660 in the Town of Newstead, Erie County, PIN 5757.21 (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionments of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds; and  
  
WHEREAS, the Bridge that is the subject of the Project is jointly owned by the County of Niagara and the County of Erie with the dividing line being the centerline of Tonawanda Creek as such, the County of Erie and the County of Niagara are both eligible to be "Sponsors" for the replacement; and  
  
WHEREAS, the County of Niagara and the County of Erie have agreed to enter an inter-municipal agreement that the County of Niagara shall take the lead and be the "Sponsor" for the Project; and  
  
WHEREAS, the Project is estimated at \$570,000.00 and the County of Niagara desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-VI) and Right-of-Way Incidentals phases of the Project PIN 5757.21; and

WHEREAS, in order to advance the Project it is necessary to provide a joint commitment to the Project's non-Federal share costs for Preliminary Engineering (Design I-VI) and Right-of-Way Incidentals phases of the project PIN 5757.21 of which County of Erie's portion of the local share is \$57,000.00.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the above subject Project; and be it further

RESOLVED, the County Erie shall enter an inter-municipal Project agreement with the County of Niagara whereby the County of Erie shall pay the first instance 100% of the Federal and Non-Federal shares of the costs of the Preliminary Engineering (Design I-VI) and Right-of-Way Incidentals phases of the Project or portions thereof; and be it further

RESOLVED, that the Erie County's portion of local share in the amount of \$57,000.00 shall be appropriated from B.00058, Various County Bridges in the amount of \$52,000.00 and B.00158, Cedar Street Bridge Program and made available to cover the costs of participation in the above phases of the Project; 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 costs of the project's Preliminary Engineering (Design I-VI) and Right-of-Way Incidental phases exceeds the amount appropriated above, and/or 100% of the full Federal and Non-Federal shares of the costs of the Preliminary Engineering (Design I-VI) and Right-of-Way Incidental phase exceeds \$570,000.00, the County of Erie and the County of Niagara 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; and be it further

RESOLVED, the County of Niagara and County of Erie agree that Niagara County will execute all necessary agreements, certifications or reimbursement requests in accordance with Federal and/or State funding requirements with 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; and be it further

RESOLVED, that the Clerk of the Legislature forward fifteen (15) 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 County of Niagara, by attaching it to any necessary Agreements in connection with the Project; and also, one copy each to the Office of the County Executive, the Office of Budget, Management and Finance, and the Office of the Comptroller.  
(4-0)

3. COMM. 14E-6 (2008)

**COUNTY EXECUTIVE**

WHEREAS, your honorable body previously authorized a Contract with ACEN, Inc. to provide General Architectural/Engineering Services for implementation of a computerized County Work Order Management System; and

WHEREAS, it is necessary to update the current design and implementation of the Work Order/Management System for new growth and expansion.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to issue a Change Order to ACEN, Inc.'s Contract for an amount not to exceed \$20,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for the above from Fund 110 – Professional Services, Dues & Fees, Account No. 516020, Cost Center 1222010, in an amount not to exceed \$20,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent 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, Management & Finance and the Office of the Comptroller.  
(4-0)

4. COMM. 14E-8 (2008)

**COUNTY EXECUTIVE**

WHEREAS, the existing windows and clock tower roof are in disrepair; and

WHEREAS, the window repairs will allow proper operation of the windows and reduce drafty conditions in the building, thereby improving energy efficiency; and

WHEREAS, the clock tower roof replacement will correct the leaking conditions of the existing roof and repair the deteriorated supporting steel connections; and

WHEREAS, your honorable body has previously authorized a General Architectural/Engineering Agreement to Foit-Albert Associates for providing Professional Engineering Services; and

WHEREAS, the County Executive is requesting authorization from your honorable body to issue a Supplemental Agreement to Foit-Albert Associates for providing Design and Construction Documents for Old County Hall – Window Repair and Clock Tower Roof Repair.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to issue a Supplemental Agreement to Foit-Albert Associates for providing Professional Design and Construction Document Services for Old County Hall – Window Repair and Clock Tower Roof Repair for an amount not to exceed \$115,000.00; and be it further

RESOLVED, that the Comptroller’s Office be authorized to make payment for all the above from SAP Project A.00313 – 2007 – Waterproofing and Renovations – Old County Hall in an amount not to exceed \$115,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent 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, Management and Finance, and the Office of the Comptroller.

(4-0)

5. COMM. 14E-9 (2008)

**COUNTY EXECUTIVE**

WHEREAS, the Lease between the Buffalo Bills and the County of Erie requires that the County provide annual capital maintenance and repairs to Ralph Wilson Stadium throughout the life of the Lease; and

WHEREAS, the Buffalo Bills have asked the County, through the Department of Public Works, to proceed with a portion of this years’ capital maintenance and repairs prior to the start of the 2008 – 2009 football season; and

WHEREAS, the Ralph Wilson Stadium Condition Survey was last updated in 2003 and needs to be updated every four to five years to identify current stadium needs; and

WHEREAS, the County has received bids on June 19, 2008 for the Ralph Wilson Stadium – 2008 – Site Work and Miscellaneous Capital Improvements; and

WHEREAS, the Department of Public Works, along with the Engineer, are recommending award of contracts to the lowest responsible bidders; and

WHEREAS, your honorable body has previously approved a General Architectural/Engineering Agreement with the Engineering firm of DiDonato Associates for providing professional services on County projects; and

WHEREAS, the County Executive is requesting authorization to issue a Supplemental Agreement to DiDonato Associates for providing professional design services for updating the Stadium Condition Survey and provide this years’ design work; and

WHEREAS, from time to time the Buffalo Bills have completed portions of the annual capital maintenance and repairs on their own and are now seeking reimbursement for these capital maintenance and repair items pursuant to the Lease between the Buffalo Bills and the County of Erie.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to enter into contracts with the lowest responsible bidders for the Ralph Wilson Stadium – 2008 – Site Work and Miscellaneous Capital Improvements work as follows:

SITE WORK

Occhino Corporation

Base Bid \$627,354.00

Total Award \$627,354.00

GENERAL CONSTRUCTION WORK

Trason Development Corporation

Base Bid \$234,000.00

Total Award \$234,000.00

ELECTRICAL CONSTRUCTION WORK

Frey Electric Construction Company

Base Bid \$ 28,000.00

Total Award \$ 28,000.00

TOTAL AWARD OF CONTRACTS \$889,354.00

and be it further

RESOLVED, that the sum of \$124,500.00 be allocated to a construction contingency fund with authorization for the County Executive to approve change orders in an amount not to exceed the contingency; and be it further

RESOLVED, that deduct change orders will result in these funds returned to the contingency fund; and be it further

RESOLVED, that the County Executive be authorized to issue a Supplemental Agreement to DiDonato Associates to update the Stadium Condition Survey and provide this years' design work for an amount not to exceed \$317,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment to the Buffalo Bills for reimbursement of various capital expenditures pursuant to the Lease for an amount not to exceed \$257,632.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from the SAP Project Account A.00318 – 2008 – Rehabilitation of Ralph Wilson Stadium in an amount not to exceed \$1,588,486.00; and be it further

RESOLVED, that two certified copies of this resolution be sent 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, Management and Finance, and the Office of the Comptroller.  
(3-0) Legislator Wroblewski abstained.

6. COMM. 14E-16 (2008)

**COUNTY EXECUTIVE**

WHEREAS, a Project for the Reconstruction of the CR 554, Youngs Road and CR 324, Aero Drive Intersection, in the Town of Cheektowaga, Erie County, PIN 5756.46 (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 \$186,500.00 of which a sum of \$122,000.00 was previously authorized via County Resolution No. 9E-57 adopted May 22, 2003 from the 2002 Youngs/Aero Intersection Design Program B.00043 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 5756.46.

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 \$64,500.00 (\$3,225.00 Erie County's local share) be appropriated from 2008 Unanticipated Federal Aid Design and Right-of-Way B.00188; 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 (\$186,500.00), 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

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 and the Office of the Commissioner.  
(4-0)

7. COMM. 14E-18 (2008)  
**COUNTY EXECUTIVE**

WHEREAS, a project for the rehabilitation/reconstruction of the Parkview Drive (CR 167) Bridge over Murder Creek and approaches (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal fund; and

WHEREAS, the County of Erie desires to advance the above Project by making a commitment of 100% of the non-Federal share of the costs of the Construction and Construction Inspection Phases of the Project, PIN 5758.36.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the above subject Project in the amount of \$1,900,000.00; 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 the Construction and Construction Inspection Phases of the Project or portions thereof; and be it further

RESOLVED, that the local share sum of \$380,000.00 be appropriated from the 2008 Bridge Reconstruction Projects – Federal Aid Program – Parkview Drive Bridge B.00195 and made available to cover the cost of participation in the above phases of the Project; 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 Construction and Construction Inspection Phases exceeds the amount appropriated, \$380,000.00, and/or 100% of the full Federal and non-Federal shares of the cost of the Construction and Construction Inspection Phases, \$1,900,000.00, 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

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary agreements, certifications or reimbursement 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 County of Erie's first instance funding of Project costs and permanent funding of the local share of Federal-aid and State Aid eligible (should State Marchiselli Aid become available) 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 & Finance, and the Office of the Commissioner.  
(4-0)

8. COMM. 14E-19 (2008)  
**COUNTY EXECUTIVE**

WHEREAS, the Department of Public Works advertised for Request for Qualifications from Architectural/Engineering and Testing Services firms; and

WHEREAS, the County Executive is requesting approval to enter into General Architectural/Engineering and Testing Services Agreements with the firms having the necessary expertise, experience and personnel to provide the required services; and

WHEREAS, the General Architectural/Engineering and Testing Services Agreements will be for a period of three years, from the date of this Legislative Resolution and the County Executive has the option for two one year Agreement extensions, for a total maximum Agreement Term of five years.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into General Architectural/Engineering and Testing Services Agreements with each of the following firms for providing Architectural/Engineering and Testing Services for construction projects with the Department of Public Works:

<i>CONSULTANTS</i>
Abate Associates
Advanced Architecture & Planning, P.C.
American Consulting Professionals of New York
Barron & Associates, P.C.
Bergmann Associates
BHNT Architects, P.C.
Buffalo Engineering, P.C.
CJ Brown Energy, P.C.
C&S Companies
Clark Patterson Lee
Clinton Brown Company Architecture, P.C.
Clough Harbour & Associates LLP
DiDonato Associates
EI Team, Inc.
Empire Geo Services, Inc.
Erdman Anthony
Fisher Associates, P.E., L.S., P.C.
Flynn Battaglia Architects, P.C.
Foit-Albert Associates
FRA T.Y. Lin International
Greenman-Pedersen, Inc.
GZA Geo Environmental of New York
Habiterra Architecture & Landscape Architecture, P.C.
Harrington Sandberg Architecture & Engineering, P.C.
Hatch Mott MacDonald
Kideney Architects, P.C.

LiRo Engineers, Inc.
McMahon & Mann Consulting Engineers, P.C.
ME Engineering, P.C.
Nussbaumer & Clarke, Inc.
Parsons Brinckerhoff
Robson Woese, Inc.
Stantec Consulting Services, Inc.
Stievater & Associates, Architects
TVGA Consultants
TranSystems
Urban Engineers of New York, P.C.
URS Corporation
Watts Architecture & Engineering, P.C.
Wendel Duchescherer Architects and Engineers
Wm. Schutt & Associates, P.C.
Young-Wright Architectural
Zaxis Architectural, P.C.

and be it further

RESOLVED, that the General Architectural/Engineering and Testing Services Agreements will remain in effect for three years from the approved date of this Legislative Resolution, with the option for two one year extensions of the Agreements for a maximum Term Agreement of five years; and be it further

RESOLVED, that two certified copies of this resolution be sent 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, Management and Finance, and the Office of the Comptroller.

(4-0)

9. COMM. 14E-30 (2008)

**COUNTY EXECUTIVE**

WHEREAS, in connection a \$19.6 million loan made to the Hyatt Hotel in December 2007 by Emigrant Bank, the hotel's original financing indebtedness was satisfied and certain improvements and renovations were made to the hotel property; and

WHEREAS, in 1993, a mortgage lien was created by the Hyatt Hotel in favor of Erie County on account of roughly \$400,000 in unpaid payments in lieu of taxes ["PILOT"] then-owed by the hotel to Erie County; and

WHEREAS, the Hyatt Hotel's PILOT indebtedness to Erie County has been reduced to approximately \$130,000 through regularly scheduled payments; and

WHEREAS, because Erie County's pre-existing mortgage lien enjoys a superior lien position to that of Emigrant Bank with respect to its more-recent \$19.6 loan to the Hyatt Hotel, Emigrant Bank has asked that Erie County enter into an Intercreditor Agreement such that, in the event the Hyatt Hotel were to default under the terms of its mortgage in favor of Erie County, Emigrant Bank will be afforded formal notice of and an opportunity to "cure" any such default before Erie County begins mortgage foreclosure proceedings against the hotel property.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized, o/b/o Erie County, to enter into an Intercreditor Agreement with the ECIDA, the Hyatt Hotel and Emigrant Bank; and be it further

RESOLVED, that certified copies of this resolution, once adopted, shall be provided to the County Attorney, the Director of Real Property Tax Services and the Comptroller.  
(4-0)

**TIMOTHY M. KENNEDY**  
**CHAIR**