

NOVEMBER 13, 2008

ECONOMIC DEVELOPMENT COMMITTEE
REPORT NO. 16

ALL MEMBERS PRESENT EXCEPT LEGISLATOR WROBLEWSKI.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 22M-8 (2008)
NFTA: Copies of 17A Report and Capital Expenditure Reports for Second Quarter Ending 3/31/09
(4-0)
 - b. COMM. 22M-10 (2008)
FEDERAL ENERGY REGULATORY COMMISSION: Response to EC Legislature Resolution Concerning Electricity Consumers' Being Overcharged in NYS
(4-0)
 - c. COMM. 22M-12 (2008)
ECIDA: Board of Directors' Meeting Notice for 11/10/08
(4-0)
2. COMM. 21E-12 (2008)
COUNTY EXECUTIVE
WHEREAS, a Project for the Replacement of the CR 341, Cemetery Road, Bridge over Erie Road and Conrail, in the Town of Lancaster, Erie County, PIN 5755.27 (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, 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 5755.27; and

WHEREAS, that the Project agreement has increased from \$732,000.00 to \$1,761,000.00, of which a sum of \$146,400.00 non-federal share was previously authorized via County Resolutions Nos. 6D-19 of April 29, 1999 and 13E-36 of July 26, 2007, 1999 Federal Aid Bridges and made available to cover the cost of participation in the above phases of the Project.

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 \$1,029,000.00 proportionally increased non-federal share by \$205,800.00; and be it further

RESOLVED, that the Project budget be equally increased in revenue and appropriation to represent this agreement, and the balance of the non federal share of \$205,800.00 be appropriated from B.00199 Cemetery Road Bridge 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 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, 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 Gerard J. Sentz, Commissioner, Department of Public Works, 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 Comptroller.
(4-0)

3. INTRO 22-2 (2008)

**KENNEDY, WHYTE, REYNOLDS, IANNELLO, KOZUB,
MILLER-WILLIAMS & GRANT**

WHEREAS, it is in the economic interest of each and every resident in the County of Erie to have public works projects completed by contractors committed to producing a high quality product at a competitive cost; and

WHEREAS, in Erie County, public works projects are often awarded to contractors who submit the lowest bid, which often ends up costing taxpayers more money over the life of the project; and

WHEREAS, over reliance on the lowest bid without further analysis often masks the overall higher cost of the project based on schedule delays, change orders and poor quality work; and

WHEREAS, effective analysis of a bid for contract should include identifying qualified contractors to increase the likelihood that the project will be performed with high quality work, to specifications and on time; and

WHEREAS, in 2006 Erie County awarded a public works contract for asbestos abatement to the lowest bidder without analyzing the contractor's qualifications, and as a result, the lowest bidder turned out to be an unqualified bidder; and

WHEREAS, the lowest, however unqualified, bidder for the asbestos abatement project utilized undocumented aliens with falsified asbestos abatement licenses and ended up contaminating the job site and surrounding areas with asbestos; and

WHEREAS, the contractor's previous track record included a history of hiring undocumented aliens, civil judgments and various health and safety violations; and

WHEREAS, Erie County did not discover this information because it did not make an attempt to discover if the contractor was a qualified or responsible bidder; and

WHEREAS, New York General Municipal Law gives local governments the authority to award contracts to lowest responsible bidder; and

WHEREAS, the enactment of a lowest responsible bidder law in Erie County would strengthen contractor screening capabilities and identify qualified bidders; and

WHEREAS, in an effort to produce high quality public works projects in an efficient manner and to decrease unnecessary cost overruns, Erie County should develop an effective screening process to determine the qualifications of contractors bidding on public works projects.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature supports high quality public works projects and endeavors to create a screening process to determine the qualified bidders for all county public works projects; and be it further

RESOLVED, that the Erie County Legislature should carefully consider adopting a Local Law which defines a qualified and responsible bidder; and be it further

RESOLVED, that the Erie County Legislature should discuss and ultimately approve the attached Local Law, or an amended version, to Strengthen and Encourage Lowest Responsible Bidder Requirements for Erie County.
(4-0)

4. COMM. 22E-5 (2008)

COUNTY EXECUTIVE

WHEREAS, funds were authorized and contracts were awarded by the Department of Public Works for the Roof Repair – Emergency Response Services – All County-owned Buildings; and

WHEREAS, a contract was awarded to Grove Roofing Services, Inc., the total expenditure of which shall be based upon an as needed basis for each emergency response repair; and

WHEREAS, several emergency roof repairs have been needed and the contract allowance must be increased in order for the contractor to continue making emergency roof repairs.

NOW, THEREFORE, BE IT

RESOLVED, that the Commissioner of Public Works be authorized to approve the work based upon NYS Department of Labor Prevailing Wage Rate Schedule for all materials furnished and installed for each emergency response repair; and be it further

RESOLVED, that the County Executive be authorized to execute a change order with Grove Roofing Services, Inc. to increase their Roof Repair – Emergency Response Services – All County-owned Buildings – Contract by \$100,000.00 from \$235,000.00 to a not to exceed amount of \$335,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all of the above from SAP Project A.00227 – 2004 Roof Replacement and Waterproofing of Various County Buildings for an amount not to exceed \$100,000.00; 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)

TIMOTHY M. KENNEDY
CHAIR