

March 16, 2010

ECONOMIC DEVELOPMENT COMMITTEE  
REPORT NO. 2

ALL MEMBERS PRESENT.

CHAIR MILLER-WILLIAMS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 27M-7 (2009)  
**HARRIS BEACH, PLLC:** "Buffalo & EC Industrial Land Development Corp. - Copy of By-Laws Adopted 12/08/09"  
(6-0)
  - b. COMM. 3E-2 (2010)  
**KOZUB:** "Letter to Commissioner Sentz from the Department of Public Works in Regards to the East Concord Highway Vehicle Storage Facility"  
(6-0)
  - c. COMM. 3M-22 (2010)  
**NFTA:** "Copy of the Minutes from the NFTA Board Meeting Held on 12/17/09"  
(6-0)
  - d. COMM. 4D-6 (2010)  
**COMPTROLLER'S OFFICE:** "Audit of the Payment in Lieu of Tax "Pilot" Process for the Period 1/1/2006 - 12/31/2008"  
(6-0)
  - e. COMM. 4M-17 (2010)  
**CITIZENS' REGIONAL TRANSIT CORPORATION:** "Letter to Legislature Requesting Presentation to the Economic Development Committee Regarding Plans for the Extension of Metro Rail to the Airport"  
(6-0)
  - f. COMM. 5D-4 (2010)  
**ASSOCIATE DEPUTY COMPTROLLER:** "Memorandum to County Comptroller Concerning 2010 Legislature Budget Adjustments"  
(6-0)

g. COMM. 5M-2 (2010)  
**ECIDA:** "Requesting Confirmation of Attendance"  
(6-0)

h. COMM. 5M-9 (2010)  
**NFTA:** "Minutes of the Meeting Held 1/25/10"  
(6-0)

2. COMM. 3E-12 (2010)  
**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, the County of Erie demonstrated its desire 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, via previously authorized County Resolution Comm. 9E-57 adopted May 22, 2003 from the 2002 Youngs/Aero Intersection Design Program B.00043, Comm. 14E-16 adopted July 17, 2008 from the 2008 Unanticipated Federal Aid Design & Right-of-Way Program B.00188, and Comm. 12E-16 adopted July 9, 2009 from the Youngs @ Aero Construction Program B.00175 and made available to cover the cost of participation in the above phases of the Project; and

WHEREAS, the Supplemental Agreement increases the cost of the Project by an additional \$24,000.00 for which the County of Erie is required to provide the non-federal share of the Supplemental increase in the amount of \$4,800.00.

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 and Construction and Construction Inspection Phases of the Project or portions thereof; and be it further

RESOLVED, that the Project increase of \$24,000.00 (\$4,800.00 Erie County's local share) be appropriated from B.00188 2008 Unanticipated Federal Aid Program; and be it further

RESOLVED, that the Project budget be equally increased in revenue and appropriation to represent this supplemental agreement increase in the amount of \$24,000.00; 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 and Construction and Construction Inspection Phase exceeds the amount appropriated, and/or 100% of the Full and Non-Federal shares of the cost of the Project increase \$24,000.00, 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 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 and Management, and the Office of the Comptroller.  
(6-0)

3. INTRO 4-4 (2010)  
**MARINELLI, KENNEDY, BOVE, AS AMENDED**  
**WALTER, FUDOLI, DIXON & RATH**

WHEREAS, local Industrial Development Agencies (IDAs) serve as the primary vehicle for the implementation of economic development programs in counties and local communities across New York State; and

WHEREAS, the primary mission of local IDAs is the creation and retention of jobs for New York's residents, through innovative, locally-driven and developed programs to make counties and local

communities better places in which to invest, grow productive business enterprises and create better business atmospheres to generate new economic activity, job creation and tax revenue producers; and

WHEREAS, the 2009-2010 State budget contained a maximum statewide "cost recovery" tax of \$5 million to "reimburse to New York State and allocable share of state governmental costs attributable to the provisions of services to industrial development agencies;" and

WHEREAS, the State Department of Taxation and Finance has sent Tax bills to every IDA in the state, for amounts corresponding to 4.7% of the gross revenue received by an IDA in the 2008 calendar year, payable by March 31, 2010; and

WHEREAS, the tax bills received by local IDAs were received long after local IDAs' budgets were developed and implemented, without the inclusion of this new unanticipated tax in their adopted budgets; and

WHEREAS, the revenue received by IDAs subject to this tax includes payments in lieu of taxes collected for local governments and school districts, state and federal grants and local taxpayer funded appropriations; and

WHEREAS, imposing a state gross receipts tax on revenues from 2008 that include tax generated resources from the state and federal government is redundant, punitive and will lead to these resources and those appropriated by counties for local job creation to be used instead to help bail out the State during its time of financial crisis.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature joins the New York State Association of Counties (NYSAC) in strongly opposing the imposition of the new tax on the gross revenues of local Industrial Development Agencies as a means to help eliminate the state budget deficit; and be it further

RESOLVED, that the Erie County Legislature, along with the New York State Association of Counties calls upon the Governor and the State Legislature to repeal this onerous tax on the primary economic development organizations of New York's counties and other local government; a tax which will take local resources that could better be used to create jobs in our communities in this time of economic crisis; and be it further

RESOLVED, that copies of this resolution be sent to the Governor, the Western New York delegation to the New York State Legislature and the members of the Erie County Industrial Development Agency.  
(6-0)

4. COMM. 4E-12 (2010)

**COUNTY EXECUTIVE**

WHEREAS, Erie County, through the Department of Environment and Planning, serves as the administrative agent for the Erie County/Town of West Seneca Community Development Consortium and Erie County/Town of West Seneca/Town of Hamburg HOME Investment Partnership Consortium; and

WHEREAS, a major responsibility of the Department as the administrative agent, is the preparation of the annual program application materials, and submittal of same to the federal Department of Housing and Urban Development.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive, on behalf of the Erie County Community Development Consortium and Town of Hamburg/Erie County HOME Consortium, is hereby authorized to submit a 2010 Annual Action Plan to the federal Department of Housing and Urban Development (HUD) having 2010 Action Plan estimated dollar amounts as indicated.

1. Erie County Consortium Community Development Program: \$ 3,317,838
2. Emergency Shelter Program: \$ 129,631
3. HOME Investment Partnership Program: \$ 1,195,159
4. Town of Hamburg Community Development Program: \$ 486,407

and be it further

RESOLVED, that the County Executive on behalf of the Erie County Community Development Consortium and Town of Hamburg/Erie County HOME Consortium is hereby authorized to execute any and all agreements with HUD, local governments, property owners receiving housing assistance, non-profit, and for-profit agencies, necessary to implement the above programs with the exception that any proposed agreement that transfers all or a portion of the administrative functions of the program from Erie County to a sub-recipient or contractual agency shall require approval from the Erie County Community Development Consortium and the Erie County Legislature; and be it further

RESOLVED, that copies of this resolution shall be forwarded to the County Executive; the Commissioner of the Department of Environment and Planning; the County Comptroller; the County Attorney; and the Director of the Division of Budget and Management.

(6-0)

5. COMM. 4E-14 (2010)

**COUNTY EXECUTIVE**

WHEREAS, Erie Community College previously identified a need for a capital project involving the renovation and upgrade of several academic labs at North Campus, at a cost not to exceed \$800,000 which was not included as part of the original capital project budget approved by Erie County; and

WHEREAS, the College has incurred additional expenditures of \$315,000 due to some unexpected complications; and

WHEREAS, there currently exists a balance of approximately \$530,000 in ECC's capital chargeback account; and

WHEREAS, the renovation and upgrade created state-of-the-art academic labs providing an enhanced teaching and learning environment, increasing student retention and enrollment while addressing some long-standing infrastructure needs; and

WHEREAS, all costs incurred up to \$1,115,000 for this project will be paid out of ECC's capital chargeback account without utilizing operating funds; and

WHEREAS, on November 19, 2008 the ECC Board of Trustees approved the \$800,000 capital project to be submitted for sponsor approval; and on January 27, 2010 the ECC Board of Trustees approved the \$315,000 additional project expenditures.

NOW, THEREFORE, BE IT

RESOLVED, that the ECC Board of Trustees approved a capital project involving the renovation and upgrade of several academic labs at North Campus at a cost estimated not to exceed \$1,115,000 to be funded by the Erie Community College Capital Chargeback Fund; and be it further

RESOLVED, that pending Erie County Legislative approval, such project will be submitted to New York State for 50% state aid reimbursement, with such reimbursement being placed back into the capital chargeback account; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, President of Erie Community College, the Chairman of the Board of Trustees, and SUNY.

(6-0)

6. COMM. 4E-18 (2010)

**COUNTY EXECUTIVE**

WHEREAS, Erie County formed a Consortium (Erie County HOME Consortium) with the Town of West Seneca and Town of Hamburg for funding under the HOME Investment Partnership Act (HOME); and

WHEREAS, the Erie County HOME Consortium was awarded a grant of \$1,144,739 for fiscal year 2006 by the U.S. Department of Housing and Urban Development under HOME; and

WHEREAS, the funds are to be used to meet the housing needs of low and very low income households in the consortium.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into a mortgage agreement with Academy Place Housing Development Fund Company, Inc. for an amount not to exceed \$45,000 to secure the County investment in Academy Place Housing; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the Director of Real Property Tax Services; the Commissioner of the Department of Environment and Planning; the County Comptroller; and the County Attorney.  
(6-0)

7. INTRO 5-3 (2010)

**KENNEDY AS AMENDED**

WHEREAS, the enactment by the United States Congress of the American Recovery and Reinvestment Act (ARRA) of 2009 created a new type of exempt facility bond entitled Recovery Zone Facility Bonds (RZFBs) which must be issued prior to January 1, 2011; and

WHEREAS, the ARRA also created a new type of interest rate subsidized taxable direct payment bond entitled Recovery Zone Economic Development Bonds, which also must be issued prior to January 1, 2011 ("RZEDBs"; and, together with the RZFBs, "ARRA Bonds") in which the federal government requires the payment of Davis-Bacon prevailing wages in connection with the construction and equipping of any project financed with RZEDBs and provides a subsidy of forty-five percent (45%) of the interest payable on such RZEDBs; and

WHEREAS, the RZFBs are designed to assist counties and large municipalities with local job creation and economic development activities by providing access to tax-exempt financing for certain

kinds of businesses (e.g., redevelopment projects, large manufacturing plants, distribution centers, hotels, research parks, etc.); and

WHEREAS, the RZEDBs are designed to be used to finance "qualified economic development purposes" (as defined in ARRA) and may only be issued for projects or purposes for which tax-exempt governmental bonds could be issued under current law; and

WHEREAS, ARRA Bonds can be issued for expenses incurred only within a designated Recovery Zone as defined by the ARRA; and

WHEREAS, the County of Erie (the "County") meets the necessary criteria required by the ARRA to be so designated; and

WHEREAS, the County desires to designate all of Erie County as a Recovery Zone to maximize potential qualifying projects; and

WHEREAS, pursuant to the ARRA, the County received authority to cause to be issued, up to \$17,102,000 of RZFBs and \$11,401,000 of RZEDBs; the City of Buffalo (the "City") received authority to cause to be issued, up to \$7,151,000 of RZFBs and \$4,767,000 of RZEDBs; and the Town of Amherst (the "Town") received authority to cause to be issued up to \$3,699,000 of RZFBs and \$2,466,000 of RZEDBs; and

WHEREAS, as a means of maximizing the benefits of their respective allocations of ARRA Bonds, the County, the City, and the Town are contemplating, in the spirit of regionalism, to cooperate and collectively approve the use of the allocation of ARRA Bonds to further economic development activities with and within the County; and

WHEREAS, as part of the collective and collaborative effort, the County, the City, and the Town will establish a committee ("Committee") to assist with the issuance of the ARRA Bonds; and

WHEREAS, the Committee will consist of the Erie County Legislature's Chairperson of the Economic Development Committee, the Erie County Commissioner of the Department of Environment and Planning, a representative from the City of Buffalo appointed by the Chair/Board of the Buffalo Economic Renaissance Corporation, and the Town Board's Amherst Industrial Development Agency's liaison or the Chair of the Amherst Industrial Development Agency; and

WHEREAS, the County desires to task the Committee to make recommendations to the County Executive for the use of the County's allocation of ARRA Bonds; and

WHEREAS, each of the County, the City, and the Town specifically lacks the authority under the Laws of New York State to issue RZFBs for the benefit of private entities; and

WHEREAS, Empire State Development (“ESD”) is the duly authorized New York State government entity responsible for providing guidance related to ARRA Bonds and RZFBs in particular; and

WHEREAS, ESD has specifically requested the County, in the event the County does not intend to use its RZFB allocation, to immediately waive said allocation in full or in part, and assign such amounts to ESD for reallocation to other essential projects throughout New York State; and

WHEREAS, the County does intend to utilize its RZFB allocation within the County and does not desire to waive said allocation for reallocation through ESD for use in other areas of New York State; and

WHEREAS, to ensure that the County’s RZFB allocation is utilized in the County and not otherwise reallocated by or to ESD for use outside of Erie County, the County may designate the Erie County Industrial Development Agency (the “ECIDA”) to act on behalf of the County as the exclusive issuer of RZFBs for purposes of utilizing the financial benefit offered by these bonds; and

WHEREAS, in furtherance of its public purposes, the County has supported the provision of taxable and tax-exempt financing by the ECIDA and the Buffalo and Erie County Industrial Land Development Corporation (the “ILDC”), and of certain other financial incentives to for-profit entities and not-for-profit corporations to promote the creation and preservation of employment opportunities for residents of the County and development of economically sound commerce consistent with the County’s burdens and responsibilities.

NOW, THEREFORE, BE IT

RESOLVED, that the County determines that all areas of Erie County have significant unemployment, rate of home foreclosures, or general distress, and, therefore, the County hereby designates that all of Erie County is a Recovery Zone pursuant to the criteria set forth by the ARRA; and be it further

RESOLVED, that the Erie County Legislature’s Chairperson of the Economic Development Committee and the Commissioner of the Department of Environment and Planning are hereby appointed as the County’s representatives on the Committee, said Committee to make recommendations to the County Executive for the use of the County allocation of RZFBs and RZEDBs; and be it further

RESOLVED, that the County hereby designates the ECIDA as the exclusive issuer of the County for the purposes of issuing RZFBs and an eligible issuer of RZEDBs, and to exercise on the County’s

behalf all lawful powers as may be deemed necessary to accomplish the issuance of the ARRA Bonds; provided, however, that any obligations issued by the ECIDA shall never be a debt of the State of New York, the County or any political subdivision thereof (other than the ECIDA) and neither the State of New York, the County, or any political subdivision thereof (other than the ECIDA) shall be liable; and be it further

RESOLVED, that the County Executive or the County Executive’s designated representative is hereby authorized and directed on behalf of the County to do all things required of the County or provided for by the provision of the ARRA with respect to the County in connection with the issuance of RZFBs, including, but not limited to, all approvals in connection with the use and or beneficiary of the County RZFB allocation, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the County Executive or the County Executive’s designated representative, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the County with all of the terms, covenants and provisions of the ARRA with respect to the County in connection with the issuance of RZFBs; and be it further

RESOLVED, that to the extent that the County issues RZEDBs, such obligations will be issued following the procedures and policies in place that currently govern the issuance of the County’s general obligation bonds and nothing in this resolution shall act to amend such policies and procedures for any debt issued by the County; and be it further

RESOLVED, that in the event the Committee recommends an allocation of RZEDBs in which such RZEDBs will be issued by a municipality other than the County, said recommendation shall be confirmed by the Erie County Legislature; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive; the Director of Budget and Management; Kathy Konst, Commissioner of Environment and Planning; Daniel D. Barry, Deputy Commissioner of Environment and Planning; the Legislative Chairperson of the Economic Development Committee; the Chairperson of the Buffalo Economic Renaissance Corporation; and Chairperson of the Town of Amherst Industrial Development Agency; the County Comptroller; and the County Attorney.  
(6-0)

8. **COMM. 5E-9 (2010)**  
**COUNTY EXECUTIVE**

WHEREAS, a Project for the Pavement Road (CR 139) Bridge Replacement over the CSX Railroad, BIN 3362540 and Bridge Removal over an Abandoned Railroad, BIN 3362530 Town of Lancaster, Erie County, PIN 5755.38 (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 advanced the above Project by making a commitment of 100% of the non-Federal share of the costs for the Preliminary Engineering (Scoping and Design I-VI) via Erie County Resolution Comm. 14E-20, adopted on July 6, 2000; and

WHEREAS, the County of Erie desires to advance the Project Preliminary Engineering and include Right of Way phases through a Supplemental Agreement that increases the previous Project Agreement PIN 5755.38 by \$100,000.00 in the new amount of \$455,000.00; and

WHEREAS, a contract was previously awarded for design and engineering services for the Project to the engineering firm of Urban Engineers of NY, P.C. on July 13, 2000, via Erie County Resolution Comm. 16E-9, and it has been determined that the contract must be increased to include additional design engineering and Right of Way services in accordance with the Project Supplemental Agreement.

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, 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 share of the cost of the Preliminary Engineering (Scoping and Design I-VI), Right of Way Incidental, and Right of Way Acquisition Phases of the Project or portions thereof; and be it further

RESOLVED, that the total increased sum \$100,000.00 of which \$5,000.00 is the required local share is hereby appropriated from capital accounts in the amount of \$50,000.00 (\$2,500.00 local share) B.00181 2007 Pavement Road Bridge Design and \$50,000.00 (\$2,500.00 local share) B.00200 2007 Pavement Road Bridge Right Of Way; and be it further

RESOLVED, that Projects SAP B.00181 and B.00200 revenues and appropriations be adjusted to reflect the phase as well as their respective Supplemental Agreement increase; 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 (Scoping and Design I-VI) and Construction & Construction Inspection Phases exceeds the amount appropriated and/or 100% of the full Federal and non-Federal shares of the cost of the Project's Preliminary Engineering (Scoping and Design I-VI) and Construction & Construction Inspection Phases exceeds the current total project allowance of \$455,000.00, 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 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 the County Executive be authorized to execute a negotiated Change Order in an amount not to exceed the project allowance between the County of Erie project engineers Urban Engineers of NY, P.C. for the expanded work scope; 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 be it further

RESOLVED, that the Clerk of the Legislature be instructed to 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 Office of Budget and Management, and the Office of the Comptroller.  
(6-0)

9. COMM. 5E-10 (2010)

**COUNTY EXECUTIVE**

WHEREAS, a Project for the Pavement Reconstruction of Como Park Blvd. (CR 523), from NY Route 277 Union Road to Stiglmeier Park, in the Town of Cheektowaga, Erie County, P.I.N. 5755.83 (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 advanced the above Project by making a commitment of 100% of the non-Federal share of the costs of the Preliminary Engineering (Scoping and Design I-VI) via Comm.

16E-45, adopted on September 19, 2002, and construction and construction inspection phases via Comm. 5E-15, adopted on March 20, 2008; and

WHEREAS, the County of Erie desires to advance the Project, PIN 5755.83 through a Supplemental Agreement that increases the previous Project Agreement by \$224,000.00 in the new amount of \$3,619,000.00; and

WHEREAS, bids were taken for the reconstruction of the Federal Aid Project for Como Park Boulevard (CR 523), in the Town of Cheektowaga, on March 27, 2008, and awarded to the low bidder Concrete Applied Technologies Corporation (CATCO) of Alden, New York via Comm. 8E-18 adopted on May 8, 2008; and it has been determined that the contract must be increased due to unanticipated, on site work scope and quantity changes; and

WHEREAS, a contract was previously awarded for design and engineering services for the above noted project to the engineering firm of Clough Harbour & Associates, LLP on July 12, 2001, via Comm. 15E-7, and amended on May 8, 2008, via Comm. 8E-18, and it has been determined that the Contract must be increased to include additional construction engineering services and construction inspection services due to unanticipated, on site work scope and quantity changes.

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, 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 share of the cost of the Preliminary Engineering (Scoping and Design I-VI) and Construction & Construction Inspection Phases of the Project or portions thereof; and be it further

RESOLVED, that the total increased sum \$224,000.00 of which the non-federal share required is \$44,050.00 is hereby appropriated from capital account B.00168 2007 Unanticipated Federal Aid Road and Bridge Costs; and be it further

RESOLVED, that Project SAP B.00168 revenues and appropriations be adjusted to reflect the Supplemental Agreement increase; 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 (Scoping and Design I-VI) and Construction & Construction Inspection Phases exceeds the amount appropriated and/or 100% of the full Federal and non-Federal shares of the cost of the Project's Preliminary Engineering (Scoping

and Design I-VI) and Construction & Construction Inspection Phases exceeds the total project allowance of \$3,619,000.00, 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 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 the County Executive be authorized to execute negotiated Change Orders in an amount not to exceed the allowable project increase between the County of Erie and project contractor CATCO of Alden, New York as well as project engineers Clough Harbour & Associates, LLP for unanticipated, on site work scope and quantity changes; 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 be it further

RESOLVED, that the Clerk of the Legislature be instructed to 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 Office of Budget and Management of the Office of the Comptroller.  
(6-0)

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