

MARCH 30, 2009

ECONOMIC DEVELOPMENT COMMITTEE
REPORT NO. 5

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR KONST.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 6M-3 (2009)
TOWN OF TONAWANDA TOWN BOARD: “Copy of Cerified Resolution Supporting the Continuation of NYS Empire Zone Program” (4-0)
 - b. COMM. 6M-15 (2009)
FISCAL POLICY INSTUTE: “Copy of Power Point Presentation Concerning NY’s Empire Zone Program” (4-0)
2. COMM.6E-3 (2009)
COUNTY EXECUTIVE
WHEREAS, the existing roofing systems at the Erie County Court Building (25 Delaware Avenue) and Dr. Gajewski Human Services Center (1500 Broadway) are twenty-five plus years old and are leaking, causing damage to the building interior spaces and systems; and

WHEREAS, your honorable body has previously authorized Architectural/Engineering Term Agreements for several Architectural/Engineering firms; and

WHEREAS, Chaintreuil Jensen & Stark has recently submitted qualifications complying with this department’s term agreements and this department is requesting this firm be added to the term list of Architectural/Engineering firms for providing professional Architectural/Engineering Services; and

WHEREAS, the County Executive is requesting authorization from your honorable body to issue an Agreement to Chaintreuil Jensen & Stark for providing Design and Construction Documents for the roof replacement projects at the Erie County Court Building and Dr. Gajewski Human Services Center.

NOW, THEREFORE, BE IT

RESOLVED, that the firm of Chaintreuil Jensen & Stark be added to this department’s Architectural/Engineering term agreements; and be it further

RESOLVED, that the County Executive be authorized to issue an Agreement to Chaintreuil Jensen & Stark for providing Professional Design and Construction Document Services for the Erie County Court Building and Dr. Gajewski Human Services Center – 2009 – Roof Replacement Projects for an amount not to exceed \$50,000.00; and be it further

RESOLVED, that the Comptroller’s Office be authorized to make payment for the above from SAP Projects A.00026 – 2001 Roof Replacement for an amount not to exceed \$23,528.00 and A.00070 – 2003 Roof Replacement & Waterproofing for an amount not to exceed \$26,472.00 for a total amount not to exceed \$50,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Division of Real Estate and Asset Management, 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)

3. COMM. 6E-13 (2009)
COUNTY EXECUTIVE
WHEREAS, a project for intersections improvements of Maple Road CR 192, at Flint, North Forest and Hopkins Roads, Amherst, Erie County, PIN 5755.33 (the “Project”) was authorized by this honorable body on May 22, 2003 via Communication 9E-59; and

WHEREAS, in a resolution dated May 25, 2006 (Reference: Comm. 8E-23), the Legislature authorized the County of Erie to acquire the acquisition in fee, permanent easement or temporary easement for the Project; and

WHEREAS, in order to facilitate the reconstruction of the intersections, it will be necessary for the County to acquire by acquisition in fee, permanent easement or temporary easement, portions of real property in the vicinity of the intersections:

<u>PORTIONS OF TAX MAP SBL NUMBERS</u>	<u>TOWNSHIP</u>
55.01-1-1	Amherst
55.16-2-23	Amherst
56.17-4-3	Amherst
56.62-1-1	Amherst

such property to be acquired by the County is herein referred to as the “Subject Properties;” and

WHEREAS, in order to acquire the acquisition in fee, permanent easement or temporary easement for the Project, it will be necessary for the County to establish an amount which it believes to represent just compensation for the real property interests to be acquired and to thereafter make a written offer to purchase the real property interests for the respective just compensation amounts; and

WHEREAS, the acquisitions of the portions of the Subject Properties are de minimis in nature so that the public interest will not be prejudiced by the reconstructed intersections and other general improvements to the subject section of Maple Road (CR 192); and

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

NOW, THEREFORE, BE IT

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

RESOLVED, that the sum of \$77,900.00 has previously been appropriated from the 1999 Federal Aid Road and Bridge Project Program (SAP B.00007) via County Resolution 9E-59 adopted May 22, 2003 and made available to cover the cost of Right-of-Way acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquiring fee and/or easement title to the aforementioned Subject Properties for the purpose of reconstructing and improving the aforementioned Maple Road Intersections Improvement (CR 192) Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to establish the amounts which he believes to represent just compensation for the real property to be acquired; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to negotiate and offer just compensation amounts to the owners of the Subject Properties for the purpose of acquiring interests in portions of their respective parcel of real property by fee, permanent easement or temporary easement, which acquisitions are necessary for the Maple Road Intersections Improvement (CR 192) project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are authorized to act on behalf of the County of Erie in connection with the acquisition of the portions of the aforementioned Subject Properties; and be it further

RESOLVED, that based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisitions of portions of the aforementioned Subject Properties are de minimis in nature; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring fee and/or easement interests in the Subject Properties; and be it further

RESOLVED, should one or more owners of the Subject Properties 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 , the County is authorized to commence eminent domain procedures; 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.
(3-0) Legislator Miller-Williams not present for vote.

4. COMM. 6E-15 (2009)

COUNTY EXECUTIVE

AS AMENDED

WHEREAS, The Economic Recovery Project for the Reconstruction of CR192, Maple Road, from US 62, Niagara Falls Boulevard to Flint Road and North Bailey Avenue from Maple Road to Romney Road, in the Town of Amherst, Erie County, PIN 5755.47 (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 100% Federal funds and 0% Non-Federal funds or the ratio of 80% Federal funds and 20% non-Federal funds, depending on the Federal Aid Funding Program; 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. 10E-33, adopted on June 12, 2008; and

WHEREAS, the County of Erie desires to advance the Construction & Construction Inspection Phases of the Project, PIN 5755.47 through a Supplemental Agreement that increases the original Project Agreement in the amount of \$11,284,000.00 (\$2,257,000.00 required local share).

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 Incidentals, Right-of-Way Acquisition and Construction & Construction Inspection Phases of the Project or portions thereof; and be it further

RESOLVED, that the total sum of the Project, \$2,257,000.00 is hereby appropriated from B.00183 2008 Maple Road Reconstruction (in addition to \$302,000.00 previously appropriated for the project's Preliminary Engineering (Scoping & Design I-VI), Right-of-Way Incidentals and Right-Of-Way Acquisition phases via County Resolution No. 10E-33 adopted on June 12, 2008 and made available to cover the cost 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 (Scoping and Design I-VI), Right-of-Way Incidentals, Right-of-Way Acquisition and Construction & Construction Inspection Phases exceeds the amount appropriated, \$2,559,000.00 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), Right-of-Way Incidentals, Right-of-Way Acquisition and Construction & Construction Inspection Phases exceeds \$12,793,000.00, the Project's current Total Cost, 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, (subject to the County of Erie Attorney's approval as to form and Content), with the New York State Department of Transportation in connection with the advancement or approval of the Project identified in the State/Local Agreement; 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 Comptroller.
(3-1) Legislator Miller-Williams voted in the Negative.

5. COMM.6E-16 (2009)

COUNTY EXECUTIVE

AS AMENDED

WHEREAS, bids will taken for the Rehabilitation of the Federal Aid Project for Maple Road (CR 192), in the Town of Amherst, tentatively, on April 23, 2009, dependent upon NYSDOT approvals, to meet Federal deadlines; and

WHEREAS, the Project is to be funded with Locally Administered Federal Aid Funds, Town of Amherst Funds and Federal Economic Stimulus Funds; and

WHEREAS, time is of the essence and the Project must be awarded to the lowest responsible bidder within 120 days from the enacting of the Stimulus Bill; and

WHEREAS, a Contract was previously awarded for design and engineering services for the above noted project to the engineering firm of DiDonato Associates, P.C. of Buffalo, New York on July 10, 2003, at the 14th session of the Legislature of Erie County, Communication No.13E-22, and it has been determined that the Contract must be increased to include construction inspection services.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to award and execute a Contract for Erie County Project No. FA-192-08, NYS PIN 5755.47 for the Maple Road Rehabilitation (CR 192), between the County of Erie and the lowest responsible bidder, at an amount not to exceed \$11,284,000.00 as reflected in the 2008 adopted Capital Budget; and be it further

RESOLVED, that an appropriate amount of funds be allocated for a Department of Public Works, Division of Highways construction contingency fund with authorization for the County Executive to approve change orders in a percentage not to exceed 14% of the lowest bid amount; and be it further

RESOLVED, that an amount to be negotiated and not to exceed \$950,000.00 from B.00183 2008 Maple Road Rehabilitation for a change order to the Contract for services during construction, construction reimbursables, and construction inspection with DiDonato Associates, P.C. of Buffalo, New York; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward ten (10) 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, Management and Finance, and the Office of the Comptroller.

(3-1) Legislator Miller-Williams voted in the Negative.

TIMOTHY M. KENNEDY
CHAIR