

July 15, 2013

ECONOMIC DEVELOPMENT COMMITTEE  
REPORT NO. 13

ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 12E-30 (2013)  
**MARINELLI:** “Copies of Letters Concerning Condition of Kenmore Avenue”  
(5-0)
  - b. COMM. 13E-5 (2013)  
**DIXON:** “Letter to Commissioner of Public Works Concerning Condition of Sowles Road in the Town of Hamburg”  
(5-0)
  - c. COMM. 13M-5 (2013)  
**NFTA:** “Notice: Audited Financial Statement for Fiscal Year Ended 3/31/2013 Posted on www.nfta.com”  
(5-0)
  - d. COMM. 13M-8 (2013)  
**NFTA:** “Minutes from Meeting Held 5/23/2013”  
(5-0)
2. INTRO 6-3 (2013)  
**HOGUES**  
WHEREAS, at a recent meeting of the Economic Development Committee of the Erie County Legislature, legislators were apprised by residents of the Fruit Belt Neighborhood and McCarley Gardens that employees of the Buffalo Niagara Medical Campus have taken up so much on-street parking spots that inconvenience and hardship have become real challenges, especially to older and disabled residents of this community; and

WHEREAS, given the anticipated growth of the Medical Campus, and the increased, corresponding job creation, the dearth of parking for employees must be addressed in a manner that is considerate of the needs of the surrounding neighborhood residents to park near their homes; and

WHEREAS, the proposal to provide commuters to jobs at the Medical Campus with a parking facility at the foot of Main Street in the former DL & W Terminal has an added benefit of increasing local

visitor traffic in that location that could ultimately assist business development efforts aimed toward tourism; and

WHEREAS, coffee shops, restaurants, dry cleaners, convenience stores and other retail establishments could have access to a steady stream of potential customers who come to Downtown Buffalo and the Buffalo Niagara Medical Campus daily to access emerging employment opportunities, thereby augmenting the visitation anticipated for Canalside for recreation and entertainment; and

WHEREAS, development of a parking, transportation – Metro Rail – and commercial hub that can accommodate a critical mass of people, year-round, at the foot of Main Street and at Canalside is essential to the long-term success of the businesses that consider locating there.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature support efforts to relieve employee parking congestion in the vicinity of the Buffalo Niagara Medical Campus so that parking spots near McCarley Gardens and the Fruit Belt Neighborhood can be accessed by the residents of that community; and be it further

RESOLVED, that this Legislative Body recognize the need for a parking and Metro Rail transportation hub that is geographically removed from the Buffalo Niagara Medical Campus, yet will efficiently and cost-effectively bring needed workers to the Campus; and be it further

RESOLVED, that this Honorable Body encourage business and parking facility development at the foot of Main Street and at Canalside that will appeal to tourists and residents of our region alike.  
(5-0)

3. INTRO 10-1 (2013)  
**MARINELLI**  
WHEREAS, Western New York was the host region for the Empire State Tourism Conference that took place in Niagara Falls from May 1 – 3, 2013; and

WHEREAS, representatives of Empire State Development and the I Love NY Tourism Office heard speaker after speaker appeal for more state investment in marketing New York State as an international and domestic tourism destination for individual, family, convention and group travel; and

WHEREAS, for the last decade, the under-resourcing of the state’s tourism campaign has been a source of concern to the private businesses and non-profit organizations that depend on tourism; and

WHEREAS, during the recent recession, tourism businesses cut back on their marketing and advertising budgets, and our state's virtual absence from the competitive tourism marketing industry was the outcome of New York State withdrawing advertising and dollars from many markets due to its budget crisis; and

WHEREAS, convention and group travel are booked years in advance, and the loss of exposure of the I Love NY brand damaged the business development efforts of destination marketing organizations and the suppliers of tourism product alike for many years; and

WHEREAS, at its session of April 25, 2013, this Honorable Body unanimously sponsored and approved Intro 8-6 (2013) which "called upon the Governor and State Legislature to restore funding reductions and to make an even greater investment in the tourism industry in New York State to increase the well-established return on investment of tourism development, marketing and promotion dollars; and

WHEREAS, in conjunction with the May 8 New York State Tourism Summit held in Albany, Governor Cuomo announced a tripling of the I Love NY marketing budget, from \$19 million in the last fiscal year to \$60 for this year; and

WHEREAS, this new investment represents the highest level of tourism funding in decades, making New York State third in the country in tourism spending; and

WHEREAS, the Governor's announcement was met with overwhelming support by the businesses in tourism and hospitality that are eager to host many more visitors in the coming years; and

WHEREAS, tourism is the fifth largest employment sector in New York State and generated more than \$29 billion in wages alone from nearly \$57 billion in direct tourism spending that supports jobs in the Empire State; and

WHEREAS, an exciting element of the Governor's plan is to tap into advertising opportunities with the Port Authority and the MTA (Metropolitan Transit Authority) and use them as marketing tools to encourage tourist visitation in Upstate New York; and

WHEREAS, tapping into the metro New York City area in such a planned, strategic way bodes well for the long overdue conversion of New York City into a vast feeder market for tourist visitation in Upstate New York; and

WHEREAS, this heightened exposure of the tourism offerings in Upstate New York is an opportunity to reach millions of persons from dozens of nationalities in NYC, magnifying the value of the I Love NY marketing campaign both here and abroad.

NOW, THEREFORE, BE IT

RESOLVED, that this Honorable Body go on record in support of New York State's increased investment in the I Love New York marketing campaign and other avenues for boosting tourist visitation and spending, especially in Upstate New York and Erie County; and be it further

RESOLVED, that copies of this resolution be conveyed to Governor Andrew Cuomo, the Western New York Delegation to the State Legislature, County Executive Mark Poloncarz, the Visit Buffalo Niagara Board, and all others deemed necessary and proper.  
(5-0)

4. **COMM. 13E-12 (2013)**  
**COUNTY EXECUTIVE**

WHEREAS, the Intersection Improvement Project PIN 5758.22 (the Project), CR 269, Strickler Road at CR 282, County Road in the Town of Clarence, in Erie County 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 90% Federal funds and 10% 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 Construction and Construction Inspection phase of the project, PIN 5758.22; and

WHEREAS, the total Project construction is \$430,000, and the County is required to provide the local share portion for the Project in the amount of \$43,000 from B.00151, 2006 Unanticipated Road & Bridge Design and Construction (Countywide) Program, fund 420, business area 123; and

WHEREAS, approval is necessary to award of construction to the lowest responsible bidder and contracts must be negotiated with Bergmann Associates, for engineering construction and inspection services to allow the work to begin as soon as possible.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the intersection improvement project at Strickler Road and County Road PIN 5758.22; and be it further

RESOLVED, that the County Legislature hereby authorizes the County to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Construction and Construction Inspection phase of the Project or portions thereof; and be it further

RESOLVED, that authorization is granted to accept anticipated Federal revenue in the amount of \$387,000 in Project B.00151, 2006 Unanticipated Road & Bridge Costs – Design & Construction (Countywide) Program, Fund 420, Business Area 123; and be it further

RESOLVED, that the estimated total sum of the construction phase of the Project, \$430,000 is hereby appropriated from B.00151, 2006 Unanticipated Road & Bridge Costs – Design & Construction (Countywide) Program and made available to cover the cost of participation in the above phase 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 cost of the projects' Construction and Construction Inspection phase exceeds \$430,000, the County Legislature shall 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 is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the County of Erie, (subject to the County 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 eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and be it further

RESOLVED, that the County Executive be authorized to execute award of construction for the Project to the lowest responsible bidder(s) and negotiated contract between the County of Erie and project engineers Bergmann Associates for construction engineering services and inspection for the Project in an amount not to exceed the allowable Project construction amount of \$430,000 and the Legislature will be notified, for information purposes, of the winning bidder(s); 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 ten (10) certified copies of this resolution be forwarded 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 and Management, the Office of the County Attorney, and the Office of the Comptroller.  
(5-0)

5. COMM. 13E-13 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the Erie County Federal Aid Bridge Maintenance Project; PIN 5760.28 Bridge Washing Two Hundred & Thirty (230) Bridges, PIN 5760.29 Deck Sealing Eighteen (18) Bridges, PIN 5760.30 Bridge Joint Replacement Three (3) Bridges (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 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 Construction & Construction Inspection phase of the projects, PIN 5760.28, PIN 5760.29, and PIN 5760.30; and

WHEREAS, the total Project is \$625,000, and the County is required to provide the local share portion for the Project in the amount of \$125,000 from Project B.00192.322, 2008 Bridge Maintenance, fund 420, business area 123; and

WHEREAS, the Project will be advertised, bid, and ready for award of construction to the responsible low bidder; and

WHEREAS, approval is necessary to award of construction to responsible low bidder(s) and contracts must be negotiated with CHA Consulting, Inc. and Liro Engineers, for engineering construction and inspection services to allow the work to begin as soon as possible.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the above subject bridge 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 cost of the Construction and Construction Inspection phase of the Project or portions thereof; and be it further

RESOLVED, that Project B.00192.322, 2008 Bridge Maintenance – Federal Aid, fund center 123, fund 420, be increased by the anticipated Federal revenue in the amount of \$500,000.00 as follows:

REVENUES		CURRENT BUDGET	INCREASE/ DECREASE	REVISED BUDGET
Account	Description			
414000	Federal Aid	\$ 431,200	\$ 500,000	\$ 931,200
486000	Interfnd Rev Subsidy	\$ <u>180,000</u>	\$ <u>0</u>	\$ <u>180,000</u>
TOTAL REVENUES		\$ <u>611,200</u>	\$ <u>500,000</u>	\$ <u>1,111,200</u>
APPROPRIATIONS				
Capital Projects	Capital Project Exp	\$ <u>611,200</u>	\$ <u>500,000</u>	\$ <u>1,111,200</u>
TOTAL APPROPRIATIONS		\$ <u>611,200</u>	\$ <u>500,000</u>	\$ <u>1,111,200</u>

and be it further

RESOLVED, that the estimated total sum of the construction phase of the Projects, \$625,000. is hereby appropriated from B.00192.322, 2008 Bridge Maintenance, Federal Aid and made available to cover the cost of participation in 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 cost of the projects' Construction and Construction Inspection phase exceeds \$625,000, 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 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 projects identified in the State/Local Agreements; and providing for the administration of the Projects and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and be it further

RESOLVED, that the County Executive be authorized to execute award of construction to Project responsible low bidder(s) and negotiated contracts between the County of Erie and project engineers CHA Consulting, Inc., and Liro Engineers for construction engineering services and inspection for the Project in an amount not to exceed the allowable Project construction amount of \$625,000; 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 Agreements in connection with the Projects; and be it further

RESOLVED, that ten (10) certified copies of this resolution be forwarded to the Dept. of Public Works, Office of the Commissioner, and one copy each to the County Executive, the Division of Budget and Management, the County Attorney, and the Office of the Comptroller. (5-0)

6. COMM. 13E-14 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the Emery Park Culvert over a tributary of the east branch of Cazenovia Creek Project will be advertised, bid, and ready for award of construction contract to the responsible low bidder; and

WHEREAS, the Emery Park Culvert over a tributary of the east branch of Cazenovia Creek Project will replace a deteriorating culvert that threatens to restrict public access to parts of Emery Park, including the ski lodge area; and

WHEREAS, funding for this Project was approved and is available in Fund 410, Business Area 164, Project A.13009 - 2013 Emery Park Culvert Replacement in the amount of \$600,000.00; and

WHEREAS, it is necessary that this approval be granted, so that the contract can be awarded to allow the contractor to order material as soon as possible; and

WHEREAS, in order to facilitate the Emery Park Culvert over a tributary of the east branch of Cazenovia Creek Project it will be necessary for the County to execute the construction contract with the responsible low bidder and establish a construction contingency; and

WHEREAS, a contract must be negotiated with Wm. Schutt Associates for construction inspection and engineering services during construction.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to award

and execute a contract for the Emery Park Culvert over a tributary of the east branch of Cazenovia Creek Project with the lowest responsible bidder, establish a construction contingency and execute a negotiated contract with project engineers Wm. Schutt Associates; and be it further

RESOLVED, that funding for the Emery Park Culvert over a tributary of the east branch of Cazenovia Creek Project be allocated from Fund 410, Business Area 164, Project B.13009- 2013 Emery Park Culvert Replacement in an amount not to exceed \$600,000.00; and be it further

RESOLVED, that the Department of Public Works will inform the Erie County Legislature, for information only, as to what contractor was the successful low responsible bidder for the Emery Park Culvert over a tributary of the east branch of Cazenovia Creek Project; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward five (5) 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 Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

7. COMM. 13E-15 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, the Emery Park Dam Rehabilitation and Decommissioning Project will be advertised, bid, and ready for award of construction contract to the responsible low bidder; and

WHEREAS, the Emery Park Dam Rehabilitation and Decommissioning Project will replace a deteriorating culvert and address deficiencies in this dam that is classified as a high hazard dam; and

WHEREAS, funding for this Project was approved and is available in Fund 420, Business Area 123, Project B.11029.1 - 2011 Dam Safety and Preservation -- Construction in the amount of \$744,363.96; and

WHEREAS, it is necessary that this approval be granted, so that the contract can be awarded to allow the contractor to order material and start work, by the County executing the construction contract with the responsible low bidder and by establishing a construction contingency; and

WHEREAS, a contract must be negotiated with Bergmann Associates for construction inspection and engineering services during construction for this project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to award

and execute a contract for the Emery Park Dam Rehabilitation and Decommissioning Project between the County of Erie and the lowest responsible bidder, establish a construction contingency and execute a negotiated contract between the County of Erie and project engineers Bergmann Associates of Buffalo, New York; and be it further

RESOLVED, that funding for the Emery Park Dam Decommissioning Project be allocated from Fund 420, Business Area 123, Project B.11029.1- 2011 Dam Safety and Preservation -- Construction in an amount not to exceed \$744,363.96; and be it further

RESOLVED, that the Department of Public Works will inform the Erie County Legislature, for information only, as to what contractor was the successful low responsible bidder for the Emery Park Dam Rehabilitation and Decommissioning Project; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward five (5) 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 Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

8. COMM. 13E-16 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, the Rath Building's current Data/Computer Room in the Division of Information and Support Services was constructed in the early to mid-1980's and is no longer functional for a variety of reasons, including the fact that the 25 year-old cooling units are not sufficiently cooling the center; and

WHEREAS, the Division of Information and Support Services and Department of Public Works are conducting a project to renovate the space utilizing a much smaller room with new state of the art cooling equipment, security and a new fire suppression system; and

WHEREAS, the Department of Public Works received bids for the Rath Building Data/Computer Room renovations on June 21, 2013; and

WHEREAS, the Department of Public Works is recommending award of a contract to the lowest responsible bidder, along with the Architect; and

WHEREAS, the lowest responsible bidders are:

GENERAL CONSTRUCTION WORK  
HVAC CONSTRUCTION WORK  
ELECTRICAL CONSTRUCTION WORK

NewCal Construction, Inc.  
DV Brown & Associates, Inc.  
CIR Electric Construction Corp.

FIRE SUPPRESSTION WORK                      Great Lakes Building Systems  
 ASBESTOS ABATEMENT WORK                Metro Environmental

WHEREAS, your Honorable Body has previously authorized the County Executive to enter in a General Architectural/Engineering services agreement with the firm of Trautman Associates for providing professional design and construction document services on Erie County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of Trautman Associates for providing design and construction administration services for the Rath Building Data/Computer Room Renovations.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into a contract with the lowest responsible bidders for the Rath Building Data/Computer Room Renovations as follows:

General Construction Work – NewCal Construction Inc.	Base Bid:	\$125,181.00
HVAC Construction Work – DV Brown Associates Inc.	Base Bid:	\$429,000.00
Electrical Construction Work – CIR Electrical Construction	Base Bid:	\$158,700.00
Fire Suppression Construction Work–Great Lakes Bldg. Sys	Base Bid:	\$ 66,900.00
Hazardous Materials Work-Metro Environmental	Base Bid:	<u>\$138,787.00</u>
	Total	\$918,568.00

and be it further

RESOLVED, that the sum of \$100,000.00 be allocated to the Construction Contingency Fund with authorization for the County Executive, to approve change orders in an amount not to exceed the Contingency Fund; and be it further

RESOLVED, that deduct change orders will result in these funds being returned to the Construction Contingency Fund; and be it further

RESOLVED, that the County Executive is authorized to execute an Agreement Amendment with the firm of Trautman Associates for providing professional design and construction administration services for Rath Building Data/Computer Room Renovations for an amount not to exceed \$50,000.00 including reimbursables; and be it further

RESOLVED, that the Comptroller’s Office be authorized to make payment for all the above from SAP Project Accounts as follows:

A.20920 2009 Countywide IT Communication & Fire Suppression	\$ 618,568.00
A.13023 2013 Reconstruction of Data Computer Room/Rath Building	<u>\$ 450,000.00</u>
For a Total Amount Not To Exceed	\$1,068,568.00

and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner’s Office, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
 (5-0)

9.        **COMM. 13E-17 (2013)**  
**COUNTY EXECUTIVE**

WHEREAS, Houses No. 2 & 3 will be reconstructed in similar fashion to Houses 11 & 12. All of these buildings face the front of the facility and would improve the appearance and looks of the facility, not to mention correct and preserve the glass structures which are failing. Currently, House No. 3 is closed when wind velocities exceed 40 mph. Also, a study will be performed on the storm and sanitary sewers as there are flooding conditions present; and

WHEREAS, your Honorable Body has previously authorized the County Executive to enter in a General Architectural/Engineering services agreements with the firms of Foit Albert Associates and Trautman Associates for providing professional design and construction document services on Erie County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of Foit Albert Associates for providing design and construction administration services for the Buffalo and Erie County Botanical Gardens – 2013 – Houses 2 & 3 Renovation project; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of Trautman Associates for providing design and construction administration services to study the flooding conditions of the storm and sanitary sewers at the Buffalo and Erie County Botanical Gardens facility.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to enter into an Agreement Amendment with the A/E firm of Foit Albert Associates for an amount not to exceed \$180,000; and be it further

RESOLVED, that the County Executive be authorized to enter into an Agreement Amendment with the A/E firm of Trautman Associates for an amount not to exceed \$25,000; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for the additional funding from SAP project account A.13002 – 2013 Buffalo & Erie County Botanical Gardens, Master Plan Implementation, total amount not to exceed \$205,000.00; and be it further

RESOLVED, that two certified copies of this resolution shall be sent to the Commissioner of the Department of Public Works; and one copy each to the Office of the County Executive; the Director of the Division of Budget and Management, the Department of Parks, Recreation and Forestry and the Office of the Comptroller.

(5-0)

10. COMM. 13E-18 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, DiDonato Associates has inspected and reported on the condition of Shelter No. 12 at Emery Park, and has determined that the roof structure is structurally unsafe and is showing signs of failure; and

WHEREAS, the County has determined that it would be in the best interest of the public to re-build this roof structure in lieu of demolishing the entire shelter; and

WHEREAS, several old dilapidated parks buildings are going to be demolished since they are no longer needed, pose a safety and health threat, or are structurally unsafe to occupy for the public and all of these projects will require a pre-demolition hazardous materials survey and demolition consulting services; and

WHEREAS, Erie Community College has requested that the County replace the timing scoreboard and reline the Olympic and training pools at the Burt Flickinger Athletic Center; and

WHEREAS, your Honorable Body has previously authorized the County Executive to enter in a General Architectural/Engineering services agreements with the firms of DiDonato Associates, Watts Architectural & Engineering, P.C. and Clark Patterson Lee for providing professional design and construction document services on Erie County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of DiDonato Associates for providing design and construction administration services for the Emery Park Shelter No. 12 Renovation, ECC Burt Flickinger Athletic Center Score Board, and ECC Burt Flickinger Athletic Center Pool Relining projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of Watts Architectural & Engineering, P.C. for providing design and construction

administration services for the Pre-Demolition Hazardous Materials Survey of Various Parks Buildings project; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of Clark Patterson Lee for providing design and construction administration services for the Demolition of County Parks Buildings project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to enter into an Agreement Amendment with the A/E firm of DiDonato Associates for an amount not to exceed \$30,000; and be it further

RESOLVED, that the County Executive be authorized to enter into an Agreement Amendment with the A/E firm of Watts Architectural & Engineering, P.C. for an amount not to exceed \$16,500; and be it further

RESOLVED, that the County Executive be authorized to enter into an Agreement Amendment with the A/E firm of Clark Patterson Lee for an amount not to exceed \$30,000; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for the additional funding from SAP project accounts as follows:

A.12007 – 2012 Countywide Park Improvements & Equipment	\$ 61,500.00
<u>E.11002 – 2011 ECC Burt Flickinger Athletic Center Renovations</u>	<u>\$ 15,000.00</u>
Total Payment Not To Exceed:	\$ 76,500.00

and be it further

RESOLVED, that two certified copies of this resolution shall be sent to the Commissioner of the Department of Public Works; and one copy each to the Office of the County Executive; the Director of the Division of Budget and Management, the Department of Parks, Recreation and Forestry and the Office of the Comptroller.

(5-0)

11. COMM. 13E-21 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, Erie Community College and Erie County are desirous of working cooperatively to construct a new academic building for Erie Community College; and

WHEREAS, the building will provide classroom, laboratory, and ancillary space for science, technology, engineering, and math (STEM) programs; and

WHEREAS, the preferred location for the STEM building is on the ECC North Campus as recommended in the Program Needs Assessment and Space Utilization Report prepared by JMZ Architects in May, 2013; and

WHEREAS, construction of the building requires completion of numerous tasks ranging from compliance with the New York State Environmental Quality Review regulations to engaging a qualified project architect; and

WHEREAS, ECC and Erie County are desirous of entering into a non-binding Memorandum of Understanding (MOU) which describes the responsibilities of both parties, estimated timeline, and other matters relating to the project; and

WHEREAS, said MOU is attached to this resolution.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a non-binding MOU with ECC regarding construction of a new academic building for ECC; and be it further

RESOLVED, that the County Executive is hereby authorized to execute minor adjustments to the attached MOU where and if necessary; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive's Office; the Comptroller's Office; the Director of the Division of Budget and Management; the County Attorney; the Commissioner of the Department of Environment and Planning, Rath Building, 10th Floor; and Jack Quinn, President, Erie Community College, 121 Ellicott Street, Buffalo, New York 14203.

#### ATTACHMENT

#### MEMORANDUM OF UNDERSTANDING BETWEEN ERIE COMMUNITY COLLEGE AND COUNTY OF ERIE

This memorandum, which is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013 between the COUNTY OF ERIE (the "County"), and ERIE COMMUNITY COLLEGE ("ECC") sets forth the

principal understandings of the parties and the actions planned by each regarding construction of an academic building for ECC.

#### I. INTRODUCTION

A. It is the desire of the County and ECC that the educational needs of County residents continue to be served by ECC and that programs offered reflect the workforce skills required by area employers.

B. ECC has been an important part of the region's education system for 65 years, having evolved from former New York State Institute of Applied Arts and Sciences of Buffalo.

C. The County and ECC maintain a cooperative relationship concerning budgeting, capital improvements, governance and other matters important to the furtherance of ECC's mission.

D. In 2011 ECC, the County, and the State University of New York ("SUNY") agreed to provide \$30,000,000 for construction of a new academic building on the North Campus. New York State agreed to provide \$15,000,000 and the County and ECC each committed to providing an equal share of the balance.

E. Prior to proceeding with building design, the County and ECC agreed in 2012 that a detailed program needs analysis and space utilization report for the College as a whole was necessary to better inform the parties concerning site location and program needs. The cost of the approximately \$185,000 study was equally shared by the County and College.

F. In October, 2012 the County engaged JMZ Architects to undertake the program and space report. The effort was overseen by a Steering Committee comprised of ECC, County, and a private sector representative.

G. JMZ planners worked collaboratively with representatives from the Western New York Regional Economic Development Council ("REDC") and their consultants who were assembling workforce needs data and preparing the Buffalo Billion report. This insured that the recommendations contained in the ECC report were in alignment with those brought forward by area economic development organizations.

H. The Brookings Institution and McKinsey & Company, who served as consultants for the REDC determined that workforce development is one of the areas three highest priorities for economic development. When the REDC accepted the findings of its consultants it noted that manufacturing is the third largest sector of the local economy by the size of the workforce with



approximately 55,000 direct employees and another 6,000 to 10,000 support employees in this sector, that it is expected that 17,000 of these employees will retire by the year 2020 and that there is a need to provide training to replace the retiring employees. It also noted that there are an insufficient number of training opportunities currently available, particularly in advanced manufacturing to meet these needs. Failure to properly address the need for highly trained workers jeopardizes this important sector of the economy.

I. As a part of its response to the workforce needs identified in its studies, the REDC and New York State announced on May 2, 2013 plans to construct a Regional Workforce Advancement Center (“RWAC”) in the City of Buffalo. The RWAC will be part of a continuum of training and educational programs stretching from high school or GED to four year and post graduate education. ECC and the RWAC will, working together, fill important needs for students who do not plan to seek a four year bachelor’s degree or to only do so after working for a time.

J. JMZ issued their final report on May 24, 2013 and recommended that the new building be located at ECC North to provide needed space for Science, Technology, Engineering, and Math (STEM) programs.

K. The JMZ report contained numerous other programming proposals for consideration by ECC to insure that the College maintains a strong role in workforce development, including recommendations for improved programing at all three campuses.

L. A new STEM Building at ECC North in combination with new certificate offerings and programs as well as furtherance of a Regional Workforce Advancement Center in the City of Buffalo as proposed by REDC will provide a comprehensive strategy for workforce training in the region.

M. The parties hereto desire to move forward with the necessary reviews, permitting, financing, design, and other requirements associated with constructing the new academic building.

## II. ECC NORTH SITE – PREFERRED ALTERNATIVE

The parties agree to classify the ECC North location, identified conceptually in the May 24, 2013 JMZ report, as the preferred alternative (see Attachment 1) with an initial size of approximately 56,700 gross square feet with a possible future expansion to an approximate total of 111,000 gross square feet. The parties understand that final approval of the building location, its size and configuration cannot occur until full compliance with the provisions of the New York State Environmental Quality Review Act has been completed.

## III. BUILDING IMPROVEMENTS

A. The cost of constructing the Building (“Construction Work”), including the Program Needs Analysis and Space Utilization Assessment, pre-construction work, environmental analyses, design, engineering, management, and other soft costs is estimated to be \$30,000,000 (the “Project Budget”). The estimated cost breakdown of the Construction Work is generally set forth on Attachment 2 attached hereto. The parties shall contribute capital to pay for work put in place toward completion of the Construction Work, pro-rata to their fifty percent share of the investment which is agreed to be as follows:

County:	\$7,500,000
ECC:	\$7,500,000

B. The parties understand that the balance of funds needed to complete the project will be provided by New York State on a reimbursable basis up to \$15,000,000.

C. Following any and all necessary approvals by the Erie County Legislature and ECC Board of Trustees, the County and ECC will make their pro rata shares of funding available to a County account to fund all work related to the completion of the Construction Work. It is understood that the County shall be responsible for all necessary reimbursement requests to the State University of New York Construction Fund as pertains to the New York State share of the Construction Work.

## IV. MISCELLANEOUS CONDITONS

A. The Construction Work shall be performed in accordance with all applicable laws (including, without limitation, the Americans with Disabilities Act), and will comply with the affirmative action plan (including minority and women owned business goals) agreed upon by SUNY, the County and ECC. The party responsible for any given item of the Construction Work shall be responsible for ensuring such aforementioned compliance.

B. Use, hours of operation, insurance, security, vendors, maintenance and other functions associated with the building’s daily operation and management shall be the responsibility of ECC.

## V. BUILDING REVIEW COMMITTEE

The County and ECC will form a Building Review Committee (the “Committee”). The Committee shall be comprised of members appointed by each of the parties hereto. The

Committee shall meet on a regular basis during all phases of construction, but at least bi-monthly, to discuss progress and regulatory and legislative matters affecting the building's construction. The Committee or a subcommittee thereof shall serve as the review committee for the purposes of recommending project management, environmental, design, and construction management consultants to the County.

## VI. ROLE OF THE COUNTY

The County shall be the lead party responsible for the following construction related tasks:

- A. Establishing appropriate capital budget accounts for disbursement of County and ECC funds.
- B. Selection of and contracting with qualified project management, environmental, architectural/engineering, and construction management firms necessary to complete all required environmental reviews, plans/ specifications for the new building, and construction oversight.
- C. Preparation and submittal of bi-monthly reports to the ECC Board of Trustees and Erie County Legislature.
- D. Preparation and submittal of reimbursement requests to the State University of New York – Construction Fund.
- E. Obtaining all necessary permits, including building permits associated with the building.
- F. Bidding, award, and contracting with construction trade firms qualified to undertake the required building elements.
- G. Management of any and all other components of the Construction Work including but not limited to tasks associated with Project Labor Agreements, MBE/WBE, Affirmative Action, Local Workforce Participation, Apprenticeship Programs, and LEED requirements.

## VII. ROLE OF THE COLLEGE

ECC shall be the lead party responsible for the following construction related tasks:

- A. Assemble and provide to the County available space, enrollment, and other data needs necessary for proper building design.

B. Provide to the County information concerning desired building layout, furnishings, interior signage and other related building elements.

C. Serve on all committees including the Building Review Committee.

D. In conjunction with the County Executive, review recommendations from the Building Review Committee concerning selection of an environmental analysis firm, building architect, and if necessary, project management company.

## VIII. PROJECT MANAGEMENT

With respect to the Construction Work, the County shall have the right to utilize a Project Management Firm/Agency such as, but not limited to the Dormitory Authority of the State of New York (DASNY) in a manner similar to that which occurred during the construction of the ECC Flickinger Center.

## IX. APPROVAL OF CONSTRUCTION WORK

The County shall have the right to approve all construction bids, documents and the construction schedule.

## X. ENVIRONMENTAL MATTERS

The County shall be designated as the lead agency under the New York State Environmental Quality Review Act ("SEQRA") and responsible for coordinating review of all permits and approvals required under SEQRA, and any applicable state or local building codes and zoning ordinances. The County shall also be the responsible party to coordinate any non-environmental permitting, regulatory and construction matters.

## XI. COMPETITIVE BIDDING

All Construction Work shall be subject to the competitive bidding rules of the County, including appropriate provisions for the participation of qualified MBE/WBE subcontractors. The County will develop an MBE/WBE Plan for the Construction Work that is similar in scope to the MBE/WBE plan for Ralph Wilson Stadium.

## XII. CALENDAR OF ACTIVITIES

Attachment 3 attached hereto reflects the calendar of key dates and activities necessary for each of the parties to secure appropriate approvals for the commitments they intend to make. The

information noted on the calendar reflects likely tasks to be undertaken and estimated completion dates. Where appropriate certain tasks could be combined to expedite the project.

XIII. NON-BINDING AGREEMENT

The foregoing does not constitute a binding agreement between the County and ECC because certain (a) studies, including environmental studies, must be completed, b) approvals and consents must be obtained and (c) agreements containing terms and conditions not mentioned herein must be negotiated and executed. Nothing herein shall be construed as committing the County or ECC to approve the construction, equipping or financing of the Construction Work and other construction matters contemplated hereunder until such time as all of the requirements of SEQRA have been satisfied. Further, the foregoing does not constitute a final agency action for the purposes of the SEQRA and all relevant environmental laws will be complied with as appropriate. Nevertheless, this memorandum will serve as the basis upon which all of the parties intend to proceed to expend time and resources to obtain such necessary approvals and consents and to negotiate and execute the agreements required to accomplish the tasks outlined herein.

XIV. COUNTY AND ECC ACTION OBLIGATIONS

A. Upon execution of this Agreement, the County and ECC shall use reasonable efforts to secure all legislative, executive and regulatory approvals and budgetary allocations from, and similar actions of, the applicable governmental authorities as are necessary to meet the County's and ECC's respective obligations hereunder, including the State of New York. It is anticipated that construction will commence not later than September 2015.

XV. COUNTERPARTS

This Agreement may be executed in counterparts, and each counterpart, once executed, shall have the efficacy of a signed original. True and correct copies of signed counterparts may be used in place of originals for any purpose. A facsimile or a PDF copy of an original signature transmitted to the other party is effective as if it was an original.

COUNTY OF ERIE

ERIE COMMUNITY COLLEGE

By: \_\_\_\_\_  
Mark Poloncarz/Richard Tobe  
County Executive/Deputy County Executive  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Jack Quinn  
President  
Dated: \_\_\_\_\_

Approved as to Content

Approved as to Form

By: \_\_\_\_\_  
Maria R. Whyte, Commissioner  
Department of Environment and Planning  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Kristen M. Walder  
Assistant County Attorney  
Dated: \_\_\_\_\_

No.: \_\_\_\_\_

Doc.

ATTACHMENT 1

PREFERRED BUILDING LOCATION

ECC North Campus



ATTACHMENT 2

ESTIMATED BUILDING PROGRAM COST

STEM Building – Full Program

67,320	NASF
1.65	Grossing Factor
<hr/>	
111,000	GSF
\$380	per Square Foot
<hr/>	

\$42,180,000	Raw Building Construction Cost
\$2,109,000	5% Site Work
\$6,327,000	15% Construction Contingency
\$2,952,600	7% Design Fee
\$2,530,800	6% Escalation to Mid-Point of Construction(2015)
<hr/>	
\$56,099,400	
\$2,800,600	FF&E
<hr/>	
\$58,900,000	Total Project Cost

*STEM Building – Reduced Program*

34,360	NASF
1.65	Grossing Factor
<hr/>	
56,700	GSF
\$380	per Square Foot
<hr/>	
\$21,500,000	Raw Building Construction Cost
\$1,075,000	5% Site Work
\$3,225,000	15% Construction Contingency
\$1,505,000	7% Design Fee
\$1,290,000	6% Escalation to Mid-Point of Construction (2015)
<hr/>	
\$28,595,000	
\$1,405,000	FF&E
<hr/>	
\$30,000,000	Total Project Cost

ATTACHMENT 3

CALENDAR

The following items and corresponding completion dates are intended to serve as a general guide. They are not binding and where appropriate certain items might be combined where possible to expedite the project.

1. ECC Submittal to SUNY – Community College Capital Project Finance Application for Design Costs – June, 2013.
2. Acceptance of Building Review Committee’s Recommendation RE: Consultant for Environmental Review (County Executive and ECC Board of Trustees) – August, 2013.
3. Approval of Contract with Consultant for Environmental Review and Establishment of Capital Budget Account (Action by Erie County Legislature Required) – September, 2013.
4. Completion of Environmental Review (Action by ECC Board of Trustees and Erie County Legislature) – March, 2014.
5. Acceptance of Building Review Committee’s Recommendation RE: Project Manager, if necessary (County Executive and ECC Board of Trustees) – April, 2014.
6. Selection of and Contract with Project Manager, if necessary (Action by Erie County Legislature Required) – May, 2014.
7. Acceptance of Building Review Committee’s Recommendation RE: Building Architect/Engineer and Construction Manager (County Executive and ECC Board of Trustees) – June, 2014.
8. Selection of and Contract with Building Architect/Engineer, Construction Manager (Action by Erie County Legislature Required) – July, 2014.
9. ECC Submittal to SUNY – Community College Capital Project Finance Application for Construction Cost – June, 2014 or before.
10. Design Complete and Project Bidding Occurs – July, 2015.
11. Selection of and Agreement with Appropriate Building Contractors (Action by Erie County Legislature Required) – September, 2015.

12. Construction Substantially Complete – December, 2016.

13. Building Opens – Semester Beginning January, 2017.  
(5-0)

12. COMM. 13E-22 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bid for the Erie County Rainwater Harvesting Cisterns CWSRF Project No. C9-6646-14-00 on June 4, 2013

<u>Contract</u>	<u>Low Bidder</u>	<u>Amount</u>
CWSRF Project No. C9-6646-14-00 and	N.F.P. & Sons, Inc.	\$522,600

WHEREAS, the aforementioned lowest responsible bidder has successfully performed similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature does hereby award the Erie County Rainwater Harvesting Cisterns CWSRF Project No. C9-6646-14-00 to N.F.P. & Sons, Inc. in an amount not-to-exceed amount of \$522,600; and be it further

RESOLVED, that the County Executive be, and is hereby authorized to execute the Contract with the aforementioned lowest, responsible bidder subject to approval as to form by the County Attorney and certification of availability of funds; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$522,600 from Erie County Rainwater Harvesting Cisterns CWSRF Project No. C9-6646-14-00 account; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each of this resolution to the County Executive; the Director of the Division of Budget and Management; the Comptroller’s Office; Kristen M. Walder, Assistant County Attorney; and send two (2) certified copies of this resolution to Thomas R. Hersey, Jr., Department of Environment and Planning.  
(5-0)

13. COMM. 13E-23 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the County of Erie desires to clear former commercial and industrial sites for productive reuse; and

WHEREAS, the property at 53 West Main Street, S.B.L. 335.15-5-18 in the Village of Springville, the former Springville Hotel, has been a vacant for over ten years, has been a blighting influence on the area and has accrued over \$170,000 in back taxes, interest and penalties; and

WHEREAS, the County of Erie and the Village of Springville had been working to demolish the structure using Community Development Block Grant funds to promote reuse of the property; and

WHEREAS, the partial collapse of the structure required the Village of Springville to perform and emergency demolition of the building on June 22, 2013; and

WHEREAS, it is expected Erie County will foreclose on the 53 West Main Street property in October 2013.

NOW, THEREFORE, BE IT

RESOLVED, the County Executive is authorized to enter into contracts with the Village of Springville, selling the 53 West Main Street property to the Village of Springville for the sum of one dollar (\$1.00); and be it further

RESOLVED, the County Executive is authorized to execute any deeds necessary to transfer this parcel to the Village of Springville; and be it further

RESOLVED, the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive, the Director of the Division of Budget, Management and Finance, the Comptroller, the Director of Real Property, the Commissioner of the Department of Environment and Planning and the County Attorney.  
(5-0)

14. COMM. 13E-24 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the Department of Public Works, Division of Highways, and the New York State Department of Transportation (NYSDOT) perform annual and bi-annual inspections of County-owned bridges; and

WHEREAS, as a result of these inspections, Erie County may be cited with yellow and red safety flags which restrict access to the traveling public and requires the County to respond to NYSDOT with a plan of action as soon as practicable. In addition, repairs made to the bridges and culverts will extend the useful life; and

WHEREAS, your Honorable Body has previously authorized the County Executive to enter into a Term Agreement for providing professional engineering services via Comm. 14E-19 adopted July 17, 2008; and

WHEREAS, the Department of Public Works, Division of Highways, determined that Clough, Harbour & Associates has the appropriate experience in design, construction management, technical services and construction inspection of bridges; and

WHEREAS, in order for the Department of Public Works, Division of Highways, to urgently respond to cited County bridge deficiencies with bridge repairs and construction, Legislature approval is required to enter into a contract with Clough, Harbour & Associates to perform this work.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to execute a contract with Clough, Harbour & Associates for an amount not to exceed \$150,000.00 from BA123, Fund 420, SAP Project 2013 Preservation of Bridges and Culverts Design Program in order for Clough, Harbour & Associates to provide professional engineering services for bridges and culverts; and be it further

RESOLVED, that five (5) 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 and Management, the Office of the Comptroller and the Division of Purchase.  
(5-0)

15. COMM. 13E-26 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the Department of Public Works advertised for Request for Qualifications from Architectural/Engineering and Testing Services firms for the Divisions of Highways and Buildings and Grounds; 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><b>CONSULTANTS</b></i>
Advanced Architecture & Planning, P.C.
Bergmann Associates
BHNT Architects, P.C.
Buffalo Engineering, P.C.
C&S Engineers, Inc.
C.J. Brown Energy & Engineering, P.C.
Clark Patterson Lee
Clinton Brown Company Architecture, P.C.
Clough Harbour & Associates LLP
Design Synergies Architecture, P.C.
DiDonato Associates, P.E., P.C.
EI Team, Inc.
Erdman Anthony
Foitt-Albert Associates
Greenman-Pedersen, Inc.
Hatch Mott MacDonald
KCI Engineering of NY, P.C.
Kideney Architects, P.C.
LaBella Associates
Lauer-Manguso & Associates Architects
LiRo Engineers, Inc.

McMahon & Mann Consulting Engineers, P.C.
Nussbaumer & Clarke, Inc.
Parsons Brinckerhoff
Prudent Engineering
PSI (Professional Service Industries, Inc.)
RAM-TECH Engineers of Buffalo, P.C.
Ravi Engineering & Land Surveying, P.C.
Right of Way Professionals
SJB/Empire Geo Services
Stieglitz Snyder Architecture
Stievater + Associates: Architects
T.Y. Lin International
Trautman Associates
TVGA Consultants
TVGA/KCI
Urban Engineers of New York, P.C.
Watts Architecture & Engineering
Audubon Architecture, Engineering, Surveying & Landscape Architecture, P.C. (Wendel)
Wm. Schutt Associates Engineering and Land Surveying , 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, Commissioner's Office, and one copy each to the Office of the County Executive, the Division of Budget and Management and the Office of the Comptroller (5-0)

16. COMM. 13E-27 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the reconstruction/rehabilitation of Stony Road and Pleasant View Drive Project (the "Project") will be advertised, bid, and ready for award of construction contract to the responsible low bidder; and

WHEREAS, the Project design phase was authorized by this honorable body via Comm.9E-9 of May 23, 2013; and

WHEREAS, funding for this project was approved in the 2013 adopted Capital Budget and is available in SAP Fund 420, BA123, Project B.13003 - 2013 Preservation of Roads-Construction in the amount of \$2,050,000.00; and

WHEREAS, due to the Legislative schedule during the summer months it is necessary that this approval be granted, so that the Contract can be awarded to allow the Contractor to begin construction as soon as possible; and

WHEREAS, in order to facilitate the reconstruction/rehabilitation of Stony Road and Pleasant View Drive, it will be necessary for the County to execute the construction contract with the responsible low bidder and establish a construction contingency; and

WHEREAS, a change order must be negotiated with Clark Patterson Lee for additional design services in the amount of \$20,382.00.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to award and execute a contract for reconstruction/rehabilitation of Stony Road and Pleasant View Drive Project Number CAP-CR350-13, between the County of Erie and the lowest responsible bidder, establish a construction contingency and execute a negotiated change order between the County of Erie and project engineers Clark Patterson Lee, in an amount not to exceed \$2,100,000; and be it further

RESOLVED, that the funds for the reconstruction of Stony Road and Pleasant View Drive Project be allocated from SAP Fund 420, BA123, Project B.13003 - 2013 Preservation of Roads-Construction in the not to exceed amount of \$2,050,000.00; and be it further

RESOLVED, that the Department of Public Works will provide the Erie County Legislature, for information only, as to what contractor was the successful lowest responsible bidder for the Reconstruction/Rehabilitation of Stony Road and Pleasant View Drive, Project Number CAP-350-13; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward five (5) 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 Division of Budget and Management, and the Office of the Comptroller.

(5-0)

17. COMM. 13E-28 (2013)

**COUNTY EXECUTIVE**

WHEREAS, the section of Kenmore Avenue from Main Street to Military Road is jointly owned by the City of Buffalo and County of Erie; and

WHEREAS, Kenmore Avenue is divided at the centerline; wherein the County is responsible for maintaining the northern side, and the City the southern side of the roadway; and

WHEREAS, in the past, each municipality paved their section independently and at different times; and

WHEREAS, the end result was not completely satisfactory since the pavement condition on the northern and southern portions of the roadway oftentimes varied; and

WHEREAS, after a number of meetings between representatives of the County of Erie and the City of Buffalo, both municipalities have determined that a better and more efficient approach to paving Kenmore Avenue is possible; and

WHEREAS, the County and City are proposing to work cooperatively and instead section off portions of the roadway to be paved, wherein each municipality will be responsible for paving both the northern and southern sides of the section in which they are assigned; and

WHEREAS, an Intermunicipal Agreement between the County of Erie and City of Buffalo will be necessary to allow the County and the City to proceed with paving their agreed upon sections of Kenmore Avenue.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized, and is hereby directed, to execute an Intermunicipal Agreement between the County of Erie and the City of Buffalo which shall allow each municipality to perform improvements including paving and/or patching to both the northern and southern sides of Kenmore Avenue for the respective agreed-upon sections of roadway; and be it further



RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of this resolution to the County Executive; the County Attorney; the Division of Budget and Management and the Department of Public Works.  
(5-0)

18. COMM. 13E-29 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, the reconstruction of Penora Street project will be advertised, bid, and ready for award construction contract to the responsible low bidder; and

WHEREAS, the reconstruction of Penora Street (CR 23) (the "Project") was authorized by this Honorable Body via Comm.24E-17 of December 16, 2010; and

WHEREAS, funding for this phase of the Project was approved in the 2013 adopted Capital Budget and is available in SAP Fund 420, BA123, Project B.13003 - 2013 Preservation of Roads-Construction for \$2,750,000; and

WHEREAS, due to the Legislative schedule during the summer months of August and September it is necessary that this approval be granted, so the Contract be awarded to allow the Contractor to begin construction as soon as possible; and

WHEREAS, in order to facilitate the reconstruction of Penora Street, Phase II, it will be necessary for the County to execute the construction contract with the responsible low bidder and establish a construction contingency; and

WHEREAS, a change order must be negotiated with Clark Patterson Lee for additional design services in the amount, not to exceed, of \$172,000 and construction inspection and services during construction in the amount, not to exceed of \$135,000.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to award and execute a contract for the reconstruction of Penora Street, Phase II Project Number CAP-23-13, with the lowest responsible bidder, establish a construction contingency and execute a negotiated change order between the County of Erie and project engineers Clark Patterson Lee, in an amount not to exceed \$2,750,000; and be it further

RESOLVED, that the funds for the reconstruction of Penora Street Project be allocated from the SAP Fund 420, BA123, Project B.13003 2013 Preservation of Roads-Construction in an amount, not to exceed, of \$2,750,000; and be it further

RESOLVED, that the Department of Public Works will inform the Erie County Legislature, for information only, as to what contractor was the successful lowest responsible bidder for the reconstruction of Penora Street, Phase II, Project Number CAP-23-13; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward five (5) 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 Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

19. COMM. 13E-34 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, the Department of Public Works received bids for the Buffalo Niagara Convention Center – 2013 – Renovation to Ballroom Carpet project on June 12, 2013; and

WHEREAS, the Erie County Department of Public Works along with BHNT Architects, PC are recommending award of the contracts to the lowest responsible bidders; and

WHEREAS, your Honorable Body has previously authorized the County Executive to enter in a General Architectural/Engineering services agreement with the firm of DiDonato Associates for providing professional design and construction document services on Erie County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of DiDonato Associates for providing design and construction document services for reconstructing the loading dock trench drain.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into a contract with the lowest responsible bidders for the BNCC-2013-Renovations to Ballroom Carpet project for an amount not to exceed as follows:

<u>General Construction Work</u>		
Nichter Construction, Inc.	Base Bid:	\$361,000.00
<u>Electrical Construction Work</u>		
O'Connell Electric Company, Inc.	Base Bid:	<u>\$ 95,250.00</u>
Total Award of All Construction Contracts:		\$456,250.00

and be it further

RESOLVED, that the sum of \$75,000.00 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 Fund; and be it further

RESOLVED, that deduct change orders will result in these funds being returned to the Construction Contingency Fund; and be it further

RESOLVED, that the County Executive is authorized to execute an Agreement Amendment with the firm of DiDonato Associates for providing professional design and services for the reconstruction of the trench drains for an amount not to exceed \$10,000.00 including reimbursables; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from SAP project account:

A.12002 – 2012 Buffalo Niagara Convention Center Rehabilitation	\$465,710.00
A.13003–2013 Buffalo Niagara Convention Center Rehabilitation	<u>\$ 75,540.00</u>

For an Amount Not To Exceed	\$541,250.00
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and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner's Office, and one copy each to the Office of the County Executive, the Division of Budget and Management and the Office of the Comptroller.  
(5-0)

20. COMM. 13E-35 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, on September 11, 2011 this Honorable Body authorized the County Executive to enter into a contract with DV Brown & Associates for providing Mechanical and Electrical Energy Improvements to the mechanical equipment located on the fifth floor of the Rath Building; and

WHEREAS, the replacement of the redundant Rath Building chiller was eliminated from the project scope; and

WHEREAS, the County has purchased a replacement chiller earlier this year through the Division of Purchasing directly from the manufacturer; and

WHEREAS, the Construction Contingency must be increased in order to fund the installation of the chiller via change order to DV Brown & Associates' contract; and

WHEREAS, your Honorable Body has previously authorized the County Executive to enter into a General Architectural/Engineering services agreement with the firm of Buffalo Engineering, PC, for providing professional design and construction document services on Erie County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to the firm of Buffalo Engineering, PC for providing design and construction documents services for the Rath Building and Erie County Correctional Facility chiller replacements.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to increase the current construction contingency fund by \$100,000.00 from \$183,000.00 to \$283,000.00; and be it further

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

RESOLVED, that the County Executive is authorized to execute an Agreement Amendment with the firm of Buffalo Engineering, PC for providing professional design and construction services for the Rath Building and Erie County Correctional Facility chiller replacement projects for an amount not to exceed \$43,000.00 including reimbursables; and be it further

RESOLVED, that the Comptroller's office be authorized to make payment for the above from SAP Project Account A.13006-2013-Countywide Mechanical, Electrical and Plumbing Improvement for an amount to exceed \$143,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner's Office, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
(5-0)

21. COMM. 13E-36 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, the County desires to continue the construction of a system of interconnected bicycle and pedestrian multi-use trails along Lake Erie to provide linkages between existing bicycle and pedestrian trails, residential neighborhoods, parks and recreation areas including Lake Erie, retail centers and employment centers; and

WHEREAS, the County desires to continue the construction of the Town of Evans Shoreline Trail section of the shoreline trail system through construction of the Evans Town Park to Point Breeze section; and

WHEREAS, the County desires to apply for financial assistance from the New York State Department of Transportation's Transportation Enhancement Program (TEP).

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature authorizes the Department of Environment and Planning to prepare and submit an application for TEP funding in the amount of \$1,350,000; and be it further

RESOLVED, that prior to contract execution the County shall make available local share matching funds to satisfy the requirements of the funding program; and be it further

RESOLVED, that the source of said match shall be funds made available from the approved 2013 Capital Budget and 2013 Consolidated Bond resolution for the Evans Shoreline Trail Beaches Section; and be it further

RESOLVED, that the County Legislature authorizes the County Executive to sign any necessary documents and agreements related to the Transportation Enhancement Program; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive's Office; the Comptroller's Office; the Director of the Division of Budget and Management; the County Attorney; and the Commissioner of the Department of Environment and Planning, Rath Building, 10th Floor.  
(5-0)

22. COMM. 13E-41 (2013)  
**COUNTY EXECUTIVE**

WHEREAS, Erie County and the Erie County Stadium Corporation (ECSC), a wholly-owned subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development, signed a new ten year Master Lease agreement for the operation of the Stadium for the Buffalo Bills which was approved by this Honorable Body; and

WHEREAS, under the terms of the new agreement the County will be responsible to pay a portion of the Working Capital Assistance for maintenance of the Stadium; and

WHEREAS, savings generated through a negotiated decrease in the County payment for Game Day/Operating Reimbursement provides sufficient funds to make payment for the Working Capital Assistance.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby approve the following 2013 budget transfer to make the Working Capital payment as required:

2013 Budget - Fund 110	
Fund Center 14010 - Countywide Accounts Monitored by Budget	
Appropriation	Decrease
520070 Buffalo Bills Maintenance (Game Day)	\$1,290,000
	Increase
520072 - Stadium Working Capital Assistance	\$1,290,000
Net Change	\$0

and be it further

RESOLVED, that copies of this resolution shall be sent to the Office of the County Executive, the Division of Budget and Management, the County Attorney, the Commissioner of Public Works, and the Office of the County Comptroller.  
(5-0)

**THOMAS A. LOUGHRAN**  
**CHAIR**