

March 27, 2014

ECONOMIC DEVELOPMENT COMMITTEE
REPORT NO. 4

ALL MEMBERS PRESENT.

CHAIR MILLS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. INTRO. 6-8 (2013)
LORIGO, RATH & HARDWICK: “Supporting Necessary Reforms to NY Labor Law S.240 & S.241”
(6-0)
 - b. COMM. 4M-1 (2014)
CENTER FOR EMPLOYMENT OPPORTUNITIES: “Economic Impact Report”
(6-0)
 - c. COMM. 4M-2 (2014)
NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION: “300 Ohio St Update: Remedy Proposed for Brownfield Site Contamination; Public Comment Period Announced”
(6-0)
 - d. COMM. 5E-9 (2014)
COUNTY EXECUTIVE: “Notice of Findings and Notice of Intent to Request Release of Funds for West Main Street in Village of Lancaster”
(6-0)
 - e. COMM. 5M-3 (2014)
WESTERN REGION OFF-TRACK BETTING CORPORATION: “Future of Casino Gaming and Outlook for Gaming Industry”
(6-0)
 - f. COMM. 5M-4 (2014)
NFTA: “Copy of NFTA Board Minutes”
(6-0)
2. COMM. 5E-10 (2014)
COUNTY EXECUTIVE

WHEREAS, the County of Erie holds an ownership interest in a railroad right-of-way in the Town of Cheektowaga and the Villages of Depew and Lancaster through a tax forgiveness agreement with the Erie-Lackawanna Railroad, with said right-of-way being designated Line 1242; and

WHEREAS, the County of Erie holds an ownership interest in a railroad right-of-way between the City of Buffalo and the Village of Gowanda through a tax forgiveness agreement with the Erie-Lackawanna Railroad, with said railroad right-of-way being designated Line 1246; and

WHEREAS, the County of Erie has leased these rail lines to the Erie County Industrial Development Agency (ECIDA) under a management agreement since 1985; and

WHEREAS, the most recent of the aforementioned lease agreements will expire by its own terms on September 15, 2014; and

WHEREAS, it is the desire of the County and the ECIDA to continue the operating relationship for Rail Lines 1242 and 1246 for an additional five years.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into any necessary agreements and other documents with the Erie County Industrial Development Agency for the leasing and ongoing operation for railroad rights-of-way being designated Lines 1242 and 1246, the term of which shall extend from September 15, 2014 to September 15, 2019; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive’s Office; the Director of the Division of Budget and Management; the Comptroller’s Office; the Commissioner of the Department of Environment and Planning, and the County Attorney.
(6-0)

3. COMM. 5E-11 (2014)
COUNTY EXECUTIVE

WHEREAS, the Penora Street Phase III reconstruction project (the “Project”) was advertised, bid , and the responsible low bidder was Union Concrete & Construction Corp. of West Seneca; and

WHEREAS, the Project was authorized by this Honorable Body via Comm. 24E-17 of December 16, 2010; and

WHEREAS, in order to facilitate the reconstruction of Penora Street, Phase III, it will be necessary for the County to execute contracts with the responsible low bidder Union Concrete & Construction Corporation, project engineers Clark Patterson Lee and establish a construction contingency.

NOW, THEREFORE, BE IT

RESOLVED, that the funds for the reconstruction of Penora Street, Phase III Project be allocated from the SAP Fund 420, BA123, Project B.13003 2013 Preservation of Roads-Construction in an amount of \$1,674,968.36; and be it further

RESOLVED, that the County Executive be authorized to award and execute contracts for the reconstruction of Penora Street, Phase III Project Number CAP-23-14, with the lowest responsible bidder, Union Concrete & Construction Corporation in the amount of \$1,415,463.60, project engineers Clark Patterson Lee in the amount of \$226,050.00, and establish a construction contingency in the amount of \$33,454.76 for any necessary change orders; 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.
(6-0)

4. COMM. 5E-12 (2014)
COUNTY EXECUTIVE

WHEREAS, the County of Erie has surplus land along the realigned North Forest Road; and

WHEREAS, this subject Parcel, Parcel North 422, is detailed on the attached MAP NORTH SK 139-422C; and

WHEREAS, the property owner at 1731 North Forest Road, SBL 55.07-6-35.1, Amherst, wishes to purchase a portion of this land, highway right-of-way associated North Forest Road, deemed no longer necessary for County highway purposes by the Erie County Lands Advisory Review Committee (ARC); and

WHEREAS, the property owner at 1731 North Forest Road, SBL 55.07-6-35.1, being the adjoining property owner, will compensate the County of Erie the agreed upon price of \$3,400.00 for the transfer of the 0.155± acre parcel of land at the time of filing in the Erie County Clerk's Office.

NOW, THEREFORE, BE IT

RESOLVED, that for County purposes of transferring land no longer necessary for highway purposes, the County Executive is hereby authorized and directed to convey the County's interest in the

parcel of land herein described for and in consideration of the sum of \$3,400.00 as described herein; and be it further

RESOLVED, that three (3) certified copies of this resolution be sent to the Department of Public Works, Division of Highways, and one copy each to the Office of the County Executive, the Division of Budget, Management and Finance, and the Office of the Comptroller.
(6-0)

5. COMM. 5E-13 (2014)
COUNTY EXECUTIVE

WHEREAS, the Abbott Road Bridge over Neuman Creek Project in the Town of Orchard Park, Erie County, PIN 5758.74 (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs such program; and

WHEREAS, the County of Erie advanced the Project's Design Phase via Comm. No. 15E-6 (2011) adopted on July 21, 2011 and Construction Phase via Comm. No. 10E-14 (2013) adopted on June 6, 2013; and

WHEREAS, the County of Erie desires to accept Marchiselli funds for the Construction Phase of the Project, PIN 5758.74 through an executed Supplemental Marchiselli Agreement No. 1 with NYSDOT that increases the Project Agreement by \$142, 500 and related project budget in Fund 420, B.13001, 2013 Abbott Rd Br Reconstruction; and

WHEREAS, the Abbott Road Bridge over Neuman Creek Project PIN 5758.74 has been advertised, bid, and awarded to the responsible low bidder Edbauer Construction; and

WHEREAS, the project is currently estimated at \$1,162,500; and

WHEREAS, it is necessary that this approval be granted, so that the project budget can be increased for a change order to Edbauer Construction for an unanticipated utility conflict.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the Abbott Road 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 share of the cost of the Preliminary Engineering (Scoping and Design I-VI), and Construction Phase of the Project or portions thereof; and be it further

RESOLVED, that the Project Fund B.13001 - 2013 Abbott Road Bridge Reconstruction, fund center 123, fund 420, be increased by the anticipated State revenue in the amount of \$142,500 as follows:

| | | CURRENT BUDGET | INCREASE/ DECREASE | REVISED BUDGET |
|-----------------------------|---------------------|---------------------------|-------------------------|---------------------------|
| REVENUES | | | | |
| Account | Description | | | |
| 405160 | NYS Marchiselli | 0 | \$142,500 | \$142,500 |
| 414000 | Federal Aid | \$760,000 | 0 | \$760,000 |
| 445070 | Prem on Obligation | 35,205 | | 35,205 |
| 475000 | Gen Oblig Bond Proc | <u>224,795</u> | <u>0</u> | <u>224,795</u> |
| TOTAL REVENUES | | <u>\$1,020,000</u> | <u>\$142,500</u> | <u>\$1,162,500</u> |
| APPROPRIATIONS | | | | |
| Capital Projects | Capital Project Exp | <u>\$1,020,000</u> | <u>\$142,500</u> | <u>\$1,162,500</u> |
| TOTAL APPROPRIATIONS | | <u>\$1,020,000</u> | <u>\$142,500</u> | <u>\$1,162,500</u> |

; and be it further

RESOLVED, the estimated total sum of the construction phase of the Project, \$1,162,500, is hereby appropriated from B.13001 – 2013 Abbott Road Bridge Reconstruction and made available to cover the cost of participation in the construction 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 costs of the Project's Construction Phase exceeds the amount appropriated, \$1,162,500 and/or 100% of the full Federal and non-Federal shares of the cost of the Project's Construction Phase exceeds \$1,162,500, 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; and be it further

RESOLVED, should additional Federal Aid become available for this project, Erie County Legislative approval would be requested to enter into a new supplemental agreement with New York State Department of Transportation and the project budget adjusted accordingly; and be it further

RESOLVED, that the County Executive be authorized and is hereby directed to approve a change order for the Abbott Road Bridge over Neuman Creek Project PIN 5758.74 for the responsible low bidder Edbauer Construction; 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 also one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.
(6-0)

6. COMM. 5E-14 (2014)

COUNTY EXECUTIVE

WHEREAS, the Town of Hamburg and Erie County executed a Cooperation Agreement on June 5, 2002; and

WHEREAS, the Town of West Seneca and Erie County executed a Cooperation Agreement on February 12, 2003; and

WHEREAS, the purpose of said Agreements was to form a Consortium for the HOME Investment Partnership Program; and

WHEREAS, said Consortium is comprised of the thirty-four Erie County Community Development Block Grant Consortium municipalities, Town of West Seneca, and Town of Hamburg (inclusive of the Villages of Blasdell and Hamburg); and

WHEREAS, Erie County is the lead entity identified in said Agreements for the purposes of administering the HOME Program; and

WHEREAS, said Consortium receives approximately \$700,000 annually for various affordable housing programs through the federal Department of Housing and Urban Development (HUD); and

WHEREAS, the aforementioned Cooperation Agreements with the Towns of Hamburg and West Seneca include automatic renewal provisions following three-year cycles; and

WHEREAS, HUD requires all Cooperation Agreements to include certain new language clarifying the automatic renewal provisions.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Executive is hereby authorized to execute a First Amendatory Agreement to the June 5, 2002 Cooperation Agreement with the Town of Hamburg as pertains to forming a Consortium for the HOME Investment Partnership Program; and be it further

RESOLVED, that the Erie County Executive is hereby authorized to execute a First Amendatory Agreement to the February 12, 2003 Cooperation Agreement with the Town of West Seneca as pertains to forming a Consortium for the HOME Investment Partnership Program; and be it further

RESOLVED, that said amendments shall contain the automatic renewal provisions for successive three-year qualification periods as so required by HUD; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive’s Office; the Division of Budget and Management, the County Attorney; the Deputy Commissioner of the Department of Environment and Planning; and the Commissioner of Environment and Planning, Rath Building, 10th Floor.
(6-0)

7. COMM. 6E-6 (2014)
COUNTY EXECUTIVE

WHEREAS, it is desired to replace culvert BR 511-1 on Lenox Road as located by FEMA PW 867, the “Project”; and

WHEREAS, in order to facilitate this reconstruction, it will be necessary for the County to acquire by easement and/or fee, parcels that are portions of real property in the vicinity of the Project as follows:

| <u>PORTION OF TAX MAP SBL NUMBER</u> | <u>TOWNSHIP</u> |
|--------------------------------------|-----------------|
| SBL 330.00-2-11 | Collins |

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

WHEREAS, in order to acquire the right of way (ROW) for the Project, it will be necessary for the County to establish an amount to represent just compensation for the real property interest to be acquired and to thereafter make a written offer to purchase the real property interest for the respective just compensation amount; and

WHEREAS, in order to advance the acquisition process, it will be necessary to retain the services of a ROW consultant and D&S Realty Consultants is an approved provider of such services; and

WHEREAS, the acquisition of the portions of the Subject Property is expected to be de minimis in nature so that the public interest will not be prejudiced by the reconstruction and other general improvements to the subject location on Lenox Road (C.R. 511); and

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

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the acquisition of the ROW required to construct the Project; and be it further

RESOLVED, that the sums of \$8,000.00 from SAP B.00204, 2008 FEMA Right of Way be made available to cover all costs of ROW acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquire the necessary real property interests from the aforementioned Subject Property for the purpose of culvert replacement at the aforementioned Lenox Road PW 867 site; and be it further

RESOLVED, that the County of Erie is authorized to enter into a contract with D&S Realty Consultants to provide the ROW services necessary for the acquisition of the required ROW; 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 properties 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 Property for the purpose of acquiring the necessary real property interest by easement and/or fee, which acquisition is necessary for the Lenox Road PW 867 site culvert replacement 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 Property; 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 Property 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 three (3) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, and also one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller. (6-0)

8. COMM. 6E-7 (2014)
COUNTY EXECUTIVE

WHEREAS, the County of Erie acquired fee title to various parcels of land along Southwestern Boulevard and Webster Road in the Town of Orchard Park for construction of Southwestern Blvd., Part 2, C.R. 205; and

WHEREAS, the New York State Department of Transportation currently has maintenance jurisdiction over this land, now known as S.H. 9269, Southwestern Boulevard; and

WHEREAS, 3621 OP LLC c/o West Herr Automotive Company, Inc., the property owner at 3621 Southwestern Boulevard, Orchard Park, wishes to purchase a portion of this land, highway right-of-way associated with Southwestern Boulevard, deemed no longer necessary for County highway purposes by the Erie County Lands Advisory Review Committee (ARC); and

WHEREAS, the New York State Department of Transportation has determined that a portion of the land, consisting of 0.39± acre and designated as Parcel 407 on New York State Department of Transportation Conveyance Map 360-C, may be surplus to State Highway needs; and

WHEREAS, the New York State Department of Transportation may abandon its maintenance jurisdiction over Parcel 407 to the County of Erie, if the Department of Transportation determines that said Parcel 407 is surplus to State Highway needs, and if the County of Erie will accept such maintenance jurisdiction; and

WHEREAS, 3621 OP LLC c/o West Herr Automotive Company, Inc., being the adjoining property owner, will compensate the County of Erie the agreed upon price of \$5,000.00 for the transfer of the 0.39± acre parcel of land at the time of filing in the Erie County Clerk's Office.

NOW, THEREFORE, BE IT

RESOLVED, that for County purposes of transferring land no longer necessary for highway purposes, the County of Erie Department of Public Works hereby accepts maintenance jurisdiction of said property; and be it further

RESOLVED, that for County purposes of transferring land no longer necessary for highway purposes, the County Executive is hereby authorized and directed to convey the County's interest in the parcel of land herein described for and in consideration of the sum described herein; and be it further

RESOLVED, that three (3) certified copies of this resolution be sent to the Department of Public Works, Division of Highways, and one copy each to the Office of the County Executive, the Division of Budget, Management and Finance, and the Office of the Comptroller. (6-0)

9. COMM. 6E-8 (2014)
COUNTY EXECUTIVE

WHEREAS, the County of Erie is interested in the fostering of business growth and job creation within Erie County; and

WHEREAS, Erie County desires to encourage the sound reuse of urban brownfields for productive use, be it industrial, commercial or recreational; and

WHEREAS, the former Bethlehem Steel site in the City of Lackawanna is now owned by Tecumseh Redevelopment Inc. and that Tecumseh Redevelopment Inc., the City of Lackawanna and the County of Erie entered into a Memorandum of Understanding on April 12, 2005, to work cooperatively toward the goal of redevelopment of this underutilized site; and

WHEREAS, the relocation of existing rails are necessary to install new roads and infrastructure to service new and future companies on the site; and

WHEREAS, it is necessary to retain C&S Companies to perform necessary planning and engineering work to determine the best approach to relocating existing rail facilities that will spur future redevelopment of the site; and

WHEREAS, the County Legislature has previously approved the sale of the General Obligation Bonds (Comm.7E-7, 2009) for improvements at this site and funds are available for the project in question.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to execute a contract for Planning and Engineering services with C&S Companies for a Rail Utilization Study, in an amount not to exceed \$57,845; and be it further

RESOLVED, that an amount of \$57,845.00 be allocated for Planning and Engineering Services and an additional amount of \$7,155.00 be allocated for a Department of Environment and Planning design contingency fund from SAP Account A.20911 (Bethlehem Steel Redevelopment) with authorization for the County Executive to approve contract amendments with C&S Companies, not to exceed a total contract amount of \$65,000.00; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Office of the County Executive; the Commissioner of the Department of Environment and Planning; the Commissioner of the Department Public Works; the Director of the Division of Budget and Management; the Comptroller's Office and the County Attorney.
(6-0)

EDWARD A. RATH, III
CHAIR