

JUNE 5, 2008

ECONOMIC DEVELOPMENT COMMITTEE
REPORT NO. 9

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR MILLER-WILLIAMS. CHAIR MARINELLI
PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 9M-8 (2008)
ECIDA: Notice of ECIDA Board of Directors Meeting to be Held on May 12, 2008
(5-0)
 - b. COMM. 9M-11 (2008)
NFTA: Materials from NFTA Board Meeting Held on March 31, 2008
(5-0)
 - c. COMM. 10M-7 (2008)
NFTA: NFTA Cash Flow Statements 4/07-3/08 and 4/08-3/09
(5-0)
2. RESOLVED, the following items is hereby received and filed and referred to the Finance and Management Committee:
 - a. COMM. 10M-17 (2008)
VILLAGE OF EAST AURORA: Assisting Merchants of Village of East Aurora - Construction of Main Street
(5-0)
3. COMM. 10E-12 (2008)
COUNTY EXECUTIVE
WHEREAS, the Erie County Department of Public Works, Division of Highways is planning to reconstruct Aero Drive (CR 324) and Youngs Road (CR 554) intersection, in the Town of Cheektowaga, County of Erie; and

WHEREAS, in order to facilitate the reconstruction of the road, it will be necessary for the County to acquire by fee, portions of real property at Aero Drive and Youngs Road Intersection;

Parcel Number
81.03-3-11.1

Township
Cheektowaga

such property to be acquired by the County is hereinafter referred to as the "Subject Property"; and

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

WHEREAS, the acquisitions of the portions of the Subject Property are de minimis in nature so that the public interest will not be prejudiced by the improved pavements conditions, replacement of the traffic signal systems with a modern roundabout and other general improvements to the subject section of Aero Drive (CR 324) and Youngs Road (CR 554); and

WHEREAS, should the owner of the Subject Property refuse to convey such portions of their real property to the County for an amount not exceeding fair market value, it will be necessary for the County to acquire the Subject Property by commencing eminent domain proceedings; and

WHEREAS, extensive community outreach, public meetings, individual property owner meetings and thorough design review with redesign as necessary and appropriate has been performed in order to minimize property acquisition; and

WHEREAS, without this property acquisition, the project cannot meet Federal Aid Guidelines and therefore put an effective end of the project.

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie is authorized to acquire fee to the aforementioned Subject Property for the purpose of reconstructing and improving the aforementioned intersection of Aero Drive (CR 324) and Youngs Road (CR 554); and be it further

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

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to negotiate and offer just compensation amounts to the owners of the Subject Property for the purpose of acquiring interests in portions of their respective parcel of real property by fee, which acquisitions are necessary for the Aero Drive (CR 324) and Youngs Road (CR 554) highway reconstruction 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 based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisitions of portions of the aforementioned Subject Property are de minimis in nature; and be it further

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

RESOLVED, that the expenses of acquiring the Subject Property shall be derived from funds not to exceed \$29,150 previously appropriated by the County Legislature for Right-of-Way Incidentals and Right-of-Way Acquisition Phases for the Reconstruction of Aero Drive and Youngs Road intersection, such appropriations having been made by Resolution Communication Number 7E-28 on May 26, 2006, and included in the 2002 Youngs /Aero Intersection Design Program (SAP B.00043); and be it further

RESOLVED, should the owner of the Subject Property refuse to convey such portions of their real property to the County for an amount not to exceed fair market value, the County Executive be authorized to commence eminent domain procedures; and be it further

RESOLVED, that three (3) certified copies of this resolution shall be sent to the Department of Public Works, Office of the Commissioner and one copy each to the County Executive, the County Comptroller, the County Attorney, and the Director of Budget, Management and Finance.
(5-0)

4. COMM. 10E-33 (2008)
COUNTY EXECUTIVE

WHEREAS, a project for the rehabilitation of CR 192, Maple Road, from U.S. Route 62, Niagara Falls Boulevard to Flint Road and North Bailey Avenue from Maple Road to Romney Road, in the Town of Amherst, Erie County, PIN 5755.47 (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs 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 above Project by making a commitment of 100% of the non-Federal share of the costs of Preliminary Engineering (Scoping and Design I-VI), Right-of-Way Incidentals and Right-of-Way Acquisition Phases of the Project, PIN 5755.47; and

WHEREAS, in order to facilitate the rehabilitation of the road, it will be necessary for the County to acquire by temporary easement, portions of real property in the vicinity of the road;

<u>PORTIONS OF TAX MAP SBL NUMBERS</u>	<u>TOWNSHIP</u>
054.03-1-13	Amherst
054.03-1-9.11	Amherst
054.04-1-17.1	Amherst
054.04-1-9.111	Amherst
054.74-3-13	Amherst

such property to be acquired by the County is hereinafter referred to as the "Subject Properties"; and

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

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

WHEREAS, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not exceeding fair market value, it will be necessary for the County to acquire the Subject Properties by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

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

RESOLVED, that the County Legislature of the County of Erie hereby authorizes the County of Erie to pay in the first instance 100% of the Federal and non-Federal shares of the costs of Preliminary Engineering (Scoping and Design I-VI), Right-of-Way Incidentals and Right-of-Way Acquisition Phases of the Project or portions thereof; and be it further

RESOLVED, that the sum of \$302,000.00 has previously been appropriated from the 2001 Federal Aid Road and Bridge Project Program (SAP B.00020) via County Resolution 13E-22 adopted July 10, 2003 and made available to cover the cost of participation in the above phases of the Project; and be it further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and non-Federal shares of the cost of the Project's Preliminary Engineering (Scoping and Design I-VI), Right-of-Way Incidentals and Right-of-Way Acquisition Phases exceeds the amount appropriated \$302,000.00 and/or 100% of the full Federal and non-Federal shares of the cost of the Preliminary Engineering (Scoping and Design I-VI), Right-of-Way Incidentals and Right-of-Way Acquisition Phases exceeds \$1,509,000.00, the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and be it further

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the County of Erie with the NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal Aid and State Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and be it further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation, by attaching it to any necessary Agreement in connection with the Project; and be it further

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

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

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

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

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

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

RESOLVED, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not to exceed fair market value, the County Executive be authorized to commence eminent domain procedures; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation and also one copy each to the Office of the County Executive, the Office of Budget, Management and Finance and the Office of the Commissioner.
(5-0)

5. COMM. 10E-34 (2008)

COUNTY EXECUTIVE

AS AMENDED

WHEREAS, the existing Boiler Fuel Tank is 40 years old and in need of replacement and does not comply with DEC regulations; and

WHEREAS, the Department of Public Works received bids on May 1, 2008 for the Erie County Home Boiler Fuel Tank Replacement; and

WHEREAS, the Erie County Home Administration, M.E. Engineering, and the Department of Public Works are recommending award to the lowest responsible bidder, L&O Plumbing and Heating Inc., in the amount of \$219,800.00; and

WHEREAS, the County Executive is requesting authorization from your honorable body to issue a contract to L&O Plumbing and Heating Inc. for the Erie County Home Boiler Fuel Tank replacement and a Supplemental Agreement to the Engineering Firm of M.E. Engineering for Design and Construction Administration Services to complete the project. Your honorable body has previously authorized a General Engineering Agreement to M.E. Engineering to provide Professional Services.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to enter into a contract with L&O Plumbing and Heating Inc. for the Erie County Home Boiler Fuel Tank replacement in the amount of \$219,800.00; and be it further

RESOLVED, that The County Executive be authorized to issue a Supplemental Agreement to M&E Engineering for providing Professional Design and Construction Administration Services for the Erie County Home Boiler Fuel Tank replacement in the amount not to exceed \$18,000.00, including reimbursables; and be it further

RESOLVED, that the sum of \$25,000.00 be allocated to a Construction Contingency Fund with the authorization for the County Executive to approve Change Orders in the amount not to exceed the contingency; and be it further

RESOLVED, that Deduct Change Orders will result in these funds being returned to the Contingency Fund; and be it further

RESOLVED, that the Comptrollers Office be authorized to make payments for all of the above from SAP Project H.00012 – 1997 Oil Tank Replacement in the amount of \$225,524.00 and SAP Project H.00009 – 2003 Fuel Oil Tank Replacement in the amount of \$62,276.00, for a total amount not to exceed \$287,800.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of County Executive, the Division of Budget, Management and Finance, the Office of the Comptroller, and the Administration of the Erie County Home.

(5-0)

TIMOTHY M. KENNEDY
CHAIR