

February 29, 2024

ECONOMIC DEVELOPMENT COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT.

CHAIR BASKIN PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:

a. COMM. 4E-3 (2024)

**GREENE:** “Letter Concerning Conner Road in Clarence”  
(Chair’s Ruling)

b. COMM. 4D-4 (2024)

**COMMISSIONER OF PUBLIC WORKS:** “2024 Road Program”  
(Chair’s Ruling)

2. COMM. 4E-14 (2024)

**COUNTY EXECUTIVE**

WHEREAS, the Wehrle Drive (CR 275) Pedestrian Accommodations from Sunset Park to West Shore Trail, Town of Clarence, PIN 5763.59 (the “Project”) is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of Federal funds and a local share; and

WHEREAS, the Town of Clarence has completed construction of the Project; and

WHEREAS, the Town of Clarence requires the County of Erie to accept ownership of the property acquired by the Town for County facilities along the trail or rights therein to all involved property in connection with the Project; and

WHEREAS, it is necessary for the County of Erie to commit to accepting the property upon completion of the above-mentioned construction project; and

WHEREAS, the County of Erie must execute and file all documents necessary with the County Clerk and others to facilitate the transfer of the parcel.

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie hereby agrees to accept all acquired property from the Town or its agencies for County facilities and to keep the property for the length of time required; and be it further

RESOLVED, that authorization is hereby given to the County Executive of the County of Erie, following the County Attorney's review, to execute any agreements or documents necessary to effectuate the purposes of this Resolution; 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, to be forwarded to the Town of Clarence and the County Clerk and one certified copy of this Resolution be forwarded to the Division of Budget and Management.

(6-0)

3. COMM.4E-15 (2024)

**COUNTY EXECUTIVE**

WHEREAS, the Reconstruction of William St. (CR388) from Transit Road (NYS 20/78) to Bowen Road (CR242), Twon of Lancaster, PIN 5763.36 (the “Project”) is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of Federal funds and a local share; and

WHEREAS, the County of Erie in conjunction with the New York State Department of Transportation, is currently progressing the Reconstruction of William Street (CR 338) from Transit Road (NYS 20/78) to Bowen Road (CR 242), Town of Lancaster, PIN 5763.36 (the “Project”); and

WHEREAS, the New York State Department of Transportation requires the County of Erie to agree to accept ownership of any property acquired by the State or rights therein to all involved property in connection with the Project; and

WHEREAS, it is necessary for the County of Erie to commit to accepting the properties upon completion of the above-mentioned construction project; and

WHEREAS, the New York State Department of Transportation further requests that the County of Erie executes and files all documents necessary with the County Clerk and others in order to facilitate the transfer of the parcels.

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie hereby agrees to accept all acquired property from the State or its agencies and to keep the property for the length of time required; and be it further

RESOLVED, that if County of Erie property is required to construct the Project that the County of Erie will provide Temporary Construction Easements (TE) at no cost to the State; and be it further

RESOLVED, that authorization is hereby given to the County Executive of the County of Erie, following the County Attorney's review, to execute any agreements or documents necessary to effectuate the purposes of this Resolution; and be it further

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

RESOLVED, that the Clerk of the Legislature forward six (6) 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 one certified copy of this Resolution to the Division of Budget and Management.

(6-0)

4. COMM. 4E-16 (2024) **AS AMENDED**  
**COUNTY EXECUTIVE**

WHEREAS, the design of Abbott Road (CR 4) from Milestrip Road to Fisher Road (the “Project”) was authorized by the legislature in COMM 2E-16 (2023); and

WHEREAS, construction of the project requires the County Executive to enter into a design and construction phase agreement with Norfolk Southern Railroad; and

WHEREAS, the total cost of the agreement is estimated at \$27,000.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into agreement with Norfolk Southern Railroad for design and construction phase engineering services in reference to the construction of Abbott Road (CR 4) from Milestrip Road to Fisher Road; and be it further

RESOLVED, that authorization is hereby given to the County Executive to execute the agreement for preliminary services in the amount of \$27,000 for Norfolk Southern Railroad from Fund Center 123, Fund 420, B.20009 – 2020 Turn Back of Roads; and be it further

RESOLVED, that authorization is hereby given to Erie County Comptroller to make payments related to this contract; and be it further

RESOLVED, that the Clerk of the Legislature forward one (1) certified copy of this Resolution to the Department of Public Works, Division of Highways, and also one (1) copy each to the County Executive’s Office, Comptroller’s Office and the Division of Budget and Management.

(6-0)

5. COMM. 4E-17 (2024)  
**COUNTY EXECUTIVE**

WHEREAS, the Buffalo & Erie County Downtown Library last had its’ roof constructed in 1999; and

WHEREAS, the typical lifespan for a roof of this type is approximately 20 years and is therefore beyond its useful life; and

WHEREAS, in conjunction with, as well as funded by, the Buffalo Sewer Authority, the County commissioned a Feasibility Study to examine the Downtown Library to determine if the roof could support the additional load of a vegetative roofing system where the study confirmed that the eastern portion of the roof at the facility is a good application for a vegetative roof system; and

WHEREAS, the County has applied for a state grant through the Green Infrastructure Grant Program (GIGP) that, if awarded, would cover up to 90% of the cost to add a vegetative roofing system to the eastern 70% of the roof; and

WHEREAS, the Library’s roof is showing signs of deterioration and will be replaced regardless of an award from the Green Infrastructure Grant applied for; and

WHEREAS, the County solicited RFPs for an Architectural and Engineering firm the Department of Public Works standard consultant selection process to design a traditional roof replacement with the option to design a vegetative roofing system pending award of the GIGP funding; and

WHEREAS, the County selected Watts Architectural through a qualifications based selection process to design the traditional roof at a cost of \$182,550 and the vegetative roof at a cost of \$102,170; and

WHEREAS, unforeseen circumstances can require changes to the design and the County requests a design contingency fund to be approved in the amount of \$25,000; and

WHEREAS, the County Executive is requesting authorization to enter into an Agreement with Watts Architectural to provide professional A/E Design services for both components of the project including roof replacement as well as design for the vegetative roof, of the Buffalo & Erie County Downtown Library Roof Repair project in an amount not to exceed \$309,720.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into an Agreement with Watts Architectural to provide professional Design services for the Buffalo & Erie County Downtown Library Roof project in an amount not to exceed \$309,720; and be it further

RESOLVED, that authorization is hereby given for a design contingency of \$25,000 to be included as part of the Project; and be it further

RESOLVED, that authorization is hereby given for any unused design contingency will be returned to the Design Contingency Fund; and be it further

RESOLVED, that sufficient funding exists to cover the costs of design within Fund 490, Funds Center 122, Capital Project F.23001 – 2023 DPW BEC Library Roof Replacement; and be it further

RESOLVED, that authorization is hereby given for any federal, state, local or utility grants, incentives, rebates or other funds associated with the installation of green infrastructure or energy savings to be accepted into and expended out of Project F.23001; and be it further

RESOLVED, that two certified copies of the Resolution be sent to the Department of Public Works, Commissioner’s Office, and one copy each to the County Executive’s Office, Comptroller’s Office, Division of Budget and Management and Buffalo & Erie County Downtown Library.  
(6-0)

6. COMM. 4E-18 (2024)  
**COUNTY EXECUTIVE**

WHEREAS, \$8,000,000 in American Rescue Plan Revenue Loss Funding was appropriated towards the 25 Delaware Exterior Façade Project as part of the American Rescue Plan Omnibus Spending Package – the “RENEW Plan” (COMM. 13E-15 (2021)); and

WHEREAS, \$4,000,000 in funding was appropriated towards the 25 Delaware Exterior Façade Project as part of the 2021 Year-End Budget Balancing Amendments and Designations (COMM. 8E-1 (2022)); and

WHEREAS, unanticipated expenses beyond what was budgeted were realized upon phasing the 25 Delaware Exterior Façade Project rendering the project underfunded and unable to immediately proceed due to budgetary constraints; and

WHEREAS, the American Rescue Plan Revenue Loss Funding requires money to be obligated by the end of the year which can be best accomplished by transferring the funding to the Rath Microgrid System Project; and

WHEREAS, the County of Erie wishes to identify the most effective means to reduce energy consumption while also providing reliable power to critical facilities; and

WHEREAS, pursuant to that goal, a Request for Proposal was issued to provide architectural and engineering services for a microgrid system at the Rath Building and such proposals were received; and

WHEREAS, your Honorable Body previously authorized the Department of Public Works to execute a zero-dollar contract between the County of Erie and Palm Energy, LLC to begin evaluating and propose a microgrid system on county-owned buildings per COMM. 13E-15 (2022); and

WHEREAS, the first step towards beginning the Energy Performance Contract (“EPC”) process was to conduct a site investigation to determine the feasibility and savings from a microgrid system; and

WHEREAS, the Rath building was found to be a suitable candidate for installing a microgrid system; and

WHEREAS, the Rath Building’s generator as well as main electrical switchgear are original to the building and therefore have exceeded their useful lifespan with replacement parts becoming increasingly difficult to source; and

WHEREAS, this project includes replacement of the main electrical infrastructure for the building as well as the providing whole building backup generation power by installation of the proposed microgrid system renovation; and

WHEREAS, this project also includes improvements of the 4th floor roof as the microgrid system equipment will be located on the roof above the 4<sup>th</sup> floor; and

WHEREAS, improvements to the roof will be under warranty for 20 years from the date of completion; and

WHEREAS, all federal, state and utility incentives received by the County in direct result of projects included within the EPC will be returned into A.20007 – Energy Conservation Implementation Measures; and

WHEREAS, the savings from the EPC will cover the cost of the project, not to exceed an amount of \$11,659,896; and

WHEREAS, funding in the amount of \$9,500,000 authorized for the façade exterior at 25 Delaware Avenue will be reallocated to a new capital project account to pay for this project.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes that \$9,500,000 in funding within the Division of Buildings and Grounds (Fund 410, Funds Center 122) Capital Project A.21167 – 25 Delaware Exterior Façade Project be re-appropriated into a new Capital Project for the Rath Microgrid System Project as follows:

Project A.21167 25 Delaware Exterior Façade Project Fund 410, Funds Center 122			
REVENUES	ORIGINAL	DECREASE	NEW
486000 Interfund Revenue Subsidy	<u>\$12,000,000</u>	<u>(\$9,500,000)</u>	<u>\$2,500,000</u>
TOTAL	\$12,000,000	(\$9,500,000)	\$2,500,000

APPROPRIATIONS	ORIGINAL	DECREASE	NEW
Capital Project Expense	<u>\$12,000,000</u>	<u>(\$9,500,000)</u>	<u>\$2,500,000</u>
TOTAL	\$12,000,000	(\$9,500,000)	\$2,500,000

Project A.21XXX  
Rath Microgrid System Project  
Fund 410, Funds Center 122

REVENUES	ORIGINAL
486000 Interfund Revenue Subsidy	<u>\$9,500,000</u>
TOTAL	\$9,500,000

APPROPRIATIONS	ORIGINAL
Capital Project Expense	<u>\$9,500,000</u>
TOTAL	\$9,500,000

and be it further

RESOLVED, that authorization is hereby given to the County Executive to enter into an Agreement with Palm Energy, LLC. in the form of an Energy Performance Contract in an amount not to exceed \$11,659,896; and be it further

RESOLVED, that Palm Energy LLC performed site investigations and developed a cost-effective proposal to install a microgrid system on the Rath building and, it is the desire of the Department of Public Works that construction move forward under the stipulations of the EPC; and be it further

RESOLVED, that authorization is hereby given for the sum of \$750,000 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 change order reductions or unused construction contingency will result in these funds being returned to the Construction Contingency Fund; and be it further

RESOLVED, that sufficient funding exists to cover the cost of this EPC within the following Division of Buildings and Grounds Capital Projects (Fund 410, Funds Center 122):

A.23001 - DPW (Buildings and Grounds) – Roof Replacement and Exterior Waterproofing (Countywide)	\$ 217,122.46
A.21110 – DPW (Buildings and Grounds) – Rath Building Improvements	\$ 1,942,773.54
A.21XXX – Rath Microgrid System Project	<u>\$ 9,500,000.00</u>
Total Not to Exceed	\$11,659,896.00

and be it further

RESOLVED, that authorization is hereby given for all federal, state and utility incentives resulting from the Rath Microgrid System Project be recorded and expended in Capital Project (Fund 410, Funds Center 122) A.20007 – Energy Conservation Implementation Measures; and be it further

RESOLVED, that authorization is hereby given for the Director of Budget and Management to make all necessary budgetary entries and technical adjustments to effectuate the re-appropriation of funds and recognition of future federal, state and utility incentives; 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, and one (1) copy each to the County Executive’s Office, Comptroller’s Office, Department of Environment and Planning and Division of Budget and Management. (6-0)

**HOWARD J. JOHNSON, JR.**  
**CHAIR**