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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

December 18, 2012

Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

RE: Erie County Courts – 2010 – Exterior Site Work – Old County Hall and Erie County Court Building – Additional A/E Fee

Dear Honorable Members:

The Erie County Department of Public Works, Division of Buildings and Grounds received bids for the Erie County Courts – 2010 – Exterior Site Work – Old County Hall and Erie County Court Building project on July 1, 2010, and your Honorable Body approved a contract with Patrick Development to perform the work on July 22, 2010.

During the execution of the work, Patrick Development failed to perform and pay their suppliers and subcontractors; and on December 6, 2011, the County was forced to invoke their Performance Bond. The delays the contractor caused and the additional work put forth by the County's Engineering Consultant, Greenman-Petersen, Inc. (formerly Abate Engineering) is now requiring additional A/E fees to complete the project.

Should your Honorable Body require further information, I encourage you to contact Commissioner John C. Loffredo, at the Department of Public Works. Thank you for your consideration on this matter.

Sincerely,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP:dab

cc: John C. Loffredo, Department of Public Works

MEMORANDUM

COMPTROLLER'S RECEIVED
12 DEC 3 PM 1:31

To: Honorable Members of the Erie County Legislature
From: Division of Real Estate and Asset Management
Re: Erie County Courts – 2010 – Exterior Site Work – Old County Hall and Erie County Court Building – A/E Fees
Date: December 3, 2012

SUMMARY

On May 29, 2008 your Honorable Body authorized the A/E firm of Greenman-Petersen, Inc. (formerly Abate Engineering) to provide design and construction documents for the exterior site work project at Old County Hall & Erie County Court Building. After award of the construction contract to Patrick Development, the Contractor failed to perform their work and the County invoked their Performance Bond on December 6, 2011. In resolving the project conflicts with the Surety Company, Greenman-Petersen, Inc. has had to provide additional engineering and inspection time and is requesting additional A/E fees. The Surety Company has agreed to reimburse the County for a portion of the additional engineering fee.

FISCAL IMPLICATIONS

Funds are available from previously approved, as amended, 2009 capital budget, SAP Project Account A.20919 - 2009 – Exterior Waterproofing and Site Work.

REASONS FOR RECOMMENDATION

In order to complete the construction work under the direction of the Surety Company for Patrick Development, the County's Engineering Consultant, Greenman-Petersen, Inc. (formerly Abate Engineering) has had to expend additional engineering and inspection time to complete the project.

BACKGROUND INFORMATION

On January 22, 2010, the Erie County Legislature authorized the County Executive to enter into a contract with the firm of Patrick Development for the exterior site work at Old County Hall and Erie County Court Building. After award of the construction contract to Patrick Development, they became delinquent and failed to perform their work and pay their subcontractors, resulting in the County invoking their Performance Bond on December 6, 2011. Since that time the County, Greenman-Petersen, Inc. and Surety Company have been working together to arrive at a mutually acceptance take over agreement so the project can be finished. Due to the delays caused by the contractor and Surety Company taking over the project, Greenman-Petersen, Inc. had to expend additional time. The Surety Company has agreed to reimburse the County for a portion of the extra A/E fees.

CONSEQUENCES OF NEGATIVE ACTION

The A/E firm of Greenman-Petersen, Inc. would sue the County for their additional fees.

STEPS FOLLOWING APPROVAL

A Contract Amendment will be executed by the County Executive with the firm of Greenman-Petersen, Inc. (formerly Abate Engineering)

COMPTROLLER'S OFFICE REVIEW

The proposed legislation has been reviewed by the Comptroller's Office and is related to an authorized capital project for which there are sufficient appropriations for the action proposed.

Lorne H. Steinhart

LORNE H. STEINHART 12/4/12
Acting Comptroller
Comptroller's Office

File Copy (DPW.12.3.12.Courts Exterior SiteWork)

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF PUBLIC WORKS, DIVISION OF BUILDINGS AND GROUNDS

RE: Erie County Courts – 2010 – Exterior Site Work – Old County Hall and Erie County Court Building – Additional A/E Fees

WHEREAS, the Erie County Division of Real Estate received bids for the Erie County Courts – 2010 – Exterior Site Work – Old County Hall and Erie County Court Building on July 1, 2010 ; and

WHEREAS, the contractor performing the work, Patrick Development, has failed to perform and pay their subcontractors and the County was forced to invoke their Performance Bond on December 6, 2011, and have their Surety Company complete the work. This has caused the A/E firm of Greenman-Petersen, Inc. (formerly Abate Engineering) to expend a considerable amount of additional time on the project; and

WHEREAS, your Honorable Body has previously approved a General Architectural/Engineering Agreement with the Engineering firm of Greenman-Petersen, Inc. (formerly Abate Engineering) for providing professional services on County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to Greenman-Petersen, Inc. (formerly Abate Engineering) for providing additional professional design and construction services for the Erie County Courts – 2010 – Exterior Site Work – Old County Hall and Erie County Court Building project.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to issue an Agreement Amendment with the firm of Greenman-Petersen, Inc. (formerly Abate Engineering) to provide additional design work for an amount not to exceed $25,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from SAP Project account A.20919 - 2009 – Exterior Waterproofing and Site Work, for an amount not to exceed $25,000; 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.