



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

June 18, 2013

Erie County Legislature
92 Franklin Street – 4th Floor
Buffalo, New York 14202

**Re: Right-of-Way (ROW) Acquisition, Tonawanda Rails to Trails - NYSDOT PIN
5756.84 Town of Tonawanda & City of Tonawanda - Erie County**

Dear Honorable Members:

Please find enclosed for your approval a proposed resolution authorizing the County of Erie to acquire Right-of-Way to facilitate construction of the Tonawanda Rails to Trails project.

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

Sincerely,

A handwritten signature in blue ink that reads "Mark C. Poloncarz".

Mark C. Poloncarz, Esq.
Erie County Executive

Enclosure
MCP/bb

cc: John Loffredo, Department of Public Works

MEMORANDUM

COMPTROLLER'S
RECEIVED

To: Honorable Members of the Erie County Legislature
From: Right-of-Way (ROW) Acquisition
Tonawanda Rails to Trails - NYSDOT PIN 5756.84
Town of Tonawanda & City of Tonawanda -Erie County
Date: June 5, 2013

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SUMMARY

Department of Public Works is requesting authorization for the County of Erie to acquire Right-of-Way (ROW) from any or all of: the Niagara Frontier Transportation Authority (NFTA); the New York State Department of Transportation (NYSDOT); the Town of Tonawanda; the City of Tonawanda, and such other property owners as may be required for the construction of a multi-use pedestrian/bike path and access/facilities for the path along the Right-of-Way of an abandoned rail line owned by NFTA that runs from Kenmore Avenue in the Town of Tonawanda to East Niagara Street in the City of Tonawanda, Erie County.

FISCAL IMPLICATIONS

Funds for ROW acquisition not to exceed \$50,000.00 are to be allocated from SAP B.13016, Capital Overlay Program (Countywide).

REASONS FOR RECOMMENDATION

Acquisition of ROW before September 30, 2013 is necessary to prevent project cancellation.

BACKGROUND INFORMATION

The project consists of the construction of approximately 4.10 miles of a paved multi-use pedestrian/bike path through the Town and City of Tonawanda which would run from Kenmore Avenue to East Niagara Street. Acquisition of ROW is necessary to construct the project. The project has the support of the municipalities involved.

CONSEQUENCES OF NEGATIVE ACTION

If ROW is not at least partially acquired by September 30, 2013 federal funding for the project (80% of project cost) will be lost and the project will be terminated.

STEPS FOLLOWING APPROVAL

The ROW necessary to construct the project will be acquired.

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.



Gregory Gach
Deputy Comptroller

**A RESOLUTION SUBMITTED BY:
DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS**

RE: Right-of-Way (ROW) Acquisition Tonawanda Rails to Trails -NYSDOT PIN 5756.84 Town of Tonawanda & City of Tonawanda - Erie County

WHEREAS, it is desired to acquire the ROW necessary to construct a multi-use paved pedestrian/bike pathway from Kenmore Avenue in the Town of Tonawanda to State Street in the City of Tonawanda, along an unused railroad ROW owned by NFTA, the "Project" known as Tonawanda Rails to Trails, a federal aid project identified as NYSDOT PIN 5756.84; and

WHEREAS, acquisition of ROW may involve acquisition of real property interests by fee, permanent easement, temporary easement, use and occupancy permit or by lease with any or all of: the Niagara Frontier Transportation Authority, the New York State Department of Transportation, the Town of Tonawanda, the City of Tonawanda and such other property owners as may be required (the Property Owners); and

WHEREAS, in order to meet a programmatic deadline of at least partial ROW acquisition by September 30, 2013 to prevent the project from losing federal funding and therefore being terminated partial ROW acquisition must commence prior to the return of the County Legislature from summer recess.

NOW, THEREFORE, BE IT

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

RESOLVED, that a sum not to exceed \$50,000.00 from B.13016, Capital Overlay Program (Countywide) 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 Property Owners for the purpose of constructing the Project; and be it further

RESOLVED, that the County of Erie is authorized to enter into all necessary contracts and agreements for the acquisition of the required ROW to construct the 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 interests 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 Property Owners for the purpose of acquiring the necessary real property interest in portions of their respective parcels of real property by fee, easement, permit and/or lease, which acquisition is necessary for construction of the 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 required ROW from the aforementioned Property Owners; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring fee, easement, permit and/or lease interests in the necessary ROW; 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 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.

TO: GREGORY GACH, COMPTROLLER'S OFFICE

PROPOSED RESOLUTIONS REQUIRING RULE 55

CONTRACT APPROVAL CHECKLIST
CONFIRMATION OF AVAILABILITY OF FUNDS IN CAPITAL PROJECTS

REQUESTING DEPARTMENT

COMPLETE ITEMS 1 THROUGH 5

1. CONTRACTOR'S NAME

Property Owners

2. AMOUNT OF CONTRACT

Total Not to Exceed \$50,000.00

3. PROJECT NUMBER

B.13016

4. PROJECT TITLE

Tonawanda Rails to Trails

5. DEPARTMENT CONTACT

Funding questions:
Charles A. Sickler, PE at 8372
Letter pickup: Diane Bukowski at 8301

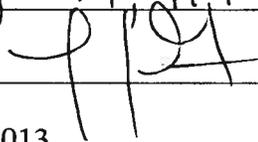
COMPTROLLER'S OFFICE

COMPLETE ITEMS 6 AND 7

6. AVAILABILITY OF FUNDS

\$ 6,749,119.37

7. PERFORMED BY



Date Sent to Comptroller's Office:

June 5, 2013

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