



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

July 8, 2016

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

**Re: Tonawanda Rails to Trails Extension
Right-of-Way (ROW) Acquisition - NYSDOT PIN 5761.02
City of Tonawanda**

Dear Honorable Members:

Please find enclosed for your approval a resolution authorizing the County to acquire right-of-way to facilitate construction of the Tonawanda Rails to Trails Extension in the City of Tonawanda.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Poloncarz", written in a cursive style.

Mark C. Poloncarz, Esq.
Erie County Executive

cc: John Loffredo, Department of Public Works

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Tonawanda Rails to Trails Extension
Right-of-Way (ROW) Acquisition - NYSDOT PIN 5761.02
City of Tonawanda
Date: July 8, 2016

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 Canal Corporation (NYSCC); the City of Tonawanda, and such other property owners as may be required for the construction of a multi-use pedestrian/bike path and associated access/facilities in the City of Tonawanda. The path will run along the Right-of-Way (ROW) of an abandoned rail line owned by NFTA from State Street to Fillmore Avenue and will then follow Fillmore Avenue to the path's terminus at East Niagara Street.

FISCAL IMPLICATIONS

Funds for ROW acquisition not to exceed \$43,000.00 are to be allocated from SAP B.13016.19, Tonawanda Rails to Trails ROW.

REASONS FOR RECOMMENDATION

Acquisition of ROW in a timely fashion is required in order to receive construction approval from NYSDOT/FHWA by September 30, 2016, the end of the current federal fiscal year.

BACKGROUND INFORMATION

The project consists of the construction of approximately 0.85 miles of a multi-use pedestrian/bike path through the City of Tonawanda which would run from State Street to East Niagara Street. The section from State Street to Fillmore Avenue, approximately one-half the total length, will be off-road. The Fillmore Avenue section, the remaining half of the project, will be within the Fillmore Avenue ROW and will consist of sidewalk and roadway improvements. The project has the support of the City of Tonawanda.

CONSEQUENCES OF NEGATIVE ACTION

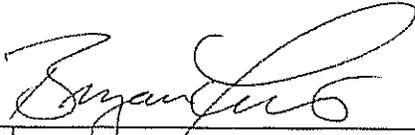
If ROW is not acquired as noted above to permit NYSDOT/FHWA construction authorization by September 30, 2016 federal funding for the project (80% of project cost) may be withdrawn.

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
Comptroller's Office

BRYAN FIUME
Associate Deputy Comptroller

ROW

B.13016 2013

Cap Overlay

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

RE: Tonawanda Rails to Trails Extension
Right-of-Way (ROW) Acquisition-NYSDOT PIN 5761.02
City of Tonawanda

WHEREAS, a project to construct a 0.85 mile long multi-use pedestrian/bike pathway in the City of Tonawanda from State to East Niagara Street, along an unused railroad ROW owned by NFTA and within Fillmore Avenue ROW owned by the City of Tonawanda (the "Project"), said Project known as Tonawanda Rails to Trails Extension a federal aid project identified as NYSDOT PIN 5761.02 was authorized by this honorable body on June 11, 2015 via Communication 11E-10; and

WHEREAS, it is desired to acquire the ROW necessary for the construction of the project; and

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

WHEREAS, in order to allow for acquisition of the required ROW in time for NYSDOT/FHWA to grant construction approval by September 30, 2016, the end of the current federal fiscal year, and to prevent putting the Project's federal funding at risk.

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 \$43,000.00 from Business Area 123, Fund 420, SAP B.13016.19, Tonawanda Rails to Trails ROW 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, lease, license or intermunicipal agreement 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 \$43,000.00

3. PROJECT NUMBER

B.13016.19

4. PROJECT TITLE

Tonawanda Rails to Trails ROW

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

\$ 68,148.62

7. PERFORMED BY

Gregory Gach

Date Sent to Comptroller's Office:

June 16, 2016

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