# COUNTY OF ERIE

**MARK C. POLONCARZ**
COUNTY EXECUTIVE

September 19, 2016

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

**Re: Tonawanda Rails to Trails, PIN 5756.84 Federal-Aid Highway Local Project**
**NYSDOT Supplemental Agreement No. 3**
**Town and City of Tonawanda**

Dear Honorable Members:

The Department of Public Works, Division of Highways is requesting authorization for the County Executive to execute a supplemental agreement with the New York State Department of Transportation for continued participation in the Tonawanda Rails to Trails, PIN 5756.84 Federal-Aid Highway Local Project.

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

Sincerely,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/br/dab

# MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Public Works
Re: Tonawanda Rails to Trails, PIN 5756.84 Federal-Aid Highway Local Project
NYSDOT Supplemental Agreement No. 3
Town and City of Tonawanda
Date: September 19, 2016

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## SUMMARY

This resolution is seeking authorization for the County Executive to execute a supplemental agreement with the New York State Department of Transportation for continued participation in the Tonawanda Rails to Trails, PIN 5756.84 Federal-Aid Highway Local Project.

## FISCAL IMPLICATIONS

The supplemental agreement with NYSDOT adjusts the funding for the construction phase of the project to reflect actual and projected costs. Cost are split 80% federal and 20% County. The County must in the first instance pay 100% of project costs and then apply to NYSDOT for reimbursement for the federal share.

The increase in cost of the construction phase of the project brings the total amount of the NYSDOT supplemental agreement to $3,619,000.00, an increase of $400,000.00 over the County's existing project agreement with NYSDOT. The local share of the increase is $80,000.

In the Federal Aid Projects Construction category of the 2016 Capital Budget, there is a total budgeted amount of $2,512,000 for the Salt Road Bridges and Tonawanda Rails to Trails projects. In Comm. 7E-8 (2016) (the 2016 "omnibus" highway resolution), the resolution mistakenly split up the funding and misstated the estimated total for the federal aid projects. The Capital Budget total of $2,512,000 is to fund both projects.

For the Tonawanda Rails to Trails project, the $80,000 local share with the addition of federal revenue is available from B.16008, 2016 Federal Aid Projects Construction.

## REASONS FOR RECOMMENDATION

The supplemental agreement with NYSDOT brings federal and local project funding in line with actual and projected project costs and allows the project to be completed and closed out.

## BACKGROUND INFORMATION

The supplemental agreement with NYSDOT brings the funding in the County's contract with NYSDOT in line with actual and projected costs and allows execution of final change orders with C&S Companies (Consultant) and Northeast Diversification, Inc. (Contractor), the low bidder for the work performed.

## CONSEQUENCES OF NEGATIVE ACTION

The project will be unable to be closed out and the Consultant and Contractor will be unable to be reimbursed for all the work completed.

## STEPS FOLLOWING APPROVAL

The supplemental agreement with NYSDOT will be executed by the County and returned to NYSDOT for full execution

## COMPTROLLER'S OFFICE REVIEW

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

GREGORY GACH
Deputy Comptroller BRYAN FIUME
Comptroller's Office Associate Deputy Comptroller

B.16008 2016 FEDERAL AID PROJECTS

TONAWANDA RAILS TO TRAILS, PIN 5756.84

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

Re: Tonawanda Rails to Trails, PIN 5756.84 Federal-Aid Highway Local Project
NYSDOT Supplemental Agreement No. 3
Town and City of Tonawanda

WHEREAS, the Tonawanda Rails to Trails Project PIN 5756.84 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 previously advanced the Project by making a commitment of 100% of the Non-Federal share of the costs of the Design; Right of Way and Construction Phases via Legislative Communications 13E-39 of June 24, 2004 and 16E-10 of April 16, 2015; and

WHEREAS, the County of Erie would like to advance the Project's Supplemental Agreement with New York State Department of Transportation which includes an increase to the Construction phase of the Project, by making a commitment of 100% of the Non-Federal share of the costs; and

WHEREAS, the NYSDOT supplemental agreement is in the total amount of $3,619,000.00, an increase of $400,000.00 over the County's existing Project agreement with NYSDOT; and

WHEREAS, the County is required to pay the estimated local share for the increase in Project costs in the amount of $80,000.00 which is available.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the Tonawanda Rails to Trails, PIN 5756.84 Federal-Aid Highway Local Project and supplemental agreement number 3; 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 cost of the Construction phase of the Project or portions thereof; and be it further

RESOLVED, that the Project budget be adjusted to reflect the anticipated federal revenue for the construction phase as follows:

Fund 420, BA 123, B.16008, 2016 Federal Aid Projects Construction:

| REVENUES | | CURRENT BUDGET | INCREASE/ DECREASE | REVISED BUDGET |
|---|---|---|---|---|
| Account | Description | | | |
| 414000 | Federal Aid | $2,012,000. | $320,000. | $2,332,000. |
| 475000 | Gen Oblig Bond Proc | $500,000. | | $ 500,000. |
| TOTAL REVENUES | | $2,512,000. | $320,000. | $2,832,000. |
| APPROPRIATIONS | | | | |
| Capital Projects | Capital Project Exp | $500,000. | $320,000. | $820,000. |
| Unallocated | Unallocated Capital | $2,012,000. | | $2,012,000. |
| TOTAL APPROPRIATIONS | | $2,512,000. | $320,000 | $2,832,000. |

; and be it further

RESOLVED, that the estimated total cost increase of the Construction Phase of the Project, $400,000.00, is hereby appropriated from Fund 420 SAP Projects B.16008, 2016 Federal Aid Projects Construction 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 Phases as described above exceed the amounts noted the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount; 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 on behalf of the County of Erie, (subject to the County of Erie Attorney's approval as to form and content), with the New York State Department of Transportation in connection with the advancement or approval of the Project identified in the State/Local Agreement; and providing for the administration of the Project and the County's first instance funding of Project costs and permanent funding of the local share of Federal-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 ten (10) certified copies of this resolution be forwarded to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget and Management, the Office of the County Attorney, 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 | NYS Department of Transportation |
| 2. AMOUNT OF CONTRACT | Total Contract = $3,619,000.00<br>Increase over existing Contract = $400,000.00<br>(ADDITIONAL LOCAL SHARE= $80,000.00) |
| 3. PROJECT NUMBER | B.16008 |
| 4. PROJECT TITLE | Tonawanda Rails to Trails – Pin 5756.84<br>2016 Federal Aid Projects –Highway Local<br>Town and City of Tonawanda |
| 5. DEPARTMENT CONTACT | Funding questions: Charles A. Sickler, PE at 8372<br>Letter pickup: Diane Bukowski at 8301 |

| COMPTROLLER'S OFFICE | COMPLETE ITEMS 6 AND 7 |
|---|---|
| 6. AVAILABILITY OF FUNDS | $ 2,832,000.00 |
| 7. PERFORMED BY | [illegible] |
| Date Sent to Comptroller's Office: | September 6, 2016 |

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