



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

September 29, 2016

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

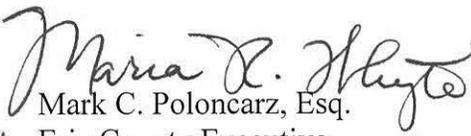
**RE: Tonawanda Rails to Trails, PIN 5756.84
Federal-Aid Highway Local Project
Change Orders - Construction Contract with Northeast Diversification, Inc.
Construction Services Contract with C&S Companies
Town & City of Tonawanda, County of Erie**

Dear Honorable Members:

The Department of Public Works, Division of Highways is requesting authorization for the County Executive to execute necessary change orders to the existing construction contract with Northeast Diversification, Inc., and the construction services contract with C&S Companies.

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.
Dpty 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
Change Orders - Construction Contract with Northeast Diversification, Inc.
Construction Services Contract with C&S Companies
Town & City of Tonawanda, County of Erie
Date: September 29, 2016

SUMMARY

This resolution is seeking authorization for the County Executive to execute necessary change orders as negotiated by the Commissioner of Public Works to the existing construction contract with Northeast Diversification, Inc., and the construction services contract with C&S Companies pending execution of Supplemental Agreement #3 with NYSDOT after approval of the authorizing resolution.

FISCAL IMPLICATIONS

Supplemental Agreement #3 (SA #3) increases the construction phase of the County's existing project agreement with NYSDOT from \$2,682,000 to \$3,082,000 an increase of \$400,000. This increase was due to changes to the project necessary to meet field conditions, address municipal concerns, accommodate changes requested by NYSDOT, incorporate updates to specifications and to enhance safety. The changes resulted in additional construction and engineering costs.

The project is in the process of being closed out. This resolution requests authority to negotiate and execute final change orders for both Northeast Diversification, Inc. and C&S Companies in an aggregate not to exceed \$400,000. The exact amount of the respective change orders will be determined during the project closeout process.

As noted in a separate resolution Erie County's SA #3 local share of 20% or \$80,000 with the addition of federal revenue is available from B.16008, 2016 Federal Aid Projects Construction.

REASONS FOR RECOMMENDATION

The project is in the process of being closed out. In order to be able to pay the contractor in a timely fashion a final change order must be negotiated, reviewed and finally executed by the County Executive's office which process cannot be completed without legislative authority.

Legislative authority is similarly required to negotiate and execute a final change order which will provide for timely payment for C&S Companies who provided construction phase engineering services for the project.

BACKGROUND INFORMATION

As noted above multiple changes were incorporated during the project to meet field conditions, improve operation and maintenance of the trail (which is being taken over by the Town of Tonawanda and the City of Tonawanda for their respective portions), address municipal concerns, incorporate changes requested by NYSDOT, comply with updated specification requirements and to enhance safety. The net effect of the added work was an extension of the completion date for the project and additional engineering and inspection effort.

CONSEQUENCES OF NEGATIVE ACTION

The necessary change orders will not be executed, the project will be unable to be closed out and neither the contractor, Northeast Diversification, Inc. nor the consultant, C&S Companies will be paid in a timely fashion.

STEPS FOLLOWING APPROVAL

Final change orders will be negotiated and executed for both Northeast Diversification, Inc. and C&S Companies in an aggregate amount not to exceed \$400,000. Upon execution of the change orders and completion of normal project closeout procedures payment will be made to both.

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 will be sufficient appropriations for the action proposed pending the adoption of the authorization to enter into a Supplemental Agreement with the New York State Department of Transportation which includes the addition of anticipated Federal revenue.



GREGORY GACH
Deputy Comptroller
Comptroller's Office

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
Change Orders for Construction Contract with Northeast Diversification, Inc.
Construction Services Contract with C&S Companies
Town & City of Tonawanda, County of Erie

WHEREAS, the County of Erie desires to close out the construction phase of Tonawanda Rails to Trails 5756.84 Project, “the Project”; and

WHEREAS, work was added to the project to meet field conditions, improve operation and maintenance of the trail, address municipal concerns, comply with updated specifications and direction from NYSDOT, and enhance safety; and

WHEREAS, execution of a supplemental agreement with NYSDOT for the work referenced herein is pending approval of the authorizing resolution; and

WHEREAS, the referenced supplemental agreement increases the funding for the construction phase of the project from \$2,682,000 to \$3,082,000, an increase of \$400,000; and

WHEREAS, it is desired to negotiate and execute a final change order for the construction of the Project for Northeast Diversification Inc., the contractor; and

WHEREAS, it is desired to negotiate and execute a final change order with project engineers, C&S Companies for construction phase services for the Project; and

WHEREAS, it is desired to negotiate and execute the noted change orders within the funding provided by NYSDOT’s supplemental agreement.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the above subject Project; and be it further

RESOLVED, that the County Executive, pending approval and execution of the supplemental agreement with NYSDOT, be authorized to execute change orders for the Project as negotiated by the Commissioner of Public Works with the contractor, Northeast Diversification and the engineer, C&S Companies in an aggregate amount not to exceed \$400,000 which upon approval of the authorizing resolution and execution of the supplemental agreement will be appropriated from Fund 420, BA123, SAP B.16008, 2016 Federal Aid Projects Construction; and be it further

RESOLVED, that three (3) certified copies of this resolution be forwarded to the Department of Public Works, one copy each to the Office of the County Executive, Division of Budget and Management, 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 Northeast Diversification, Inc.
C&S Companies
2. AMOUNT OF CONTRACT Aggregate amount not to exceed \$400,000.00
3. PROJECT NUMBER B.16008
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 \$ 2,832,000.00
 7. PERFORMED BY 
- Date Sent to Comptroller's Office: September 20, 2016

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