

65881

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner, Public Works and Transportation

DATE: November 2, 2018

SUBJECT: Authority to amend the resolution approved March 9, 2017 which authorized the County of Westchester to default Caladri Development Corp. in connection with Contract No. 12-501, and to enter into a Takeover Agreement with its surety, Allied World Specialty Insurance Company or its designee, in order to accept \$400,000.00 from the surety instead of a takeover agreement.

On December 18, 2014, the County of Westchester ("County"), acting by and through the Department of Public Works and Transportation (the "Department"), awarded Contract No. 12-501 (the "Agreement"), Restoration of Historic Buildings (the "Work"), Ward Round Ridge, Towns of Lewisboro and Pound Ridge, New York to Caladri Development Corp., 1223 Park Street, Peekskill, New York 10566, in the amount of \$1,890,000.00. The parties subsequently entered into a contract dated January 30, 2015. In accordance with the Agreement, Caladri Development Corp. furnished the County with a Performance and Payment Bond issued by Darwin National Assurance Company, (now known as Allied World Specialty Insurance Company) (the "Surety") as surety for the Agreement and the project.

By resolution approved on March 9, 2017 (the "March 9th Resolution"), your Honorable Board authorized the County, after Caladri repeatedly failed or refused to comply with significant material terms of the Agreement, to declare Caladri in default, to terminate the Agreement, and to enter into a takeover agreement with the Surety and to take all necessary measures to complete this project. The takeover agreement has not yet been executed. Additionally, authorization was requested to advertise for bids for the completion of the Work remaining in the Agreement if the Surety does not promptly proceed to undertake the Work.

Recently the Surety, while recognizing its obligations under the Bond, proposed to pay the County \$400,000.00 to be released of its obligation to complete the Work rather than enter into a takeover agreement. The Department has determined that this amount, together with remaining funds, would be a sufficient amount to complete the Work. Accordingly, authority is respectfully requested to amend the March 9th Resolution for the limited purpose of changing the form of agreement from a takeover agreement to an agreement whereby the Surety will pay the County \$400,000.00 to be used by the County to complete the Work under the project and, in exchange, release the Surety from any further obligations under the Agreement.

Except as specifically amended hereby, all remaining terms and conditions contained in the March 9th Resolution shall remain in full force and effect.

This matter has been reviewed by the Law Department and an Amended Resolution to accomplish the foregoing is attached.

HJG/jrc

RESOLUTION

Contract No. 12-501

Upon a communication from the Commissioner of the Department of Public Works and Transportation, be it hereby

RESOLVED, that the resolution approved on March 9, 2017 (the "March 9th Resolution"), which authorized the County of Westchester ("County"), acting by and through its Department of Public Works and Transportation, to: (i) declare Caladri Development Corp., ("Caladri") in default under Contract No. 12-501 for the Restoration of Historic Buildings (the "Work"), Ward Pound Ridge, Towns of Lewisboro and Pound Ridge, New York in the amount of \$1,890,000.00 (the "Agreement"), and (ii) enter into a takeover agreement pursuant to the Performance and Payment Bond issued by Darwin National Assurance Company, (now known as Allied World Specialty Insurance Company) (the "Surety"), and (iii) authorize the County to advertise for bids for the completion of the work remaining in the Agreement if the Surety does not promptly proceed to undertake the work, is hereby amended to allow the County to execute an agreement with the Surety whereby the Surety will pay the County \$400,000.00 to be used by the County to complete the work under the Agreement and, in exchange, release the Surety from any further obligations under the Agreement instead of the takeover agreement that was initially authorized pursuant to the March 9th Resolution; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions contained in the March 9th Resolution shall remain in full force and effect; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby empowered to execute any and all instruments and take such actions as may reasonably be necessary to effectuate the purposes thereof.

Account to be Charged/ Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
	372	42	RWPR101C	9636	BA #17-2013	\$400,000.00

Budget Funding Year(s): 2018 Start Date: 11/08/18 End Date: 12/31/18
 (must match resolution)

Funding Source: Tax Dollars _____

State Aid _____

\$400,000.00 Federal Aid _____
 (must match resolution)

Other Revenue _____