

84653

**TO:** Honorable Members of the Board of Acquisition and Contract

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

**DATE:** April 28, 2021

**SUBJECT:** Final Acceptance Resolution  
Contract No. 11-503-REV  
Rehabilitation of the Fulton Avenue Bridge over the Hutchinson River (BIN 3348220), City of Mount Vernon and Village of Pelham Manor, New York.

**Contractor:** E.E. Cruz & Company, Inc.  
**Final Payment Amount:** \$156,536.15

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The work required under Contract No. 11-503-REV between the County of Westchester (the "County"), acting by and through its Department of Public Works and Transportation (the "Department"), and E.E. Cruz & Company, Inc., (the "Contractor"), 32 Avenue of the Americas, New York, New York 10013, has been completed. The work consisted of labor, materials and equipment for the Rehabilitation of the Fulton Avenue Bridge over the Hutchinson River (BIN 3348220), City of Mount Vernon and Village of Pelham, New York.

By a resolution approved on April 22, 2021, your Honorable Board authorized the County to rescind the Resolution approved on August 27, 2020 to approve Change Order No. 2 to Contract 11-503-REV in the amount of \$695,745.60 and enter into an agreement with the Contractor to settle the claims of the Contractor for additional compensation under the Contract No. 11-503-REV in the amount of \$1,774,719.00 alleged by the Contractor in its verified statement in the form of a "Final Application for Payment," dated February 2, 2020, revised July 2, 2020, with respect to Contract Item Nos. 589.01, 800.23 and 800.34 (the "Contractor's Claims") as follows: (i) the County will pay an amount of \$850,000.00 to the Contractor in full and final satisfaction of the Contractor's Claims, of which \$154,254.40 will be contributed to the County by its engineer for the Project, Henningson, Durham & Richardson Architecture and Engineering, P.C. in association with HDR Engineering, Inc. ("HDR"), (ii) the Contractor and County will release each other from all claims related to the Contractor's Claims, and (iii) the County will release and retract the disincentive assessment made in the Commissioner's Determination identified as Item No. 698,93940015 (the "Settlement Agreement"). The County and Contractor executed the Settlement Agreement on April 28, 2021.

Board of Acquisition and Contract  
Final Acceptance Resolution  
Contract No. 11-503-REV  
E.E. Cruz & Company, Inc.  
Page 2

Pursuant to the Settlement Agreement, the Contractor has provided the County Payment Application No. 26 which indicates a final payment due of \$156,536.15, and a verified statement in the form of a "Final Application for Payment," dated April 23, 2021, which indicates, inter alia, that there are no outstanding claims under Contract No. 11-503-REV, except for the release of final retainage.

The Department has tracked scheduling and accomplishments by the Contractor and performed on-site inspections to ensure the successful completion of this project.

A final inspection has been made which indicates that the work meets the terms and requirements of the Contract No. 11-503-REV.

Therefore, it is now recommended that your Honorable Board take appropriate action to accept the completed work and approve the final contract amount of \$14,983,215.20.

Payment shall be made in accordance with all applicable laws, including, without limitation, the New York State Lien Law.

A proposed form of Resolution is attached.

HJG/rn  
Encl.

# RESOLUTION

## ACCEPTANCE OF COMPLETED WORK AND RELEASE OF FINAL RETAINAGE

**RE: Contract No. 11-503-REV**

<b>Original Contract Amount</b>	<b>\$14,816,000.00</b>
<b>Change Order No. 1</b>	<b>\$ 167,215.20</b>
<b>Change Order No. 2</b>	<b>\$ 695,745.60</b>
<b>Recision of Change Order No. 2</b>	<b>\$ (695,745.60)</b>
<b>Contract Amount</b>	<b>\$14,983,215.20</b>
<b>Value of Completed Work</b>	<b>\$14,983,215.20</b>

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

**RESOLVED**, that the work performed by E.E. Cruz & Company, Inc. (the "Contractor"), 32 Avenue of the Americas, New York, New York 10013, under Contract No. 11-503-REV for the Rehabilitation of the Fulton Bridge over Hutchinson River (BIN 3348220) City of Mount Vernon and Village of Pelham, New York, is accepted and the Payment Application in the final contract amount of \$14,983,215.20 for the release of final retainage is approved, and be it further

**RESOLVED**, that the Commissioner of Finance be and hereby is authorized to pay the Contractor the balance due on the Final Estimate in the amount of \$156,536.15:

Value of Completed Work:	\$ 14,983,215.20
Total Previously Paid Estimates:	\$ 14,826,679.05
Completed Work Balance:	\$ 16.20
Released Retainage:	<u>\$ 156,519.95</u>

<b>BALANCE DUE IN FULL</b>	<u>\$ 156,536.15</u>
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and be it further

**RESOLVED**, that the payment shall be made in accordance with all applicable laws, including, without limitation, the New York State Lien Law.

Contract No. 11-503-REV.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
		15		BSA5700		\$156,519.95
	366	46	RB2UU00C	6210-99	BA # 50-2015 BA #200-2009 BA #252-2015	\$8.10
	366	46	RB03S01C	6210-99	BA # 51-2015 BA #254-2015	\$8.10

Budget Funding Year(s): 2021      **Start Date:** May 26, 2016      **End Date:** December 31, 2020  
(must match resolution)

Funding Source:	Tax Dollars <u>100% County</u>	Contractor Federal I.D. No./ Social Security No.: _____
	State Aid _____	
<u>\$156,536.15</u> (must match resolution)	Federal Aid _____	Vendor No.: _____
	Other _____	Encumbrance No.: _____