

# ULSTER COUNTY OFFICE OF THE COMPTROLLER

March S. Gallagher, Esq.  
Comptroller



Alicia DeMarco, CPA  
Deputy Comptroller

To: John Gavaris, Chair of Ways and Means  
Cc: Vicky Fabella, Clerk of the Legislature (for distribution)  
From: March Gallagher, Ulster County Comptroller  
Re: Rail Explorers Contract Approval

On Tuesday December 19, there was a discussion at the Ways and Means Committee meeting regarding proposed Resolution No. 651, Approving The Execution Of A Contract Amendment For \$50,000.00 Entered Into By The County – Rail Explorers Corporation – Department Of Public Works. The committee discussed reimbursements to the Corporation for expenses that were made. In the documentation presented, there was a side agreement, that was referenced with documentation requesting a reduction of payment to the County for fees related to the use of the railway. The Comptroller's office initially expressed concern that by allowing the Corporation to deduct the reimbursement of expense from revenue payments to the County, the expenses were circumventing the claims payable process and Comptroller oversight.

After reviewing all transaction related to this vendor and the information contained in the County's financial system, we would like to clarify that the expense reimbursements were not deducted from fee payments, and were instead paid by check, through the appropriate claims process.

However, upon further inspection and review of the expense reimbursements and the related revenue contract, the Comptroller's office identified the following concerns:

- The Comptroller's Office has been unable to find documentation of legislative approval to enter into the original agreement, or the amended agreement with the reduced rate and length of the trail noted. We have requests out to the Planning Department, the Public Works Department and the Clerk of the Legislature to see if there is a known resolution.
- There are at least 3 versions of the executed contract with this Corporation with different rates in the financial system.
  - Contract 1 (From the County's Website made publicly available) 10/19/16
    - Total: \$122,160
    - Period: Jan 1, 2017 – December 31, 2021
  - Contract 2 (Contract 2017-116 *open and active* in NWS) 7/17/17
    - Total: \$122,160
    - Period: Jan 1, 2018 – December 31, 2022
  - Contract 3 (Contract 2018-284 *open and active* in NWS) 4/12/18
    - Total: \$82,711.90

- Period: Jan 1, 2018 – December 31, 2022
- Payments actually received by the County include an attached copy of and agree to the rate and schedule of payments from Contract 3 (Contract 2018-284 in NWS), which does not agree to the publicly presented contract on the County's website here:

<https://ulstercountyny.gov/sites/default/files/documents/planning/Rail%20Explorers%20Permit%20for%20Western%20Segment.pdf>

- Payments to the vendor as reimbursements for a total of \$10,000 for expenses incurred were made pursuant to a "side agreement" that was not attached to or referenced in any of the contract versions noted above.
- There are two active contracts within the financial system, any inactive contracts should be closed in the system.

Resolution No. 651 of 2022 provides the authority to amend the previous agreement, but there does not appear to be a resolution to authorize the original contract that began in 2018. NWS references Resolution No. 488 of 2015 which is attached here, but this resolution does not mention the agreement with Rail Explorer's. Additionally, we would like to note that there are two different fully executed contracts in NWS for this "vendor," with two different rate schedules. There is a third, and again different version currently presented on the County's website and made publicly available.

It appears that the original contract with Rail Explorer's was executed, and then amended without any Legislative approval or oversight. Additionally, it appears the County entered into at least two "side agreements" with the same corporation related to this contract and did not attach or reference these side agreements in any of the contract versions available. These side agreements relate to both insurance coverage for activities at the property, and to reimbursements for expenses incurred to maintain the rails. Those side agreements should be viewed as amendments to the original agreement and treated as such.

The Comptroller's Office would like to note that situations such as this support our recommendation to extend Comptroller oversight and authority to include approval of revenues in addition to expenditures. Additional oversight and verification can only improve transparency and efficiency in County Operations.