

PUBLIC WORKS & CAPITAL PROJECTS

RESOLUTION NO. 2014179

RE: AUTHORIZING ACQUISITION OF A PERMANENT EASEMENT OF REAL PROPERTY FOR PUBLIC RIGHT OF WAY ON A SECTION OF CR 68, NORTH QUAKER HILL ROAD, TOWN OF PAWLING FROM GETAWAY LLC

Legislators HUTCHINGS, BOLNER, MICCIO, and SAGLIANO offer the following and move its adoption:

WHEREAS, the Department of Public Works has proposed the improvement of a section of North Quaker Hill Road, C.R. 68, in the Town of Pawling, which project includes the acquisition of a permanent easement of 0.028 +/- acre parcel to facilitate the reconstruction and continued maintenance of a concrete box culvert thereon, and

WHEREAS, the Department of Public Works has determined that the improvement project (1) constitutes a Type II action pursuant to Article 8 of the Environmental Conservation Law and Part 617 of the NYCRR ("SEQRA"), and (2) will not have a significant effect on the environment, and

WHEREAS, it is the purpose of this Legislature in adopting this resolution to adopt and confirm the findings of the Department of Public Works, and

WHEREAS, the Department of Public Works has made a determination that in order to maintain said road, it is necessary to acquire a permanent easement on a portion of property presently owned by Getaway LLC, and

WHEREAS, a proposed Agreement to Acquire Real Property (Permanent Easement) between the County and the property owner is annexed hereto, and

WHEREAS, the property is described as 0.028 +/- more or less as shown on Map 1, Parcel 1, a copy of which is annexed hereto, and

WHEREAS, the Commissioner of Public Works has advised that Getaway LLC has agreed to donate the permanent easement on the subject property now, therefore, be it

RESOLVED, that this Legislature hereby adopts and confirms the determination of the Dutchess County Department of Public Works that the project, including the acquisition of the property described in the Agreement, in the Town of Pawling, will not have a significant effect on the environment, and be it further

RESOLVED, that the County Executive or his designee is authorized to execute the Agreement to Acquire Real Property (Permanent Easement) in substantially the same form as annexed hereto along with any other necessary documents in connection with this acquisition, and be it further

RESOLVED, that on the submission by the property owner of a deed to the aforementioned land, which shall include the terms and conditions of the Agreement to Acquire Real Property (Permanent Easement), and such other documents as may be necessary to convey

free and clear title to the County of Dutchess, that the County shall pay the appropriate transfer tax and filing fees for such conveyance and record the deed.

CA-105-14

CAB/ca/R-0933

6/9/14

Fiscal Impact: See attached statement

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 7th day of July 2014, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 7th day of July 2014.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS *(To be completed by requesting department)*

Total Current Year Cost \$ 1,000

Total Current Year Revenue \$ 950
and Source

Source of County Funds *(check one)*: Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other *(explain)*.

Identify Line Items(s):
H0290 5110 3008

Related Expenses: Amount \$ 1,000

Nature/Reason:

Anticipated expenses related to Mortgage Releases, Filing Fees, Property Taxes and other closing costs.

Anticipated Savings to County: \$ 950

Net County Cost (this year): \$ 50
Over Five Years: _____

Additional Comments/Explanation:

Culvert PA-03 Replacement

This fiscal impact statement pertains to the resolution request for authorization to acquire a permanent easement to a 0.028+/- acre parcel from GETAWAY LLC. This acquisition is located on a portion of property on County Route 68 (North Quaker Hill Road) in the Town of Pawling, identified as parcel identification number 134089-7158-00-994494-0000.

Prepared by: Matthew W. Davis 2929

AGREEMENT TO ACQUIRE REAL PROPERTY
(PERMANENT EASEMENT)

Project: CULVERT PA-03 REPLACEMENT

Project No.: DC Map: 1 Parcel: 1

This Agreement by and between GETAWAY LLC, hereinafter referred to as the "Grantor", and the COUNTY OF DUTCHESS, hereinafter referred to as the "Grantee", pertains to that portion of real property interest required for public right of way purposes only.

1. PROPERTY DESCRIPTION. The Grantor agrees to sell, grant, convey a permanent easement to a 0.028± acre parcel located on the south side of CR 68, North Quaker Hill Road, in the Town of Pawling, Dutchess County, New York, further described as:

Being a portion of those same lands described in a deed filed in the Office of the County Clerk for Dutchess County, New York in Liber of Deeds 1999 at page 8839 with the address 996 North Old Quaker Hill Road (re. Tax Map No. 134089-7158-00-994494-0000 and being the same lands designated as Map 1, Parcel 1 on exhibit "A" attached hereto.

2. CLOSING DATE AND PLACE. On or about 6/1/14.

3. TITLE DOCUMENTS. The Grantee shall provide the following documents in connection with the sale:

- A. Closing Documents. The Grantee will prepare and deliver to the Grantor for execution at the time of closing the documents necessary to transfer the real property interest stated in Paragraph 1 above.
- B. Abstract, Bankruptcy and Tax Searches, and Acquisition Map. The Grantee will pay for a search of public deeds, court and tax records and will prepare a Title Certification Letter. The Grantee will pay for and furnish to the Grantor an acquisition map.
- C. The Grantee will be responsible for the recording of all deeds and releases in the Office of the Dutchess County Clerk.

1. MARKETABILITY OF TITLE. The parties shall work together to cure any title issues as deemed necessary by the Grantee, to insure good and valid marketable title in connection with this acquisition of a Permanent Easement. Such curative action is defined as the effort required to clear title, including but not limited to attending meetings, document preparation, obtaining releases and recording documents. The Grantor shall be responsible for the cost to satisfy liens and encumbrances identified by the Grantee. The Grantee shall be responsible for the reimbursement to the Grantor of any Lien Release Application Fees and for any Prepayment Penalties associated with the release of any liens.

2. RECORDING COSTS, TRANSFER TAX & CLOSING ADJUSTMENTS. Grantee will pay all the recording fees and the real property transfer tax. The following as applicable and deemed appropriate Grantee, will be prorated and adjusted between the Grantor and the Grantee as of the date of closing; current taxes computed on a fiscal year basis, excluding delinquent items, interest and penalties, rent payments, current common charges or assessments.
3. RESPONSIBILITY OF PERSONS UNDER THIS AGREEMENT; ASSIGNABILITY. The stipulations aforesaid shall bind and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.
4. ENTIRE AGREEMENT. This agreement outlines the complete understanding of the Grantor and Grantee pertaining to this acquisition. No verbal agreements or promises will be binding.
5. NOTICES. All notices under this agreement shall be deemed delivered upon receipt. Any notices relating to this agreement may be given by the attorneys for the parties.
6. PROJECT DESCRIPTION. This project will consist of acquiring a permanent easement to be exercised for the purpose of work area in connection with the removal of an existing pipe arch culvert and the installation of a concrete box culvert with wing walls and for continued access for maintenance and repair of the drainage structure and surrounding stream channel.

IN WITNESS WHEREOF, on this ____ day of _____, 2014, the parties have entered into this Agreement.

Grantor:
Representative:

County of Dutchess:

By: _____

Grantee: _____
William F.X. O'Neil
Deputy County Executive

Printed Name

Witness: _____

Title

Witness: _____

EXHIBIT A

Metes and Bounds Description

A permanent easement to be exercised for the purpose of removing of an existing culvert and the installation of a concrete box culvert with wing walls and continued access for future maintenance and repair, in, on and over all that tract or parcel of land situate in the Town of Pawling, County of Dutchess, State of New York, bounded and described as follows:

Beginning at a point on the Southerly boundary of County Route 68 (North Quaker Hill Road), said point being 39.70 feet distant Southerly measured at right angles from Station 11+56.91 of the hereinafter described Survey Baseline; thence through the lands of GETAWAY LLC (Reputed Owner) South $31^{\circ} 47' 44''$ West a distance of 51.54 feet to a point, said point being 71.58 feet distant Southerly measured at right angles from Station 11+16.41 of said baseline; thence continuing through the lands of GETAWAY LLC (Reputed Owner) North $83^{\circ} 53' 09''$ West a distance of 12.30 feet to a point, said point being 66.10 feet distant Southerly measured at right angles from Station 11+05.36 of said baseline; thence continuing through the lands of GETAWAY LLC (Reputed Owner) North $53^{\circ} 10' 26''$ West a distance of 32.49 feet to a point, said point being the Southerly boundary of County Route 68 (North Quaker Hill Road), thence running along the Southerly boundary of County Route 68 (North Quaker Hill Road) North $70^{\circ} 51' 25''$ East a distance of 69.32 feet to the point or place of beginning. Said parcel being 0.028 of an acre more or less.

The above referenced Survey Baseline was established for the design and construction of the above referenced concrete box culvert and described as follows: Beginning at Station 10+00.00 thence North $70^{\circ} 00' 00''$ East to Station 13+00.45. All bearings referred to a local system.



EXHIBIT A
COUNTY OF DUTCHESS
DEPARTMENT OF PUBLIC WORKS
ACQUISITION MAP

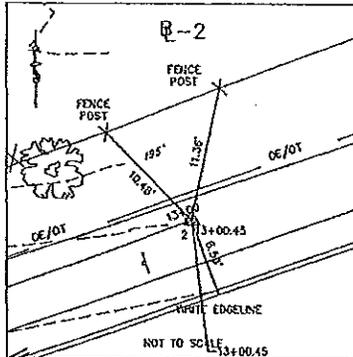
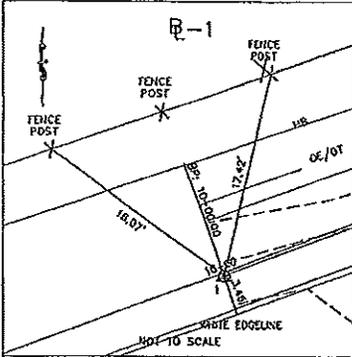
MAP NO. 1
 PARCEL NO. 1
 SHEET 1 OF 2

PA-03 CULVERT REPLACEMENT

DCH-201X-AB

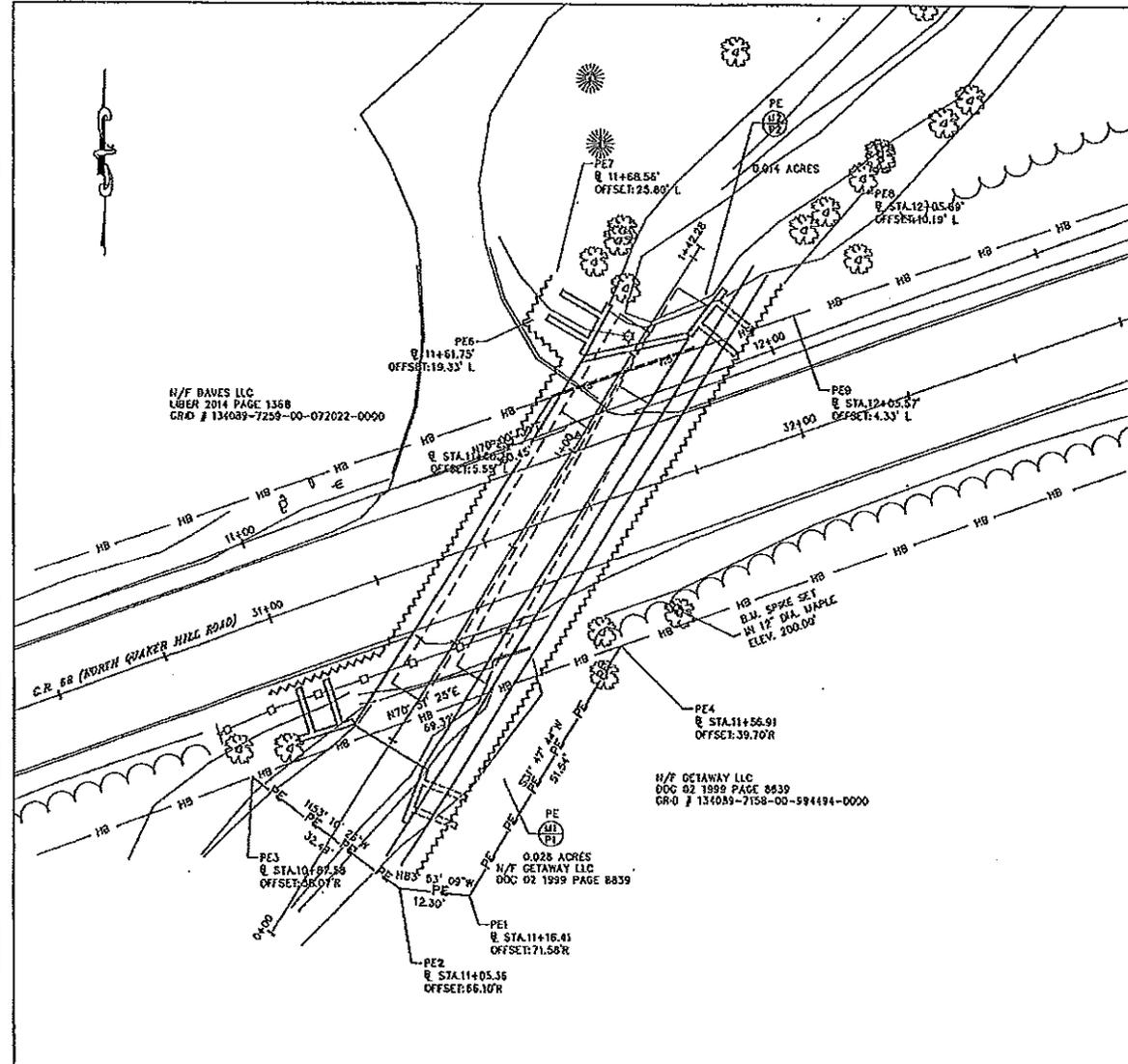
ACQUISITION DESCRIPTION:

Type: Permanent Easement
 Property Tax
 Parcel ID No. 134089-7158-00-994494-0000
 Town of Pawling
 County of Dutchess
 State of New York
 REPUTED OWNER:
 GETAWAY LLC
 9 Meeting House Rd
 Pawling, NY--12564



R-1 STA. 10+00.00
 DESC: 6" SPIKE DRIVEN INTO SOL.
 COORDINATE SYSTEM: LOCAL SYSTEM, US FOOT
 N: 10000.0000
 E: 10000.0000

R-2 STA. 13+00.45
 DESC: 6" SPIKE DRIVEN INTO SOL.
 COORDINATE SYSTEM: LOCAL SYSTEM, US FOOT
 N: 10102.7615
 E: 10282.3350



ORIGINAL OF THIS MAP (SHEETS 1 & 2)
 ARE ON FILE AT THE OFFICES OF THE DUTCHESS
 COUNTY DEPARTMENT OF PUBLIC WORKS

MAP NUMBER XY-XY
 REVISED DATE _____
 DATE PREPARED XY-XY-201X

PREPARED BY XY CHECKED BY XY FINAL CHECK BY XY

McKinney's Consolidated Laws of New York Annotated
Environmental Conservation Law (Refs & Annos)
Chapter 43-B. Of the Consolidated Laws (Refs & Annos)
Article 8. Environmental Quality Review (Refs & Annos)

McKinney's ECL § 8-0113

§ 8-0113. Rules and regulations

Effective: February 26, 2006

Currentness

1. After consultation with the other agencies subject to the provisions of this article, including state agencies and representatives of local governments and after conducting public hearings and review of any other comments submitted, the commissioner shall adopt rules and regulations implementing the provisions of this article within one hundred and twenty days after the effective date of this section.¹

2. The rules and regulations adopted by the commissioner specifically shall include:

(a) Definition of terms used in this article;

(b) Criteria for determining whether or not a proposed action may have a significant effect on the environment, taking into account social and economic factors to be considered in determining the significance of an environmental effect;

(c) Identification on the basis of such criteria of:

(i) Actions or classes of actions that are likely to require preparation of environmental impact statements;

(ii) Actions or classes of actions which have been determined not to have a significant effect on the environment and which do not require environmental impact statements under this article. In adopting the rules and regulations, the commissioner shall make a finding that each action or class of actions identified does not have a significant effect on the environment;

(d) Typical associated environmental effects, and methods for assessing such effects, of actions determined to be likely to require preparation of environmental impact statements;

(e) Categorization of actions which are or may be primarily of statewide, regional, or local concern, with provisions for technical assistance including the preparation or review of environmental impact statements, if requested, in connection with environmental impact review by local agencies.

(f) Provision for the filing and circulation of draft environmental impact statements pursuant to subdivision four of section 8-0109, and environmental impact statements pursuant to subdivision six of section 8-0109, including, in addition to any other

circulation and public availability requirements, making such statements available free of charge to the public and government agencies on the publicly-available Internet website, unless impracticable. Printed filings and public notices shall clearly indicate the address of the website at which such filing is posted;

(g) Scope, content, filing and availability of findings required to be made pursuant to subdivision eight of section 8-0109;

(h) Form and content of and level of detail required for an environmental impact statement; and

(i) Procedures for obtaining comments on draft environmental impact statements, holding hearings, providing public notice of agency decisions with respect to preparation of a draft environmental statement; and for such other matters as may be needed to assure effective participation by the public and efficient and expeditious administration of the article.

(j) Procedure for providing applicants with estimates, when requested, of the costs expected to be charged them pursuant to subdivision seven of section 8-0109 of this article.

(k) Appeals procedure for the settlement of disputed costs charged by state agencies to applicants pursuant to subdivision seven of section 8-0109 of this article. Such appeal procedure shall not interfere or cause delay in the determination of environmental significance or prohibit an action from being undertaken.

(l) A model assessment form to be used during the initial review to assist an agency in its responsibilities under this article.

3. Within the time periods specified in section 8-0117 of this article the agencies subject to this article shall, after public hearing, adopt and publish such additional procedures as may be necessary for the implementation by them of this article consistent with the rules and regulations adopted by the commissioner.

(a) Existing agency environmental procedures may be incorporated in and integrated with the procedures adopted under this article, and variance in form alone shall constitute no objection thereto. Such individual agency procedures shall be no less protective of environmental values, public participation, and agency and judicial review than the procedures herein mandated.

(b) Such agency procedures shall provide for interagency working relationships in cases where actions typically involve more than one agency, liaison with the public, and such other procedures as may be required to effect the efficient and expeditious administration of this article.

4. Coordination with agricultural districts program. The commissioner, in consultation with the commissioner of agriculture and markets, shall amend the regulations promulgated pursuant to the provisions of this section as necessary and appropriate to assure the adequate consideration of impacts of public acquisitions, or the advancement of public monies for non-farm development on lands used in agricultural production and unique and irreplaceable agricultural lands within agricultural districts in accordance with the provisions of subdivision four of section three hundred five of the agriculture and markets law.