

PUBLIC WORKS & CAPITAL PROJECTS

RESOLUTION NO. 2015268

RE: AUTHORIZING ACQUISITION OF A SIGHT EASEMENT OF REAL PROPERTY BY DONATION FROM TOLL LAND V LIMITED PARTNERSHIP, LOCATED AT HILLTOP VILLAGE, BRENTWOOD DRIVE, TOWN OF WAPPINGER

Legislators HUTCHINGS, HORTON, SAGLIANO, and FARLEY offer the following and move its adoption:

WHEREAS, the Department of Public Works has advised that a Sight Easement is necessary for two parcels of property owned by Toll Land V Limited Partnership located at Hilltop Village, Brentwood Drive in the Town of Wappinger, Dutchess County, for the purpose of maintaining the sight line for vehicles entering on to All Angels Hill Road (CR 94), and

WHEREAS, the two parcels of property are described as: (1) 0.035 acres more or less, as described on Schedule B, Easement 2; and (2) 0.020 acres more or less, as described on Schedule C, Easement 3, of the attached Sight Easement, and

WHEREAS, the Commissioner of Public Works has advised that the property owner, Toll Land V Limited Partnership, has agreed to donate the sight easement on the subject properties now, therefore, be it

RESOLVED, that this Legislature approves the acceptance of the donation of the Sight Easement from Toll Land V Limited Partnership for the maintenance of the sight lines at the said properties and that the County Executive or his designee is authorized to execute the Sight Easement in substantially the same form as annexed hereto along with any other necessary documents in connection with this acquisition.

CA-183-15
CAB/kvh/R-0915
11/16/15
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 3rd day of December 2016, 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 3rd day of December 2016.

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 \$ _____
and Source

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

Identify Line Items(s):

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: _____

Net County Cost (this year): \$1,000
Over Five Years: _____

Additional Comments/Explanation:

Project: CR 94 Hilltop Village at Wappinger, Town of Wappinger, Dutchess County, New York.

This fiscal impact statement pertains to the accompanying resolution request for authorization to acquire sight easements to a 0.035 acre parcel as described on (Schedule B, Easement 2) and to a 0.020 acre parcel as described on (Schedule C, Easement 3), both by way of donation from Toll Land V Limited Partnership.

Related expenses in the amount of \$1,000 are included in the Total Current Year Cost.

Prepared by: Matthew W. Davis 2929

SIGHT EASEMENT

SIGHT EASEMENT (this "Easement") made this ___ day of _____, 2015, by and between TOLL LAND V LIMITED PARTNERSHIP, a New York limited partnership, having a place of business at 60 Merritt Boulevard, Fishkill, New York 12524 ("Toll Land V" or "Grantor") and THE COUNTY OF DUTCHESS, a municipal corporation of the State of New York with offices located at 22 Market Street, Poughkeepsie, New York 12601 ("Grantee").

W I T N E S S E T H:

WHEREAS, Toll Land V owns certain real property located in the Town of Wappinger, County of Dutchess and State of New York more particularly described in Schedule "A" annexed hereto and made a part hereof (the "Property") conveyed to Grantor by deed dated August 27, 2013 and recorded on August 28, 2013 as Document # 02-2013-4450 in the Dutchess County Clerk's Office; and

WHEREAS, Grantor is obligated under an irrevocable offer of cession to grant to Grantee a sight easement with respect to a certain portion of the Property along All Angels Hill Road (CR 94); and

WHEREAS, this conveyance is made to the County of Dutchess in accordance with the authority set forth in Resolution No. _____ of the Dutchess County Legislature.

NOW, THEREFORE, in consideration of the premises and the sum of One and 00/100 (\$1.00) Dollar lawful money of the United States paid by the Grantee, Grantor hereby grants, releases and conveys unto Grantee an easement as follows:

1. GRANT OF EASEMENT

Subject to the terms, conditions and limitations set forth in this Easement, Grantor hereby grants unto Grantee a sight easement in, on and through all those portions of the Property which are described in Schedule "B" and Schedule "C" annexed hereto and made a part hereof (collectively, the "Easement Area"), which sight easement shall consist of the rights and restrictions set forth in Section 2 below.

2. DECLARATION OF RIGHTS AND RESTRICTIONS

Grantee shall have the right to enter the Easement Area for the purpose of clearing, pruning or regrading so as to maintain a clear line of sight in either direction across the Easement Area between an observer's eye 3.5 feet above the pavement surface on one street abutting the Easement Area and an object one foot above the pavement surface on the other street abutting

the Easement Area. The initial establishment of clear sight lines within the Easement Area shall be the responsibility of Grantor. No structures of any kind may be built in the Easement Area without Grantee's written permission.

3. DURATION

The provisions of this Easement shall be covenants running with the land in perpetuity and shall bind and inure to the benefit of Grantee's and Grantor's respective successors and assigns.

4. DUE EXECUTION AND AMENDMENT/MODIFICATION

Each party represents to the other party that it has the power and authority to execute, deliver and perform this Easement, that all actions necessary to authorize the execution, deliver and performance of this Easement have been duly taken, that it has duly executed and delivered this Easement and that this Easement is legal, valid and binding on it, and enforceable against it in accordance with its terms. This Easement shall not be amended or modified unless in a writing executed and acknowledged by the owner of the Property and Grantee and recorded in the Office of the Dutchess County Clerk.

5. ENFORCEMENT

Grantee shall have the right to enforce these covenants, restrictions and easements by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant, restriction, or easement, to restrain violation, to require specific performance and/or to recover damages. Failure by Grantee to enforce any covenant, restriction, or easement herein contained shall in no event be deemed a waiver of the right to do so thereafter.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first appearing above, intending the same to be recorded in the Office of the Dutchess County Clerk.

TOLL LAND V LIMITED
PARTNERSHIP

COUNTY OF DUTCHESS

By: Toll Peppertree, Inc., its general
partner

By: _____

By: _____
James Fitzpatrick, Vice President

TAX DESIGNATION:
Tax Grid Identification Number
Town of Wappinger

STATE OF NEW YORK }
 } s.s.:
COUNTY OF DUTCHESS }

On the _____ day of _____ in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared JAMES FITZPATRICK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK }
 } s.s.:
COUNTY OF DUTCHESS}

On the _____ day of _____ in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RECORD AND RETURN TO:
Carol A. Bogle, Esq.
Chief Assistant Dutchess County Attorney
22 Market Street
Poughkeepsie, NY 12601

SCHEDULE A

July 1, 2013

SURVEY DESCRIPTION

Parcel 1
Town of Wappinger, New York

All that tract or parcel of land situate in the town of Wappinger, County of Dutchess, State of New York being Parcel 1, as shown on a filed map entitled "Hilltop Village At Wappinger, Subdivision Plat", said filed map being filed in the Dutchess County Clerk's Office on August 27, 2013, as filed map no. 11070B, bounded and described as follows:

Beginning at a point on the westerly side of All Angels Hill Road (CR 94), said point being the northeasterly corner of lands now or formerly Renericca and the southeasterly corner of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A); thence along said lot line South 69-48-29 West 5.06 feet the TRUE POINT OR PLACE OF BEGINNING; thence along said lot line South 69-48-29 West 390.71 feet to a point; thence South 20-11-31 East 190.06 feet to a point, said point being the northeasterly corner of the Rich Drive right of way; thence South 69-48-29 West 50.00 feet to a point, said point being the on the southerly lot line of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the southeasterly corner of land now or formerly Zammello; thence along said lot line North 20-11-31 West 176.28 feet to a point; thence South 66-48-29 West 425.30 feet to a point; thence South 62-52-56 West 530.04 feet to a point; thence through lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) North 27-07-04 West 14.80 feet to a point; thence South 62-52-56 West 72.56 feet to a point; thence South 27-07-04 East 74.77 feet to a point; thence North 62-52-56 East 22.53 feet to a point, said point being on the eastern lot line of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the western street boundary of Sylvia Drive; thence along said lot line South 27-07-04 East 76.49 feet to a point, said point being the northeasterly corner of lands now or formerly Bosaz; thence along said lot line South 62-52-56 West 201.69 feet to a point; thence South 22-23-49 East 279.69 feet to a point; thence South 71-07-26 West 141.74 feet to a point; thence South 73-33-13 West 516.73 feet to a point; thence South 50-52-03 West 689.55 feet to a point; thence South 15-34-27 West 235.06 feet to a point; thence North 50-23-59 West 408.95 feet to a point; thence North 77-04-11 West 208.48 feet to a point; thence North 81-36-42 West 452.74 feet to a point; thence South 83-30-32 West 171.57 feet to a point; thence North 28-41-00 West 276.27 feet to a point; thence South ~~74-14-04 West 191.52 feet to a point; thence South 32-50-48 West 367.68~~ feet to a point; thence North 14-35-43 West 763.82 feet to a point; thence North 63-36-44 East 156.55 feet to a point; thence North 16-13-40 West 482.42 feet to a point; thence North 16-42-40 West 256.79 feet to a point, said point being the westerly corner of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the southerly corner of lands now or formerly Schiesel; thence along said lot line North 66-22-10 East 1,682.06 feet to a point; thence North 66-13-55 East 29.25 feet to a point, said point being the westerly corner of lands now or formerly R & R Realty Associates;

SCHEDULE A
(continued)

thence along said lot line South 23-16-12 East 593.68 feet to a point; thence North 66-13-55 East 733.73 feet to a point; thence South 69-18-53 East 363.06 feet to a point; thence North 31-17-00 East 17.72 feet to a point, said point being the southwesterly corner of the Road A right-of-way; thence over and through lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) on a curve to the right whose radial bears South 50-56-50 West having a radius of 25.00 feet, a central angle of 32-34-01 and an arc length of 14.21 feet to a point of reverse curvature having a radius of 52.50 feet, a central angle of 106-21-54 and an arc length of 97.46 feet to a point of reverse curvature having a radius of 25.00 feet, a central angle of 45-56-19 and an arc length of 20.04 feet to a point of reverse curvature having a radius of 425.00 feet, a central angle of 50-08-54 and an arc length of 371.98' to a point; thence North 62-56-49 East 57.85 feet to a point; thence on a curve to the left having a radius of 275.00 feet, a central angle of 41-02-40 and an arc length of 197.00 feet to a point; thence North 21-54-09 East 106.44 feet to a point; thence on a curve to the right having a radius of 275.00 feet, a central angle of 90-23-04 and an arc length of 433.81 feet to a point; thence South 67-42-47 East 124.77 feet to a point; thence on a curve to the left having a radius of 325.00 feet, a central angle of 42-35-54 and an arc length of 241.63 feet to a point; thence North 69-41-20 East 41.75 feet to a point; thence on a curve to the right having a radius of 25.00 feet, a central angle of 91-24-04 and an arc length of 39.88 to a point; thence South 18-54-37 East 43.03 feet to a point; thence South 30-14-57 East 30.38 feet to a point; thence South 32-46-06 East 44.36 feet to a point; thence South 19-21-38 East 396.06 feet to the point or place of beginning. Containing 134.580 acres of land, more or less.

Together with 7.03 Ac. on north side of Road A Right-Of-Way to be part and parcel with 134.58 Ac. on south and west side of Road A Right-Of-Way (Parcel 1)

BEGINNING at the southwesterly corner of the parcel described herein, said point being distant 52.23 feet as measured North 31-17-00 East from the southwesterly corner of the Road A right-of-way as described above, said point also being on the westerly lot line of lands now or formerly Contrail LLC (Parcel B as shown on filed map 11070A) and the easterly lot line of lands now or formerly R & R Realty Associates; thence along said lot line North 31-17-00 East 655.05 feet to a point, said point being the southerly corner of lands now or formerly Buyakowski; thence North 72-16-50 East 314.16 feet to a point, said point being on the northeasterly lot line of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the southwesterly lot line of lands now or formerly Community Baptist Church; thence along said lot line South 17-43-10 East 296.80 feet to a point; thence North 75-46-00 East 211.23 feet to a point; thence over and through lands now, or formerly, Contrail LLC (Parcel B as shown on filed map no. 11070A) South 14-14-00 East 25.00 feet to a point, said point being on the northerly line of the Road A right-of-way; thence on a curve to left the whose radial bears South 05-58-21 West, having a radius of 325.00 feet, a central angle of 74-04-13 and an arc length of 420.15 feet to a point; thence South 21-54-09 West 106.44 feet to a point; thence on a curve to the right having a radius of 225.00 feet, a central angle of 41-02-40 and an arc length of 161.18 feet to a point; thence South 62-56-49 West 57.85 feet to a point; thence on a curve to the right having a radius of 375.00 feet, a central angle of 49-04-29 and an

SCHEDULE A
(continued)

arc length of 321.19 feet to a point of compound curvature having a radius of 25.00 feet, a central angle of 54-30-44 and an arc length of 23.79 feet to a point of reverse curvature having a radius of 52.50 feet, a central angle of 92-03-27 and an arc length of 84.35 feet to a point of reverse curvature having a radius of 25.00 feet, a central angle of 38-26-25 and an arc length of 16.77 feet to the point or place of beginning. Containing 7.033 acres of land, more or less.

Parcels on north side and south side of Road A Right-of-Way forming Parcel 1, containing 141.613 acres of land, more or less.

SCHEDULE A
(continued)

July 1, 2013

SURVEY DESCRIPTION

Parcel 2

Land to be dedicated to the Town of Wappinger
Town of Wappinger, New York

All that tract or parcel of land situate in the town of Wappinger, County of Dutchess, State of New York being Parcel 2, as shown on a filed map entitled "Hilltop Village At Wappinger, Subdivision Plat", said filed map being filed in the Dutchess County Clerk's Office on August 27, 2015, as filed map no. 11070B, bounded and described as follows:

Beginning at a point on the westerly side of All Angels Hill Road (CR 94), said point being the northeasterly corner of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the southeasterly corner of lands now or formerly Community Baptist Church; thence along said lot line South 75-46-00 West 8.18 feet to the TRUE POINT OR PLACE OF BEGINNING; thence over and through lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) South 16-16-11 East 76.07 feet to a point; thence South 17-46-41 East 36.69 feet to a point; thence South 12-35-49 East 53.82 feet to a point; thence on a curve to the right having a radius of 25.00, a central angle of 82-17-09 and an arc length of 35.90 feet to a point; thence South 69-41-20 West 46.64 feet to a point; thence on a curve to the right have a radius of 275.00 feet, a central angle of 42-35-54 and an arc length of 204.46 feet to a point; thence North 67-42-47 West 124.77 feet to a point; thence on a curve to the left having a radius of 325.00 feet, a central angle of 16-18-52 and an arc length of 92.54 feet to a point; thence North 14-14-00 West 25.00 feet to a point, said point being on the northerly lot line of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the southerly lot line of lands now or formerly Community Baptist Church; thence along said lot line North 75-46-00 East 439.49 feet to the point or place of beginning.
Containing 1.431 acres of land, more or less.

SCHEDULE B

July 1, 2013

SURVEY DESCRIPTION

Easement 2 - Dutchess County Sight Distance Easement - North
Town of Wappinger, New York

All that tract or parcel of land situate in the town of Wappinger, County of Dutchess, State of New York being a Dutchess County Sight Distance Easement, as shown on a filed map entitled "Hilltop Village At Wappinger, Subdivision Plat", said filed map being filed in the Dutchess County Clerk's Office on August 27, 2013, as filed map no. 11070B, bounded and described as follows:

Beginning at a point on the westerly side of All Angels Hill Road (CR 94), said point being the northeasterly corner of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the southeasterly corner of lands now or formerly Community Baptist Church; thence along said lot line South 75-46-00 West 8.18 feet to a point; thence over and through lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) South 16-16-11 East 12.53 feet to the TRUE POINT OR PLACE OF BEGINNING; thence South 16-16-11 East 63.54 feet to a point; thence South 17-46-41 East 36.69 feet to a point; thence South 12-35-49 East 53.82 feet to a point; thence on a curve to the right having a radius of 25.00, a central angle of 67-55-48 and an arc length of 29.64 feet to a point; thence North 09-56-06 West 177.12 feet to the point or place of beginning. Containing 0.035 acres of land, more or less.

SCHEDULE C

July 1, 2013

SURVEY DESCRIPTION

Easement 3 - Dutchess County Sight Distance Easement - South
Town of Wappinger, New York

All that tract or parcel of land situate in the town of Wappinger, County of Dutchess, State of New York being a Dutchess County Sight Distance Easement, as shown on a filed map entitled "Hilltop Village At Wappinger, Subdivision Plat", said filed map being filed in the Dutchess County Clerk's Office on August 27, 2013, as filed map no. 11070B, bounded and described as follows:

Beginning at a point on the westerly side of All Angels Hill Road (CR 94), said point being the northeasterly corner of lands now or formerly Rencricca and the southeasterly corner of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A); thence along said lot line South 69-48-29 West 5.06 feet to a point; thence over and through lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) North 19-21-38 West 362.93 to the TRUE POINT OR PLACE OF BEGINNING; thence North 19-21-38 West 33.13 feet to a point; thence North 32-46-06 West 44.36 feet to a point; thence North 30-14-57 West 30.38 feet to a point; thence North 18-54-40 West 43.04 feet to a point; thence on a curve to the left having a radius of 25.00 feet, a central angle of 65-58-55 and an arc length of 28.79 feet to a point; thence South 29-21-23 East 174.75 feet to the point or place of beginning. Containing 0.020 acres of land, more or less.