

PUBLIC WORKS & CAPITAL PROJECTS

RESOLUTION NO. 2015269

RE: AUTHORIZING ACCEPTANCE OF A FEE PARCEL OF  
0.0174 ACRE LOCATED IN THE TOWN WAPPINGER BY  
DONATION FROM TOLL LAND V LIMITED PARTNERSHIP

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

WHEREAS, Toll Land V Limited Partnership was involved in a project that involved the widening of All Angels Hill Road (CR 94) in the Town of Wappinger, and

WHEREAS, the Department of Public Works-Engineering Division issued a Highway Work Permit pursuant to NYS Highway Law Section 136 authorizing the widening of a section All Angels Hill Road, and

WHEREAS, one of the conditions of the Highway Work Permit was for Toll Land V Limited Partnership to convey in fee by donation to the County a 0.174+/- acre parcel, Parcel Identification Numbers 135689-6257-02-794905-0000 and 135689-6257-02-801953-0000; and

WHEREAS, the Department of Public Works has made a determination that it is necessary to accept the 0.174 +/- parcel in fee from Toll Land V Limited Partnership which will become part of All Angels Hill Road (CR 94) in the Town of Wappinger, and

WHEREAS, a proposed Deed to acquire the fee parcel between the County and Toll Land V Limited Partnership is annexed hereto, now, therefore, be it

RESOLVED, that the County Executive or his designee is authorized to accept the fee parcel of 0.0174 +/- acre from Toll Land V Limited Partnership and execute any necessary documents in connection with this acquisition.

CA-184-15  
R-0915  
11/16/15

Fiscal Impact: See statement attached.

STATE OF NEW YORK  
COUNTY OF DUTCHESS

ss:

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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 in fee a 0.174 acre parcel as described on (Schedule A, Parcel 5) 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

**DEED**

**THIS INDENTURE** made the \_\_\_ day of \_\_\_\_\_, 2015, between **TOLL LAND V LIMITED PARTNERSHIP**, a New York limited partnership, having a place of business at 60 Merritt Boulevard, Fishkill, New York 12524 the "Party of the First Part", 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, the "Party of the Second Part".

**WITNESSETH:**

**THAT** the Party of the First Part, in consideration of One Dollar (\$1.00), lawful money of the United States, and other good and valuable considerations, paid by the Party of the Second Part, does hereby grant and release unto the Party of the Second Part, the heirs or successors and assigns of the Party of the Second Part forever;

**ALL** that certain piece or parcel of real property with the improvements therein contained, situate, lying and being in the Town of Wappinger, County of Dutchess and State of New York, more particularly described in **Schedule A** attached hereto and made a part hereof, containing 0.174 acres of land more or less for road widening of All Angels Hill Road (CR 94).

**BEING** one of the parcels conveyed to the Party of the First Part by deed dated August 27, 2013 and recorded on August 28, 2013 as Document # 02-2013-4450 in the Dutchess County Clerk's Office.

**TOGETHER** with the appurtenances and all the estate and right of the Party of the First Part in and to said premises;

**TO HAVE AND TO HOLD** the premises herein granted unto the Party of the Second Part, the heirs or successors and assigns of the Party of the Second Part forever; and

**AND** the Party of the First Part covenants that the Party of the First Part has not done or suffered anything whereby the said premises have been encumbered in any way whatsoever; and

**AND** the Party of the First Part, in compliance with Section 13 of the Lien Law, covenants that the Party of the First Part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement before using any part of the total of the same for any other purpose.

The conveyance herein does not constitute the disposition of all or substantially all of the assets of the Party of the First Part.

This conveyance is made to the County of Dutchess in accordance with the authority set forth in Resolution No. \_\_\_\_\_ of the Dutchess County Legislature.

The word "Party" shall be construed as if it read "Parties" whenever the sense of this indenture so requires. The words "Party of the First Part" and "Party of the Second Part" shall be construed to include their respective grantees, heirs, executors, administrators, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the Party of the First Part has duly executed this deed the day and year first above written.

**TOLL LAND V LIMITED PARTNERSHIP**  
By: Toll Peppertree, Inc., its general partner

By: \_\_\_\_\_  
James Fitzpatrick, Vice President

STATE OF NEW YORK            )  
  )SS.:  
COUNTY OF DUTCHESS        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2015 before me, the undersigned, 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.

\_\_\_\_\_  
Signature and Office of individual taking  
acknowledgement

**DEED**

Section:  
Block:  
Lot:  
County or Town:     Town of Wappinger  
                                  County of Dutchess

**Toll Land V Limited Partnership**

**TO**  
**The County of Dutchess**

**RECORD AND RETURN BY MAIL TO:**

Carol A. Bogle, Esq.  
Chief Assistant Dutchess County Attorney  
22 Market Street  
Poughkeepsie, NY 12601

SCHEDULE A

July 1, 2013

SURVEY DESCRIPTION

Parcel 5

Land to be conveyed to Dutchess County  
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 5, 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 the westerly street boundary of All Angels Hill Road (CR 94) South 17-04-10 East 49.44 feet to a point; thence South 19-21-40 East 630.56 feet to a point; thence South 19-23-40 East 94.70 feet to a point said point being the southeasterly corner of lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) and the northeasterly corner of lands now or formerly Renclecca; thence along said lot line South 69-48-29 West 5.06 feet to a point; thence through lands now or formerly Contrail LLC (Parcel B as shown on filed map no. 11070A) North 19-21-38 West 396.06 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 18-54-37 West 43.03 feet to a point; thence North 17-33-43 West 97.37 feet to a point; thence North 12-35-49 West 53.82 feet to a point; thence North 17-46-41 West 36.69 feet thence North 16-16-11 West 76.07 feet to a point, said point being on the northwesterly lot line of lands now or formerly Contrail, LLC (Parcel B as shown on filed map 11070A) and the southeasterly lot line of lands now or formerly Community Baptist Church; thence along said lot line North 75-46-00 East 8.18 feet to the point or place of beginning. Containing 0.174 acres of land, more or less.

KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated  
Highway Law (Refs & Annos)  
Chapter 25. Of the Consolidated Laws  
Article VI. County Roads

McKinney's Highway Law § 136

§ 136. Permits for work within the county road right of way

Currentness

1. Except in connection with the construction, reconstruction, maintenance or improvement of a county road or operations of a corporation pursuant to the provisions of section twenty-seven of the transportation corporations law or sections twenty-one, eighty-nine, ninety-one, ninety-three, ninety-three-a and ninety-three-b of the railroad law, no person, firm, corporation or municipality shall construct or improve, within the county road right of way an entrance or connection to such road, or construct within the county road right of way any works, structure or obstruction, or any overhead or underground crossing thereof, or lay or maintain therein underground wires or conduits or drainage, sewer or water pipes, except in accordance with the terms and conditions of a work permit issued by the county superintendent or his duly designated agent, notwithstanding any consent or franchise granted by any town superintendent, or by any other municipal authority. Any municipal corporation may enter upon any county road for the purpose of widening the pavement or for any other purpose authorized by this section, but only after securing a permit as provided herein. Notwithstanding the limitations in any general or special law, every municipal corporation shall have and is hereby given authority to deposit with the county superintendent such a sum of money or a security bond as may be required as a condition precedent to the granting of the permit provided in this section.

2. The county superintendent shall establish regulations governing the issuance of highway work permits, including the fees to be charged therefor, a system of deposits of money or bonds guaranteeing the performance of the work and requirements of insurance to protect the interests of the county during performance of the work pursuant to a highway work permit. With respect to driveway entrance permits, the regulations shall take into consideration the prospective character of the development, the traffic which will be generated by the facility within the reasonably foreseeable future, the design and frequency of access to the facility, the effect of the facility upon drainage as related to existing drainage systems, the extent to which such facility may impair the safety and traffic carrying capacity of the existing county road and any proposed improvement thereto within the reasonably foreseeable future, and any standards governing access, nonaccess or limited access which have been established by the county superintendent.

3. Upon completion of the work within the county road right of way, authorized by the work permit, the person, firm, corporation, municipality, and his or its successors in interest, shall be responsible for the maintenance and repair of such work or portion of such work as set forth within the terms and conditions of the work permit.

4. An advertising sign, display or device, or any part thereof, erected in violation of this section shall be removed from the county road right of way by the owner or the party responsible for its erection. The county superintendent shall make a demand by mail, to the last known address of the owner, apparent owner or party responsible for the erection of such advertising sign, display or device, for its removal and, if it is not removed within twenty (20) days from the date of the mailing of such demand, the county superintendent may remove any such advertising sign, display or device, or any part thereof, from the county road right of way.

5. The term “county road right of way” shall, for the purposes of this section, mean the entire width between the boundary line of all property which has been purchased or appropriated by the county for county road purposes, all property over which the county superintendent or his predecessors has assumed jurisdiction for county road purposes, all property over which the county superintendent has assumed jurisdiction during the period of construction, reconstruction or improvement and all property which has become part of the county road system through dedication or use.

6. Any person, firm or corporation violating this section shall be liable to a fine of not less than twenty-five dollars nor more than one thousand dollars for each day of violation, to be recovered by the county superintendent and paid in to the county treasury to the credit of the county road fund created under this article for the construction, reconstruction and maintenance of county roads on the county road system in accordance with the provisions of this article, and may also be removed therefrom as a trespasser by the county superintendent upon petition to the county court of the county or to the supreme court of the state.

**Credits**

(Added L.1982, c. 734, § 1.)

McKinney's Highway Law § 136, NY HWY § 136  
Current through L.2015, chapters 1 to 412.