

RESOLUTION NO. 2016073

RE: AUTHORIZING THE ADOPTION OF THE MINIMUM RIGHT OF WAY OFFER POLICY TO PROPERTY OWNERS FOR THE ACQUISITION OF PRIVATE PROPERTY OR RIGHTS TO PRIVATE PROPERTY TO COMPLETE A PUBLIC IMPROVEMENT PROJECT

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

WHEREAS, the Commissioner of Public Works has advised that the Department of Public Works wishes to institute a "Minimum Right of Way Offer Policy" in connection with the acquisition of private property or rights to private property for public improvement projects, and

WHEREAS, the process employed by the County to acquire such private property or rights is specified by NYS Eminent Domain Procedure Law (EDPL), and is followed regardless of the funding of the project, and

WHEREAS, the EDPL requires a property owner to be compensated for the "best and highest value" of the property or property rights to be acquired based upon an independent appraisal of the property and said appraisal is to be performed by a NYS licensed real estate appraiser, and

WHEREAS, there are times that the property sought is small thus the appraised value of such small parcels can be very low, and it is not uncommon for said appraised value to be less than \$100, and

WHEREAS, part of the EDPL process is to contact the property owner and present the property owner an offer based on the appraisal, the property owner has the choice to accept or refuse the said offer and the property owner may deem the amount offered too low to justify the time to complete the acquisition process, and

WHEREAS, if the property owner refuses the offer, the County is then compelled to initiate a condemnation proceeding in order to obtain the property or property rights, and

WHEREAS, condemnation proceedings can be a time-consuming and costly process as well as foster an unfavorable opinion of government among property owners, and by instituting a minimum right of way offer policy, the County may avoid potential condemnation proceedings, and

WHEREAS, the benefits of the minimum right of way offer has been recognized by other municipal entities throughout New York State, and

WHEREAS, the Department of Public Works hereby recommends and offers the attached as the Minimum Offer Policy to be adopted by this Legislature, now therefore, be it

RESOLVED, that this Legislature hereby approves and adopts the Minimum Offer Policy to be implemented when it is necessary for the Department of Public Works to acquire private property or property rights in order to complete a public improvement project.

CA-049-16  
CAB/kvh/G-0188  
03/10/16

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 11<sup>th</sup> day of April 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 11<sup>th</sup> day of April 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 \$ \_\_\_\_\_

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 \$ \_\_\_\_\_

Nature/Reason:

Anticipated Savings to County: \_\_\_\_\_

Net County Cost (this year): \_\_\_\_\_

Over Five Years: \_\_\_\_\_

#### Additional Comments/Explanation:

Implementation of this policy for minimum right-of-way offers would have minimal financial impact to the County. There may be only a few instances per year when the policy would be utilized, and the net cost is likely to be less than \$1,000 per year. This cost would be offset by the savings realized by preventing a single condemnation proceeding.

Prepared by: Rachel Kashimer, Budget Office

Prepared On: 3/4/2016

**Dutchess County**  
**Minimum Right-of-Way Offer Policy**

Dutchess County through the Department of Public Works establishes a Minimum Right-of-Way Offer Policy:

1. The process employed by Dutchess County to acquire private property or property rights in connection with transportation improvement projects is specified by NYS Eminent Domain Procedure Law (EDPL.) The EDPL process is followed to purchase private property or property rights regardless of the funding source used.
2. Dutchess County shall commission an appraisal of property or property rights that are subject to acquisition by the County. The appraisal shall be performed by a NYS licensed Real Estate Appraiser. In accordance with EDPL, a property owner shall be compensated for the “best and highest value” of the property or property rights to be acquired based on an independent appraisal of the property.
3. If the appraised value of all of the property or property rights to be acquired on a single tax parcel is less than \$250, Dutchess County shall offer \$250 as the minimum offer to the property owner for all of the property or property rights that are to be acquired by Dutchess County for that single tax parcel.
4. Where a property owner has agreed to donate property or property rights to the County, the property owner shall be informed of the appraised value of such property or property rights. The minimum offer of \$250 shall not apply to donated property or property rights.

This policy was adopted by the Dutchess County Legislature on \_\_\_\_\_ pursuant to Resolution No. 2016xxx.