

RESOLUTION NO. 2016166

RE: AUTHORIZING CONDEMNATION PROCEEDING FOR A FEE ACQUISITION AND A TEMPORARY EASEMENT OF REAL PROPERTY OWNED BY ETHEL BEST FOR THE REPLACEMENT OF BRIDGE M7, OVER THE ROELIFF-JANSEN KILL, TOWN OF MILAN (BIN 3343330)

Legislators PULVER and SAGLIANO offer the following and move its adoption:

WHEREAS, the Department of Public Works has proposed the replacement of Bridge M-7, County Route 51, (Academy Hill Road) bridge replacement over the Roeliff-Jansen Kill, which project (BIN 3343330) includes the acquisition of portions of certain properties, and

WHEREAS, the Department of Public Works has determined that the improvement project (1) constitutes an Type II Action pursuant to Article 8 of the NYS Environmental Conservation Law and Part 617 of the NYCRR (SEQR) and (2) will not have a significant adverse impact on the environment, and

WHEREAS, this Legislature authorized the purchase of two (2) fee acquisitions of approximately 67 square feet and 325 square feet from Ethel Best in Resolution No. 2015241, and

WHEREAS, the project was partially redesigned subsequent to the adoption of Resolution No. 2015241, with the end result being those two (2) fee acquisitions are no longer needed for the advancement of the project, and

WHEREAS, the properties that now need to be acquired are: (a) a temporary easement of a 1,246 +/- square foot parcel as shown on Map 2, Parcel 4, and (b) a fee acquisition of 666 +/- square foot parcel as shown on Map 2, Parcel 3 located at 976-978 Academy Hill Road in the Town of Milan, a portion of Tax Grid No. 133600-6673-00-070302-0000, for the purpose of facilitating the subject project, and

WHEREAS, for reasons unknown to the Department of Public Works, the property owner has not been prompt in the execution of the necessary documents in connection with the granting of a Temporary Easement and Fee Acquisition for the work described in the previous paragraphs, and

WHEREAS, the Dutchess County Department of Law has determined that the proposed acquisition of this Temporary Easement and Fee Acquisition are a "de minimus" acquisition pursuant to New York State Eminent Domain Law (EDPL) Section 206 (D) thus exempting the County from complying with the provisions of Article 2 of the EDPL, and

WHEREAS, it is now necessary for this Legislature to authorize the commencement of proceedings pursuant to the Eminent Domain Procedure Law for the acquisition of a Temporary Easement and Fee Acquisition as follows:

<u>Name</u>	<u>Map No./Parcel No.</u>	<u>Type</u>	<u>Square Feet</u>	<u>Proffered Amount</u>
Ethel Best	Map 2, Parcel 3	Fee Acquisition	666 sq.ft. +/-	\$400
Ethel Best	Map 2, Parcel 4	Temporary Easement	1,246 sq.ft.+/-	\$100

now, therefore, be it

RESOLVED, that the Commissioner of Public Works on behalf of Dutchess County be and she hereby is authorized and empowered to commence proceedings pursuant to the Eminent Domain Procedure Law for the Temporary Easement and Fee Acquisition on the above property in furtherance of the replacement of M-7, County Route 51, (Academy Hill Road) bridge replacement over the Roeliff-Jansen Kill, Dutchess County, New York, and it is further

RESOLVED, that the Commissioner of Public Works is authorized to spend up to \$1,000.00 to cover costs and expenses, (not including the \$500.00 proffered amount) associated with the Eminent Domain proceeding.

CA-1015-16  
CAB/kvh/R-0952-A  
6/14/16  
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 July 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 July 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 \$ 1,500

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: \$1,500

#### Additional Comments/Explanation:

REPLACEMENT OF BRIDGE M-7 CR 41 (ACADEMY HILL ROAD) OVER THE ROELIFF-JANSEN KILL, TOWN OF MILAN

This Fiscal Impact Statement pertains to the Resolution Request for authorization to acquire in Fee for a 666 +/- square foot parcel as shown on Map 2, Parcel 3 for \$400, and a Temporary Easement to a 1,246 +/- square foot parcel as shown on Map 2, Parcel 4 for the purchase price of \$100 from Ethel Best.

Related expenses in the amount of \$1000 are included in the Total Current Year Costs.

Prepared by: Robert H. Balkind, P.E.

Prepared On: 6/13/2016





MARCUS J. MOLINARO  
COUNTY EXECUTIVE



NOEL H.S. KNILLE, AIA, ASLA  
COMMISSIONER

ROBERT H. BALKIND, P.E.  
DEPUTY COMMISSIONER

**COUNTY OF DUTCHESS**  
DEPARTMENT OF PUBLIC WORKS

March 31, 2016

Ms. Ethel Best  
976 Academy Hill Rd.  
Milan, NY 12571

**RE: BRIDGE M-7, COUNTY ROUTE 51 (ACADEMY HILL ROAD)  
BRIDGE REPLACEMENT OVER THE ROELIFF-JANSEN KILL PROJECT  
MAP NO. 04, PARCELS 8 & 9, TAX ID NO. WAS PART OF 6573-00-996452  
TOWN OF MILAN, DUTCHESS COUNTY, NEW YORK**

Delivered this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_

Dear Ms. Best:

Dutchess County is in the process of acquiring real property rights necessary for the Bridge M-7, County Route 51, Academy Hill Road Bridge Replacement over the Roeliff-Jansen Kill project. This letter is the County's official offer to acquire real property rights from a portion of your property for the project.

The offer is based on an appraisal report prepared by a New York State Certified General Real Estate Appraiser. A qualified review appraiser has reviewed the appraisal report. The County has established an amount that represents "just compensation" for the property to be acquired. This amount includes the compensation for the interest to be acquired, improvements, if any, and all legal damages that may be caused to your remaining holdings.

The offer of just compensation is \$500.00. As required by federal and state law, the offer represents the approved appraisal amount. You may accept the offer as payment in full or you may elect, without prejudicing your rights, to accept the offer as an advance payment.

The following is a summary of the offer:

1. The value of the land and improvements within the fee acquisition area:.....\$400.00
2. The value of the land and improvements within the permanent easement area: .....\$000.00
3. The loss in value to your remaining property:.....\$000.00
4. Cost to cure.....\$000.00
5. Temporary easement rental value:.....\$100.00

TOTAL OFFER OF JUST COMPENSATION: .....\$500.00

Included in the acquired area are the following improvements:

Trees and gravel.

A description of the area and real estate interest to be acquired is shown on the enclosed map.

You may accept the offer as payment in full or you may reject the offer as payment in full and instead elect to accept such offer as an advance payment. Such election shall in no way prejudice your right to claim additional compensation. However, your failure to file a claim within one (1) year of the date of the execution of the Advance Payment Agreement, shall be deemed an acceptance of the amount paid as full settlement of such claim.

You have ninety (90) calendar days to consider this offer. Within this time, you may accept the offer, accept the offer as advance payment, or reject the offer. If you do not respond to this offer within the 90 day period, the Department of Public Works will consider the offer rejected.

On acceptance of this offer or an adjusted offer, the County will enter into a purchase agreement with you providing for payment of either the full or advance amount. Your rights to payment will not be conditioned on a waiver of any other rights. Please find with this letter the following documents:

1. W-9 Form. This form must be completed, signed and returned in order to allow Dutchess County to make any payment you.
2. Purchase Agreement. This form should be completed, signed and returned if you accept the offer for just compensation as presented herein. If you complete, sign and return this document, you do not need to complete the Advance Payment Agreement.
3. Advance Payment Agreement. This form should be completed, signed and returned if you wish to accept the offer for just compensation as presented herein but would like

to reserve your rights to claim additional compensation. If you choose to accept the offer as an advanced payment, you shall in no way prejudice your right to claim additional compensation. If you complete, sign and return this document, you do not need to complete the Purchase Agreement.

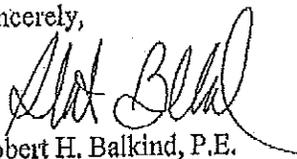
All forms should be returned to Dutchess County DPW, Engineering Division at 626 Dutchess Turnpike, Poughkeepsie, NY, 12603. Upon receipt of these documents the closing process will commence.

The County has hired R.K. Hite & Co., Inc to assist Dutchess County with right of way acquisition activities and to conduct negotiations on our behalf. A representative from R.K. Hite & Co., Inc. will contact you and offer to schedule an appointment to discuss the acquisition process. At this meeting, the representative will review the offer and explain the valuation and acquisition processes, including payment procedures. In addition, the representative will provide details about the proposed property acquisition schedule. Every effort will be made to answer your questions and help you through the process.

The representative from R.K. Hite & Co., Inc. assigned to this project is Jim Deloria. He will follow up with you within approximately one week to answer any questions you may have. You may contact Mr. Deloria at 518-487-8572 if you wish to discuss the offer or if you have any questions.

Thank you for your cooperation in this matter.

Sincerely,



Robert H. Balkind, P.E.  
Deputy Commissioner of Public Works

Enc.

RESOLUTION NO. 2015241

RE: AUTHORIZING TWO ACQUISITIONS IN FEE FROM  
ETHEL BEST FOR THE PROJECT IDENTIFIED AS  
BRIDGE M-7, COUNTY ROUTE 51 (ACADEMY HILL ROAD)  
BRIDGE REPLACEMENT OVER THE ROELIFF-JANSEN KILL,  
TOWN OF MILAN, DUTCHESS COUNTY

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

WHEREAS, the Department of Public Works has proposed the project identified as Bridge M-7, County Route 51 (Academy Hill Road) Bridge Replacement over the Roeliff-Jansen Kill in the Town of Milan, Dutchess County, which project includes the acquisition of portions of certain properties, and

WHEREAS, the Department of Public Works has determined that the improvement project: (1) constitutes an 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, the Department of Public Works has made a determination that in order to improve said bridges, it is necessary to acquire two (2) fee acquisitions of property presently owned by Ethel Best, and

WHEREAS, the acquisitions in fee are portions of parcel number 133600-6673-00-070302-0000, described as: (a) 67 square feet more or less and (b) 325 square feet more or less as shown on Map No. 2, Parcel Nos. 3 and 4 respectively, a copy of which is annexed hereto, and

WHEREAS, the Agreement to Purchase Real Property (Fee Acquisition) for the necessary real property is attached hereto, and

WHEREAS, the Commissioner of Public Works has recommended that the two (2) Fee Acquisitions, be purchased for the sum of \$200, plus \$100 for site improvement compensation and up to \$1,000 for related expenses, and that the terms and conditions of the Agreement be carried forth, now, therefore, be it

RESOLVED, that the County Executive is authorized to execute the Agreement to Purchase Real Property (Fee Acquisition) in substantially the form annexed hereto and all documents in connection with this acquisition, and be it further

RESOLVED, that on the submission by the property owner of deeds to the

aforementioned land, which shall include the terms and conditions of the Agreement to Purchase Real Property (Fee Acquisition), and such other documents as may be necessary to convey free and clear title to the County of Dutchess, that payment be made to the property owner in the sum of \$300 for the acquisitions, that the County reimburse Grantor for fees associated with the Release of Mortgage application, if any, and pay all necessary transfer tax and filing fees, and be it further

RESOLVED, that the terms and conditions of the aforementioned Agreement to Purchase Real Property (Fee Acquisition) be carried out by the Dutchess County Department of Public Works.

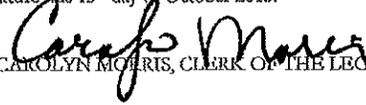
CA-155-15  
CAB/kvh/R-0952-A  
9/15/15  
Fiscal Impact: See attached statement

APPROVED  
  
MARCUS J. MOLINARO  
COUNTY EXECUTIVE  
Date 10/19/2015

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 13<sup>TH</sup> day of October 2015, 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 13<sup>th</sup> day of October 2015.

  
CAROLYN MORRIS, CLERK OF THE LEGISLATURE

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated  
Eminent Domain Procedure Law (Refs & Annos)  
Chapter 73. Of the Consolidated Laws  
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 206

§ 206. Exemptions

Currentness

The condemnor shall be exempt from compliance with the provisions of this article when:

(A) pursuant to other state, federal, or local law or regulation it considers and submits factors similar to those enumerated in subdivision (B) of section two hundred four, to a state, federal or local governmental agency, board or commission before proceeding with the acquisition and obtains a license, a permit, a certificate of public convenience or necessity or other similar approval from such agency, board, or commission or;

(B) pursuant to article VII or article VIII of the public service law it obtained a certificate of environmental compatibility and public need or;

(C) pursuant to other law or regulation it undergoes or conducts or offers to conduct prior to an acquisition one or more public hearings upon notice to the public and owners of property to be acquired, and provided further that factors similar to those enumerated in subdivision (B) of section two hundred four herein may be considered at such public hearings, or;

✓ (D) when in the opinion of the condemnor the acquisition is de minimis in nature so that the public interest will not be prejudiced by the construction of the project or because of an emergency situation the public interest will be endangered by any delay caused by the public hearing requirement in this article.

(E) when it complies with the procedures contained in section 41.34 of the mental hygiene law.

**Credits**

(L.1977, c. 839, § 1. Amended 1978, c. 468, § 3.)

McKinney's E. D. P. L. § 206, NY EM DOM PROC § 206  
Current through L.2016, chapters 1 to 64.

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(D) when in the opinion of the condemnor the acquisition is de minimis in nature so that the public interest will not be prejudiced by the construction of the project or because of an emergency situation the public interest will be endangered by any delay caused by the public hearing requirement in this article.

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