

County of Putnam, State of New York, and hereinafter described, for the purpose of constructing a certain public project thereon, which project is known as the Stoneleigh Avenue/Drewville Road Intersection Reconstruction Project (P.I.N. 8761.97) (hereinafter "Project").

4. The location of the Project is the intersection of Stoneleigh Avenue (CR 35) and Drewville Road (CR 36) ("Intersection") in the Town of Carmel, Putnam County, New York ("Project Area"). The Court's attention is respectfully referred to the Project Location Map that is annexed hereto and incorporated herein as **Exhibit "A"**.

5. The County is responsible for the maintenance of the Intersection.

6. The Intersection serves as a critical intersection for ambulance access to the Putnam Hospital Center.

7. The Stoneleigh Avenue and Drewville Road roadway cross sections and sight distances on portions of the roadways are non-standard and require modification to meet current standards.

8. Upon information and belief, existing and proposed developments around the Intersection, coupled with traffic growth, have created capacity problems along Stoneleigh Avenue.

9. Upon information and belief, due to structural, geometric, capacity deficiencies and inefficient traffic signaling, the existing level of service in and around the Intersection is poor during morning and evening peak hours of travel, and is expected to degrade over time.

10. Upon information and belief, the Intersection has poor or failing levels of service that will be exacerbated even with conservative growth in the area. Upon information and belief, without improvements to portions of Stoneleigh Avenue and the Intersection, any future growth in traffic volumes will cause congestion to increase along Stoneleigh Avenue.

11. Upon information and belief, emergency vehicle access through the Intersection is limited in peak hours.

12. The poor levels of service at and around the Intersection pose a significant health risk, as traffic queuing and suboptimal intersection function prevent emergency vehicles from accessing the Putnam Hospital Center.

13. Due to the foregoing, the County is proposing to reconstruct the Intersection, which will include a 130-foot diameter roundabout, and make improvements and modifications to the approaches to the Intersection.

14. The primary purpose and intent of this Project is to provide capacity and safety improvements to the Intersection.

15. Project safety improvement techniques designed to increase motorist and pedestrian safety, as well as reduce specific accident types, include the following:

- Increase the width of travel lanes to satisfy NYSDOT and AASHTO standard lane widths;
- Increase the width of shoulders where feasible and provide smoother ingress/egress at driveways and side streets;
- Improve intersection geometry and sight distance at the intersection; and

- Improve intersection level-of-service to reduce traffic queuing during peak hours and facilitate emergency vehicle access to the Putnam Hospital Center.

16. The objectives of the Project are to:

- Improve overall traffic conditions to reduce delay and provide an acceptable level of service for a design period of 20 years;
- Address geometric deficiencies to improve traffic flow and meet current design standards;
- Provide improved access to the Putnam Hospital Center;
- Provide new guiderail and signing where required;
- Evaluate historical accident data to improve the safety of the project corridor; and
- Address stormwater runoff.

17. In the course of designing this Project, the County considered four (4) alternatives, including a null alternative. Based upon the analysis of engineering, and social and environmental consequences of the alternatives evaluated during the project development process, the County selected as the preferred alternative that involves the construction of a single lane roundabout that is 130 feet in diameter, with geometric modifications to the Stoneleigh Avenue approaches to the Intersection, and a reconfiguration of the Drewville Road approach to the Intersection.

18. The County respectfully submits that it is exempt from conducting a public hearing in accordance with Article 2 of the Eminent Domain Procedure Law in relation to the proposed acquisition on the basis of grounds set forth in EDPL §206(A) and (C).

19. EDPL §206 (A) provides that the County is exempt from the hearing requirements of Article 2 when, pursuant to other state, federal, or local law or regulation, it considers and submits factors similar to those enumerated in Article 2, subdivision (B) of section 204, to a state, federal, or local government 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.

20. The factors for consideration that are set forth in EDPL §204(B) are as follows:

- (1) the public use, benefit or purpose to be served by the proposed public project;
- (2) the approximate location for the proposed public project and the reasons for the selection of that location;
- (3) the general effect of the proposed project on the environment and residents of the locality; and
- (4) such other factors as the County considers relevant.

21. The Project is a Locally Administered Federal-Aid Transportation Project that is sponsored by the County and administered through the Federal Highway Administration (“FHWA”), with oversight being provided by the New York State Department of Transportation (“NYSDOT”).

22. Because of the Federal and State funding involved, the Project is subject to Federal and State requirements relating to the development, design and construction of the Project. In order to assist New York State municipalities that participate in Federal-aid Transportation Projects such as this, NYSDOT has developed and promulgated its “Procedures for Locally Administered Federal Aid

Projects” (also known as *Local Projects Manual*), as well as *The Environmental Manual* (“TEM”) that set forth the steps, activities, approvals and other requirements that must be met to ensure eligibility for Federal funding and compliance with Federal and State laws and regulations. The TEM requires the examination and consideration of land-air-water environmental, social, economic, historic and cultural factors when progressing a project such as the Project.

23. In order to progress to the Project through the project design phase, it was necessary for the County to obtain from NYSDOT and FHWA approval that the County has satisfied the requirements of the NYSDOT Local Projects Manual and other applicable NYSDOT documents, as well as Federal laws and regulations.

24. In accordance with NYSDOT regulations, policies and guidance, the County, in conjunction with its consultant, completed a Final Design Report (“Final Design Report”) for the Project in July, 2021, and submitted the Final Design Report to FHWA and NYSDOT for approval. Annexed hereto and incorporated herein as **Exhibit “B”** are copies of relevant portions of the Final Design Report.

25. The Final Design Report for the Project clearly sets forth the public use, benefit or purpose to be served by the Project, the approximate location for the Project, the reasons for the selection of that location and other information relative to the Project.

26. In the course of progressing the design of the Project, and as is more fully set forth in the Final Design Report, the County examined and considered the social, economic and environmental consequences of the Project

and activities associated with the Project, including its impacts on: local residents; other affected populations; school districts; recreation areas; places of worship; businesses; police, fire and ambulance services; highway, traffic and overall public safety and health; social groups; regional and local economies and business districts; surface waters; water source quality; general ecology; wildlife; historic and cultural resources; farmlands; and visual resources.

27. The County submitted the Final Design Report to NYSDOT and FHWA for their concurrence and approvals, following which both FHWA and NYSDOT completed a review of the Final Design Report and approved the County's preferred alternative.

28. FHWA and NYSDOT completed their review of the Final Design Report, and NYSDOT has provided preliminary project approval to the County and issued an Authorization to Proceed with Final Design and an Authorization to Proceed With ROW Acquisition. Annexed hereto and incorporated herein as **Exhibit "C"** and **"D"** are copies of the NYSDOT correspondence advising of such approvals and authorizations.

29. Federal and State requirements for projects such as the Project include a mandate that the County undertake the action and satisfy the requirements of the National Environmental Policy Act ("NEPA") as a condition precedent to the issuance of Final Design Approval and Right-of-Way Authorization for the Project.

30. In satisfaction of its obligations under NEPA and FHWA regulations, the Project is being progressed in conjunction with NYSDOT and FHWA as a Class II Action (Categorical Exclusion) because it does not

individually or cumulatively have significant environmental impacts and is excluded from the requirement to prepare an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) as documented in the Federal Environmental Approvals Worksheet (“FEAW”) that was prepared by the County. Annexed hereto and incorporated herein as **Exhibit “E”** is a copy of the FEAW that was prepared by the County in connection with the Project.

31. In accordance with the FHWA’s regulations in 23 CFR 771.117(c), this Project is one of the project types described in the ‘d’ list as primarily an “Action described in paragraph (c)(26), (c)(27) and (c)(28) of this section that does not meet the constraints in paragraph (e) of this section” and does not significantly impact the environment.

32. NYSDOT has determined, and FHWA has concurred, that the Project will not induce significant environmental impacts, and it meets the conditions and criteria for a NEPA Class II, D-List Categorical Exclusion with Documentation. Annexed hereto and incorporated herein as **Exhibit “F”** is a copy of correspondence setting forth the FHWA’s concurrence with the County’s NEPA determination.

33. As is evident from the foregoing, the County has satisfied the requirements of 23 CFR 771.129 in regard to the evaluation of the Project under NEPA.

34. The County, acting as Lead Agency has completed a Full Environmental Assessment Form, has advanced the Project as an Unlisted Action and has satisfied the requirements of the New York State Environmental Quality Review Act.

35. In order to accomplish the Project, the County will have to obtain from the New York State Department of Environmental Conservation (“NYSDEC”) an Article 15, Section 401 Water Quality Certification/Permit, a State Pollutant Discharge Elimination System (SPDES) General Permit (GP-0-20-001), NYSDEC Article 24 Freshwater Wetlands Permit, NYSDEC Article 15 Permit, as well as an Army Corps of Engineers Section 404 Nationwide Permit #14 and a New York City Department of Environmental Protection Stormwater Permit.

36. The Federal and State statutory and regulatory structures relating to Federal Aid Transportation Projects require the examination and consideration of land-air-water environmental, social, economic, historic and cultural factors as a condition of approving a project such as the Project to progress to Final Design and Right-of-Way acquisition phases.

37. In light of the several written approvals of FHWA and NYSDOT following the County’s consideration and submission to those agencies of factors similar to those set forth in EDPL §204 (B), as required by Federal statute, FHWA regulations and NYSDOT statutes, regulations and policies, the County has satisfied the criteria set forth in EDPL §206 (A) and, therefore, is exempt from the requirement to hold an EDPL Article 2 hearing.

38. EDPL Section 206 (C) provides that the County is exempt from compliance with the hearing and determination and findings requirements of EDPL Article 2 when, “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”.

39. As a Federal-Aid Transportation Project, the Project is subject to the provisions of 23 U.S.C. §128, 23 CFR §450.210(a)(1), 23 CFR §450.316(a)(1) and 23 CFR §771.111. 23 U.S.C. §128 requires, among other things, that prior to the acquisition of right-of-way interests for a public project, a public hearing must be held, or the opportunity for such be afforded, at which public hearing there are considered factors similar to those enumerated in subdivision (B) of Eminent Domain Procedure Law §204.

40. In accordance with the provisions of Title 23, U.S. Code, Section 128, and Title 40, U.S. Code of Federal Regulations, Parts 1500 to 1508 and other applicable statutes and regulations, on June 15, 2021, and after due notice thereof was provided, public hearing was conducted concerning the subject public Project. The hearing was part of a larger process during which the County described the alternatives and preferred alternative, discussed right-of-way needs, construction impacts, and considered and addressed the potential social, historic, economic and environmental consequences of the proposed Project.

41. As is evident from the foregoing, the County has conducted a public hearing, upon notice to the public and owners of property to be acquired, at which factors similar to those enumerated in EDPL Section 204(B) were presented and considered, as a consequence of which the County is exempt from the EDPL Article 2 hearing requirements with respect to the Project.

42. The County has, in all respects, complied with the requirements of EDPL Article 2.

43. The proposed acquisitions that are the subject of the instant proceeding are a fee interest and temporary easement interests in, to, on, over and through portions of Tax Map Parcel 66.15-1-16 (“Springside Parcel”). The Springside Parcel consists of approximately 4.53 acres of land area. The proposed fee interest in and to a portion of the Springside Parcel consists of approximately 16,562 square feet of land. The purpose of acquiring the fee interest is to accommodate the reconstruction of the Stoneleigh Avenue/Drewville Road intersection. One of the two (2) proposed temporary easement interests in, on, over and through portions of the Springside Parcel affects an area consisting of approximately 579 square feet of land. The second proposed temporary easement affects another area consisting of approximately 8317 square feet of land. The purposes of acquiring the temporary easement interests are for the expansion of a storm water management pond, grading and work zone access.

44. A copy of the proposed acquisition map depicting the interests sought to be acquired herein, together with metes and bounds descriptions of such, is annexed as Schedule “A” to the Notice of Pendency to be filed herein. A copy of the Notice of Pendency, in the form in which the County intends to file it, is annexed hereto and incorporated herein as **Exhibit “G”**.

45. Prior to the commencement of the instant proceeding, and in accordance with the provisions of EDPL §403, the County caused a search to be made of the records of the Office of the Clerk of Putnam County, which is the County in which the Springside Parcel is situated. Upon information and belief, fee title to the common elements of the Springside Parcel is vested in the owners of the individual condominium units of the Springside Commons Condominium.

46. In connection with the proposed acquisition herein and pursuant to Eminent Domain Procedure Law Article 3, the County caused the fee and temporary easement interests sought to be acquired in portions of the Springside Parcel to be appraised, and thereafter established \$106,700 as the amount that the County believes represents just compensation for such real property interests to be acquired. Subsequently, the County conveyed to the record owners of the common elements in the Springside Parcel a written offer representing 100 percentum of the highest approved appraisal amount. Upon information and belief, the record owners of the common elements of the Springside Parcel have not accepted the County's offer of just compensation.

47. The names and places of residence of the condemnees of the real property in which the fee and temporary easement interests are sought to be acquired by eminent domain are set forth in **Exhibit "H"** which is annexed hereto and incorporated herein.

48. A search of the records of the Putnam County Clerk's Office revealed the existence of one (1) unsatisfied mortgage that is secured by the Springside Parcel. Consequently, more than one (1) person or entity may claim an interest in the monies to be paid on account of the acquisition sought herein.

49. Chapter 1161 of the Laws of 1971 and 49 C.F.R. 24.102(j) require that the amount of the Petitioner's offer of just compensation be deposited with the Clerk of this Court under the circumstances presented in this case. Accordingly, the Petitioner requests permission to deposit such monies with the Clerk of this Court for distribution to the appropriate persons or entities.

49. There has been no previous application made to this Court for the relief requested herein.

WHEREFORE, the Petitioner requests that the Court direct the entry of an Order: authorizing the Petitioner to file the acquisition maps herein in the Office of the County Clerk of the County of Putnam; directing that upon such filing, a fee interest and temporary easement interests in, to, on, over and through portions of the property described herein shall vest in the Petitioner; authorizing the County of Putnam, New York to deposit into Court the just compensation monies in the amount of \$106,700.00, such sum to be deposited without charge of fees, commissions or poundage; directing that upon the deposit of such monies into Court, the County shall notify, by notice included with the notice of acquisition, both notices to be served upon known condemnees, only by certified mail, return receipt requested, and without publication or other personal service, all known persons or entities that claim or may claim an interest in the monies so deposited that such amounts have been deposited with the Court and are subject to an application for distribution submitted by any interested person or entity by means of a verified petition, made on at least thirty (30) days' notice to other interested or potentially interested persons or entities, to be served by certified mail, return receipt requested, which verified petition shall set forth the names, addresses (if known) and nature of interest of any and all persons or entities who may have, or claim to have, an interest in the deposited just compensation monies; and granting such other, further and different relief as to the Court may seem just and proper.

DATED: October 3, 2022
Albany, New York

Yours, etc.

COUNTY OF PUTNAM, NEW YORK

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By 
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and/or representatives of the County of Putnam and a review of documents contained in the deponent's and the County of Putnam's files.

Robert S Hite
ROBERT S. HITE

Sworn to before me this
3rd day of October, 2022.

Nikko A Murray
NOTARY PUBLIC

NIKKO A. MURRAY
Notary Public - State of New York
No. 01MU6330252
Qualified in Albany County
My Commission Expires Sept. 14, 2023