

EXHIBIT 8

TRANSCRIPT OF ULSTER COUNTY LEGISLATURE
PUBLIC HEARING PURSUANT TO EMINENT
DOMAIN PROCEDURE LAW
DECEMBER 11, 2018

INCLUDING ORAL AND WRITTEN COMMENTS
AND SUBMITTED DOCUMENTATION

ULSTER COUNTY LEGISLATURE
PUBLIC HEARING PURSUANT TO
EMINENT DOMAIN PROCEDURE LAW:
MINUTES OF PUBLIC HEARING

PIN 8758.04

KINGSTON RAIL TRAIL
LOCATED IN THE TOWN OF HURLEY, TOWN OF ULSTER, AND
CITY OF KINGSTON
ULSTER COUNTY, NEW YORK

DATED: December 11, 2018
6:30 p.m. 6:55 p.m.
Ulster County Office Building
244 Fair Street
Kingston, NY 12401

Stephanie Turetsky, Court Reporter

Ulster County Legislature Members Present:

Lynn M. Archer, Tracey A. Bartels, James H. Delaune, David B. Donaldson, Lynn M. Eckert, Richard A. Gerentine, Manna Jo Greene, Heidi L. Haynes, Jonathan R. Heppner, Herbert Litts III, Craig V. Lopez, Joseph K. Maloney, Kathy Nolan, Mary Beth Maio, Kevin A. Roberts, Kenneth J. Ronk, Jr., Laura Petit, Hector S. Rodriguez, Mary Warwo, and Brian J. Woltman.

1 THE CHAIRMAN: I apologize for the lack
2 of microphones and TVs. We are doing some
3 remodeling in here with the wallpaper. When they
4 took that off, they had to do some re spackling and
5 whatnot. We had a mold issue a little bit. It was
6 not a bad mold issue. It was just we needed to
7 replace the wallpaper, and with the renovation of
8 the chamber, it was a good time

9 THE CLERK: Fire evacuation plan. Please
10 note that in the event of an emergency, the fire
11 department has requested that legislators and all
12 others stay one block away from the County Office
13 Building in order not to impede the firefighters in
14 their duties.

15 Cellphones: Please silence cellphones for
16 the duration of the Public Hearing.

17 Roll call.

18 (WHEREUPON the roll was called.)

19 THE CLERK: Twenty present and three absent.

20 Tonight's public hearing is on the proposed
21 acquisition for public purpose of properties for
22 the construction of the Kingston Rail Trail Project
23 in the Town of Hurley, the Town of Ulster and City
24 of Kingston.

25 THE CHAIRMAN: Before we get to the public

1 comment portion, before we get to the Public
2 Hearing where the public is going to speak to us,
3 Chris White, Deputy Director of Planning, is going
4 to come up and give us a presentation, as required
5 by law, any time we have one of these Public
6 Hearings.

7 So, Chris, the floor is yours.

8 MR. WHITE: Good evening.

9 My name is Christopher White. I am Deputy
10 Director of Planning for Ulster County and the
11 Project Manager for the Kingston Rail Trail
12 Project, also known as PIN 8758.04, which is the
13 subject of tonight's Public Hearing. The
14 proposed project is located in the Town of Hurley,
15 the Town of Ulster and City of Kingston, and will
16 extend the existing O & W Hurley Rail Trail
17 approximately 1.8 miles to Washington
18 Avenue in the City of Kingston.

19 This Public Hearing is required to meet the
20 legal requirements of Article 2 of Eminent Domain
21 Procedure Law, and the requirements for federally-
22 funded transportation projects involving
23 right-of-way acquisition.

24 A notice of Public Hearing was published
25 in the Daily Freeman for five consecutive days,

1 beginning on November 27, 2018. The notice was
2 also published in two weekly papers, the Ulster
3 Publishing Almanac and the Shawangunk Journal, on
4 November 29, 2018 and December 6, 2018. A copy of
5 the notice of Public Hearing was also sent to the
6 three assessment record billing owners impacted by
7 the Project.

8 The purpose of tonight's hearing is to
9 provide information on the Project, background,
10 public use, benefits and purpose; describe the
11 location of the Project and explain the reasons for
12 the selection of the location; discuss the general
13 effect of the Project; identify the property
14 interests the County will need to acquire in order
15 to accomplish the Project; and accept and consider
16 public comments. The statements made during
17 tonight's Public Hearing will be recorded by a
18 stenographer. Additionally, various documents are
19 being made available for public inspection. Those
20 documents have been pre marked as Exhibits and will
21 be incorporated into the record of hearing.

22 Public comments and other documents relating
23 to the proposed Project will be accepted until
24 December 31st, 2018, and should be addressed to the
25 Ulster County Planning Department at PO Box 1800,

1 Kingston, New York, 12402. All oral and written
2 comments and documents will be included in the
3 public hearing record. Copies of the hearing
4 transcript and exhibits will be available to the
5 public without cost during normal business hours at
6 the Ulster County Planning Department and will also
7 be posted shortly on the Planning web site.

8 Within ninety days after the record of this
9 hearing is complete, the entire record will be
10 delivered to the County legislature for
11 consideration and rendering of its determinations
12 and findings regarding the Project. A brief
13 synopsis of the legislature's determination and
14 findings will then be published in appropriate
15 newspapers and also mailed to the assessment record
16 billing owners. The pre-marked exhibits that are
17 going to be incorporated into the record and will
18 be made available for public view include the
19 following:

20 Exhibit 1 is a copy of the notices submitted
21 to the newspapers mentioned previously along with
22 Affidavits of Publication. Exhibits 2 to 4 are
23 copies of the letter notices mailed to each of the
24 assessment record billing owners along with copies
25 of certified mailing and return receipt documents.

1 Exhibit 5 is a copy of the affidavit of mailing for
2 the letter notices. Exhibit 6 is a copy of the
3 final design report prepared by Barton & Loguidice,
4 D.P.C., the engineering firm retained by the County
5 to design the Project. This report includes many
6 of the technical details, including the scope and
7 evolution, alternatives, and environmental,
8 historical and social factors considered. Exhibit
9 7 is a copy of the Advance Detail (75%) Plans
10 prepared by Barton & Loguidice. In addition to
11 these pre-marked exhibits, the stenographic record
12 of the oral public comments and all of the written
13 comments and documents will be entered into the
14 hearing record as Exhibit 8. And at this time I
15 would request that all the pre-marked exhibits be
16 admitted into the record of the proceeding.

17 The Kingston Rail Trail Project proposes to
18 construct a 1.8 mile fully accessible non-motorized
19 pedestrian and bicycle trail. The Kingston Rail
20 Trail will be a ten foot wide asphalt paved trail,
21 connecting the existing Hurley Rail Trail along
22 Route 209 to Washington Avenue in Kingston, where a
23 small trailhead with parking will be constructed.
24 The funding is eighty percent federal
25 transportation funds and twenty percent State

1 dedicated funds. The O & W Hurley Rail Trail
2 currently extends 14.8 miles through the Towns of
3 Hurley, Marbletown and Rochester, and eventually
4 could connect with the Village of Ellenville and
5 Sullivan County. And this Project will link the
6 growing trail system to the City of Kingston on its
7 northern segment. The Project is proposed to
8 follow the general alignment of the former Ontario
9 and Western or O & W Railroad, most of which is a
10 transmission and distribution corridor for Central
11 Hudson Gas and Electric Corporation and which has
12 been used as an informal hiking and biking trail
13 for several decades. This Project will formalize
14 and significantly improve the rustic trail,
15 including much needed drainage improvements, safety
16 fencing, reconstruction of culverts, installation
17 of new subbase and paved surface and re-sloping of
18 the trail connection to meet ADA regulations.

19 The proposed trail alignment is one of the
20 two alternatives analyzed in the design report, the
21 other being the Ulster and Delaware railroad
22 corridor, or the U & D, and the U.S. Route 209
23 right-of-way. The O & W alternative was selected
24 due to cost constraints, and because the Ulster
25 County Legislature delineated the U & D alternative

1 section for continued railroad use. The goals of
2 the Project are to improve quality of life for
3 local residents, improve tourism and economic
4 development, expand recreational opportunities,
5 offer non-motorized transportation alternatives
6 between the Town of Hurley and the City of
7 Kingston, and further develop an interconnected
8 county rail trail network.

9 The Project requires acquisition of
10 permanent easements from three businesses; central
11 Hudson Gas and Electric Corporation, Adirondack
12 Transit Lines and Ulster Savings Bank. The
13 impacted properties are tax parcels 55.8-8-5,
14 48.17-1-10.1, 48.70-1-4 -- are you getting all
15 this? 48.70-1-42 and 48.71-2-1. These owners have
16 been contacted previously, and we have met with all
17 of them multiple times over the past two years or
18 more to discuss the Project and get feedback to
19 minimize potential impacts to their properties.
20 The County has appraised the needed easements and
21 has made offers of just compensation to property
22 owners based on fair market value. The County is
23 negotiating in good faith with the property owners
24 for the needed easements, and eminent domain will
25 be considered only as a last resort.

1 And I would just say, off comment, Central
2 Hudson has already donated its easement and we have
3 concluded negotiation of that easement. And that
4 will be filed with the County Clerk after a filing
5 with the Public Service Commission. So that is the
6 biggest piece of this.

7 It is important to note that the proposed
8 acquisitions are narrow linear trail easements
9 along former railroad beds currently used primarily
10 for power transmission and distribution. This land
11 is largely un-developable and will not displace any
12 businesses or residences. The future development
13 of these parcels has been taken into consideration
14 and crossings of the trail will be accommodated
15 when deemed necessary. The Project is being
16 developed in compliance with all state and federal
17 environmental regulations including the State
18 Environmental Quality Review Act and the National
19 Environmental Policy Act. All required permits
20 will be obtained prior to construction and it is
21 anticipated the Project will have no adverse
22 environmental impacts. The construction of the
23 Project is scheduled to begin in 2019.

24 This concludes the presentation, so I will
25 turn the hearing over to legislative staff in a

1 moment. Please note that the required format for
2 this hearing does not allow us to respond to
3 statements or questions at this time, but I am
4 available following the Public Hearing to answer
5 any questions. All statements and comments
6 received this evening will be considered in the
7 preparation of the determination and findings.
8 Written comments, questions and documents will be
9 accepted by the County until the close of business
10 on December 31st, 2018 and can be submitted to the
11 Ulster County Planning Department. Thank you.

12 THE CLERK: There are four additional
13 speakers signed up, and the first speaker is John
14 Grossbohlin.

15 MR. GROSSBOHLIN: My name is John
16 Grossbohlin. I am a Kingston resident --

17 THE CLERK: Can you speak up louder, John?

18 MR. GROSSBOHLIN: Sure. I am a Kingston
19 resident and started using the O & W corridor back
20 in 1982, when I got my first mountain bike. Over
21 the years, I have watched the evolution of that
22 corridor. The railroad tracks were removed back in
23 1957, and over time nature started to take over and
24 plant life grew up and encroached into the
25 corridor. Because of that, Central Hudson has done

1 quite a bit of work over the years to maintain it.
2 They would run their mowers through so they could
3 work on their power lines, and that section stayed
4 pretty clear. The piece through the Trailways
5 property, that was always mowed, so getting through
6 there was never a problem. A portion of it between
7 Washington Avenue and the Thruway, which is the
8 Ulster Savings Bank portion, that had seen no
9 maintenance whatsoever, and up until 1990, it was
10 still fairly passable. But then the brush took
11 over. There were fallen trees. The trail that had
12 been used informally since at least '82 by myself,
13 had gotten down to a single track footpath through
14 there. And those brave enough to ride a bicycle
15 were subject to being torn up by the thorns. Back
16 on April 22, 2012, Kingston Land Trust made
17 arrangements to come in and start cleaning that up
18 a bit, and I went and joined them. That was the
19 first time I encountered anybody else working on
20 maintaining that corridor, and I kind of got
21 heavily involved, then. I ended up on the Board of
22 the D & H Canal Heritage Corridor Alliance. When
23 they created the O & W Rail Trail Coalition of
24 Municipalities, I was appointed by the mayor of the
25 City of Kingston to represent the City. I am also

1 involved in the Complete Streets Advisory Council
2 for the City, Bike Friendly Kingston and Friends of
3 Catskill Mountain Rail Trail. Once I had my
4 official capacity to do work on there under the
5 license agreements that the D & H Canal Heritage
6 Corridor Alliance had with the landowners, I went
7 in and aggressively cleared the trail up. I
8 removed the brush, removed the downed trees, etc.
9 And the trail use started to grow dramatically.
10 Originally, it was rare to encounter anybody in
11 there. There were a few transportation users,
12 there were homeless people living along the
13 corridor that have since vacated. But that trail
14 is heavily used by transportation users,
15 recreational users, there is a woman with
16 Asperger's uses it on a daily basis, multiple
17 times. I have the track team.

18 THE CHAIRMAN: Time is up.

19 MR. GROSSBOHLIN: Thank you.

20 THE CLERK: The next speaker is Patrick
21 Seely.

22 MR. SEELY: Mr. Chairman and other County
23 legislators, my name is Patrick Seely and I
24 represent the Hudson Valley Housing Development
25 Fund, who has a senior housing Project, affordable

1 housing, that they have proposed that is between
2 Hurley Avenue -- behind Hurley Avenue and where
3 near this trail runs. In fact, where the two rail
4 trails are located. This one, which is the O & W
5 Line and then there is the Ulster and Delaware
6 Line. They are a purchaser of property from Ulster
7 Savings Bank for this Project. They, frankly, they
8 think the Kingston Rail Trail a good Project. They
9 really like it. They need to have access to their
10 property, which currently they do not have. I was
11 glad to hear Chris mention that the plan is, where
12 possible, to accommodate crossings, because this
13 Project, our Project, needs that in order to be
14 able to get to the property that is in behind. So
15 for us, while we think the Project is good, we have
16 a couple of issues that we need to address, the
17 first of which on this is that right now, the way
18 the notice is written, there does not appear to be
19 any access that is being provided. There is no
20 description of it. It is just a metes and bounds
21 description to show the area, but not the rights
22 that are being acquired. We would like to have
23 access. This line has allowed crossings in
24 multiple places across it. We would like to have
25 the same thing for our Project as well so we are

1 able to get back there. But perhaps the bigger
2 issue with this, we do not think the eminent domain
3 should be necessary in this case because right now,
4 we have a very large section -- not large. But
5 roughly 3.3 acres that this acquisition is going to
6 cover, and we would be more than happy to trade
7 that for access over the Ulster and Delaware Line.
8 There has been a lot of conversation about whether
9 or not that is possible. I have inquired of that
10 as well with the County, and I have been told so
11 far they were advised by the State and Feds it was
12 just not a good idea to do that. I have not seen
13 anything hard and fast that makes it a prohibition.
14 They just seem to be a little skittish about it.
15 This could be a very simple trade that could be
16 done very expeditiously. There has been a lot of
17 work done behind the scenes in the last couple of
18 years between my client and the County and the
19 bank. We got so far as to be drafting documents to
20 make ready for you folks to look at. And it could
21 be implemented fairly expeditiously. We would like
22 to see that happen in this case. Thank for your
23 time. I would like to enter a written statement
24 with some exhibits. If I heard Chris right, I
25 think we are up to number 9, but I will let you

1 tell us later.

2 Thank you.

3 THE CLERK: The next speaker is Steve Rice.

4 MR. RICE: Good evening. My name is Steve
5 Rice. Chairman Ronk, esteemed legislators, the D &
6 H Canal Heritage Corridor Alliance, Incorporated,
7 has been the steward of the section of trail called
8 the Kingston Rail Trail in this Project since 1990.
9 We hold the operating agreements with Ulster
10 Savings Bank (1993). And Central Hudson (1999)
11 that keeps the trail open for public use. I have
12 served on the Board for over twenty years and have
13 been president for the last ten. The Kingston Rail
14 Trail Project is a critical link to the rest of the
15 O & W Rail Trail as it is the only car free, mild
16 grade route from Hurley to Kingston. The demand
17 for an improved trail in this section is something
18 that needs to be addressed now. The current
19 operating agreements no longer meet the needs of
20 the trail. Within increasing trail usage, this
21 section of trail needs to be improved
22 professionally to meet its potential. The
23 completion of the Kingston Rail Trail Project will
24 make the O & W Rail Trail complete from Kingston to
25 Accord, giving Ulster County a 15 plus mile car

1 free trail. More trail is planned and being built
2 on the O & W in Rochester and Wawarsing. A
3 Kingston to Ellenville O & W Rail Trail is the
4 goal. Development of a complete and welcoming
5 trail in plain sight of the New York State Thruway
6 could also be an excellent tourist draw for Ulster
7 County. This is Project 29 in what is called the
8 Complete D & H Trail from Kingston to Hurley in
9 Ulster County Non-motorized Transportation Plan of
10 December 2008. And the Kingston Rail Trail Project
11 will serve the greatest concentration of people on
12 the corridor. And to move forward, we will need
13 the full support of the legislature to develop the
14 benefits of this trail improvement.

15 Respectfully yours, Steve Rice.

16 Thank you.

17 THE CLERK: The last speaker is Carl
18 Pezzino.

19 MR. PEZZINO: Yes. My name is Carl Pezzino.
20 I am the Chair of the O & W Coalition of
21 Municipalities, which is a group we put together of
22 the seven municipalities that run the entire line
23 for the O & W from Kingston to Ellenville. I would
24 like to make this statement. To the Ulster County
25 Legislature. Subject: Kingston Rail Trail

1 Project, PIN 8758.04. Comments for Public Hearing,
2 December 11, 2018. The O & W Rail Trail Coalition
3 of Municipalities, which represents seven
4 municipalities along the O & W Rail Trail, strongly
5 supports construction of the Kingston Rail Trail
6 Project, PIN number 8758.04. Long a desire for
7 easy, safe, contiguous access to the O & W Rail
8 Trail, this approximate 1.8 mile stretch of trail
9 from the City of Kingston through the Town of
10 Ulster into the Town of Hurley, this Project has
11 now come into view, with a potential for completion
12 by the end of 2019.

13 Two recent New York State trail studies have
14 shown a continued high potential for trail user
15 growth in the O & W trail corridor from Hurley to
16 Marbletown and beyond. The addition of the
17 Kingston Rail Trail Project will add a much needed
18 O & W trailhead at Washington Avenue in Kingston,
19 as well as provide access to the health, economic,
20 cultural and transportation benefits offered by a
21 well connected, fourteen mile northern section of
22 the O & W Rail Trail in Ulster County.

23 In addition, our beautiful Rondout and
24 Esopus Valleys will be further exposed to the
25 growing trend of regional agritourism via the O & W

1 all the way through to the Village of Ellenville,
2 and will readily support walkers, hikers, runners
3 and bicyclists alike using our trail system.

4 The coalition has championed this Project
5 since our inception in 2015. We heartily endorse
6 the work of the Ulster County Planning Department
7 and thank the legislature for its ongoing support
8 of this critical Project. We look forward to the
9 growth of the trail user population, for both local
10 residents and tourists, that will surely happen
11 upon completion of this Project.

12 Thank you, and I sign this for the coalition
13 and myself. Thank you for your time.

14 THE CHAIRMAN: That is the last speaker for
15 the public hearing, unless anyone else in the room
16 wants to be heard.

17 Hearing nothing, I make a motion for
18 adjournment.

19 MEMBERS: Second.

20 THE CHAIRMAN: All in favor?

21 MEMBERS: Aye.

22 Time noted: 6:55 p.m.

23

24

25

REPORTER'S CERTIFICATION

I, STEPHANIE TURETSKY, a Shorthand.

Reporter and Notary Public within and for the State of New York, hereby certify:

That the witness was duly sworn; that the foregoing transcript is an accurate record of the testimony of the said witness, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am not related to any of the parties to this action by blood or marriage, and I am in no way interested in the outcome of this matter.



STEPHANIE TURETSKY

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EXHIBIT 8
ATTACHMENT 1

WRITTEN COMMENTS RECEIVED



To: The Ulster County Legislature

Subj: Kingston Rail Trail Project – PIN 8758.04

Comments for Public Hearing – December 11, 2018

The D and H Canal Heritage Corridor Alliance, Inc. has been the steward of the section of trail called the Kingston Rail Trail in this project since 1990. We hold the operating agreements with Ulster Savings Bank (1993) and Central Hudson (1999) that keep the trail open for public use. I have served on the board for over twenty years and have been President for the last ten.

The Kingston Rail Trail Project is a critical link to the rest of the O&W Rail Trail as it is the only car free, mild grade route from Hurley to Kingston.

The demand for an improved trail in this section is something that needs to be addressed now. The current operating agreements no longer meet the needs of the trail. With increasing trail usage this section of trail needs to be improved professionally to meet its potential.

Completion of the Kingston Rail Trail Project will make the O&W Rail Trail complete from Kingston to Accord, giving Ulster County a 15+ mile car free trail. More trail is planned and being built on the O&W in Rochester and Wawarsing. A Kingston to Ellenville O&W Rail Trail is the goal.

Development of a complete and welcoming trail in plain sight of the NYS Thruway could be an excellent tourist draw for Ulster County as well.

This is project 29 'Complete D&H Trail from Kingston to Hurley' in the Ulster County Non-Motorized Transportation plan (Dec 2008).

The Kingston Rail Trail Project will serve the greatest concentration of people on the corridor and to move forward we will need the full support of the legislature to deliver the benefits of this trail improvement.

Respectfully yours,

A handwritten signature in black ink that reads "S.P. Rice". The signature is written in a cursive style with a large, prominent "S" and "R".

Steven Rice

Chairman

D and H Canal Heritage Corridor Alliance, Inc.

PO Box 176, Rosendale, NY 12472-0176

Ulster County Legislature – EDPL Public Hearing December 11, 2018

This statement is submitted on behalf of Hudson Valley Housing Development Fund (“HVH”), which is under a contract to acquire the property that is the subject of this hearing (Ex. “A”), as well as additional acreage on which it intends to build affordable senior housing meeting a significant need identified by the county. That property is located off of Hurley Avenue on property bound by the Thruway and the Esopus Creek. HVH considers the proposed Kingston Rail Trail (“KRT”) to be a good project in general. Indeed, HVH has proposed to donate an easement for the KRT to the County, if its access needs can be met. We believe that the access issues can be resolved. To date, the County and HVH have not been able to reach a resolution. As a result, HVH is constrained to submit the following objections:

I. The County’s Proposed Acquisition Does Not Permit Access to the Property Hudson Valley Housing is Acquiring

The legal description provided for the easement sought to be acquired provides no rights of access across and along the proposed taking sufficient to allow the use and development of the property for the senior housing apartment complex. There are numerous examples over the proposed former O&W Rail Corridor where the County has acquired less than full fee interest to satisfy its needs for the proposed KRT. In particular, nearby property owned by Central Hudson Gas & Electric and Adirondack Trailways preserve rights of access to those underlying owners. The proposed acquisition for this segment of the KRT does not. If such rights are sufficient for the County to construct its rail trail on these nearby properties, there is no reason why the same could not be accomplished here. We believe that the County is fully aware of the need for access, and the omission of the crossing easement from the Notice of Hearing may have been inadvertent.

II. This Hearing Should be Unnecessary

It is well established that government should avoid eminent domain where it is possible to negotiate an acquisition.

There have been many discussions over several years between the County, Ulster Savings Bank (the current owner selling the property to HVH) and HVH. During these negotiations, HVH made it clear to the County that it is willing to provide the requested KRT easement to the County (totaling 3.37 acres) without any monetary consideration in exchange for a crossing easement from the County over a much smaller area (totaling 0.35 acres) on the nearby U&D rail corridor. The easement that HVH is willing to give the County is several times more valuable (\$5,100) than the easement HVH seeks in exchange (\$1,400). These comparative values are supported by appraisals that have been provided to the County.

The County has diligently pursued the rail trail project for at least the past five years and has adjusted the project as necessary in order to accomplish its creation. Certainly,

over the past two to three years, the project has seen multiple changes. One example of that was the change from the ongoing and detailed negotiations that led to the parties negotiating and draft documents for the exchange of an easement over the corridor that is the subject of this hearing for the much smaller and less valuable one over the parallel U&D line (Ex. "B"). Proposed Resolution No. 509 on the agenda for the December 18, 2018 meeting is a disposition of County property involving the KRT (Ex. "C"). The easement over the O&W line that is the subject of this hearing is 3.37 acres in size and has been appraised at \$5,100 as compared to the 0.35 acres in size of the other over the U&D line that was appraised at \$1,400. For many months, the parties negotiated with an eye toward an exchange that would allow this project to go forward without this hearing.

More recently, the County was advised by DOT that under the Federal Acquisition Procedures, the County should not pursue a "quid pro quo." We have asked the County to provide the basis for this change but have not yet received any such basis outside of it being conveyed in a phone call. With all due respect, this does not make much sense. The Federal government often funds such projects as it is doing here. Tying locals' hands in a way that costs the Federal government more money in order to pay for the proposed easement as opposed to trade some other – less valuable – asset should be a commonsense answer. It is HVH's understanding this "no quid pro" is a Federal or State policy – not a requirement – to protect the landowner from local overreaching. We believe that a review of the underlying telephonic recommendations with the pertinent people may lead the parties to find a way to resolve this matter expeditiously.

EXHIBIT A

Ulster County
Nina Postupack
County Clerk
Kingston, NY 12401



Volm-6123 Pg-179

Instrument Number: 2017- 00002146

As

Recorded On: February 08, 2017

D11 - Contract Sale

Parties: ULSTER SAVINGS BANK

To

HUDSON VALLEY HOUSING DEVELOPMENT FUND COMPANY INC

Billable Pages: 5

Recorded By: RIVER CITY ABSTRACT

Num Of Pages: 5

Comment:

** Examined and Charged as Follows: **

D11 - Contract Sale	65.00	Tax Affidavit TP 684	5.00			
Recording Charge:	70.00					
	Amount	Consideration Amount	RS#CS#			
Tax-Transfer	0.00	0.00	3057	Basic	0.00	
KINGSTON CITY				Local	0.00	Special/Additional 0.00
				Additional	0.00	Transfer 0.00
Tax Charge:	0.00					

** THIS PAGE IS PART OF THE INSTRUMENT **

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Document Number: 2017- 00002146
Receipt Number: 1559353
Recorded Date/Time: February 08, 2017 04:30:47P
Book-VolPg: Bk-D VI-6123 Pg-179
Cashier / Station: s smat / Cashier Station 4

Record and Return To:

HUDSON HOUSING DEVELOPMENT
5 GIVANS AVE
WAPPINGERS FALLS NY 12590



Nina Postupack

Nina Postupack Ulster County Clerk

5
H.
08

MEMORANDUM OF CONTRACT

THIS MEMORANDUM OF CONTRACT made the 3rd day of ~~December, 2016~~ ^{January, 2017} by and between Ulster Savings Bank, Seller, having an address of 180 Schwenk Drive, Kingston, New York 12401 and Hudson Valley Housing Development Fund Company, Inc., Purchaser, having an address of 5 Givans Avenue, Wappingers Falls, New York 12590;

For valuable consideration described in the Contract between the parties dated February 27, 2008, and thereafter amended, Seller has agreed to sell and Purchaser has agreed to purchase 191-199 Hurley Avenue, City of Kingston, County of Ulster, State of New York, designated as Tax Map Section 48.70, Block 1, Lot 7.2 and 493-495 Washington Avenue, City of Kingston, County of Ulster, State of New York, designated as Tax Map Section 48.71, Block 2, Lot 1 (the "Properties") as more fully described in Exhibit A attached hereto, under the terms and conditions described in said Contract.

The closing and transfer of title is to occur on or about July 15, 2017.

Witnesses: SELLER:

ULSTER SAVINGS BANK

By: [Signature]
William C. Calderara, President and CEO

STATE OF NEW YORK
COUNTY OF ULSTER : ss.:

On the 3rd day of ~~December, 2016~~ ^{JANUARY 2017} before me, the undersigned, personally appeared William C. Calderara, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

[Signature]
Notary Public

FRANKLIN ECK JR.
Notary Public, State of New York
County of Ulster
Commission Expires February 25, 2019

CHECKED Smm
ENTERED Smm
MARK/OFF _____

Witnesses: PURCHASER:

[Signature]
HUDSON VALLEY HOUSING
DEVELOPMENT FUND COMPANY INC
BY MARGARET T O'LEARY

STATE OF NEW YORK
COUNTY OF Ulster : ss.:

On the 13th day of JANUARY, 2017, before me, the undersigned, personally appeared Margaret T O'Leary, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

[Signature]
Notary Public

David A. Parnell
Notary Public, State of New York
No. 02918027676
Qualified in Dutchess County
Commission Expires July 18, 2019

v River City abook.

(R+R)
Hudson Housing Development
5 Givans Ave
Wappingers Falls NY
12590



HUDSON VALLEY
21 Fox Street
Poughkeepsie, NY 12501
P: 845.454.3980

CAPITAL DISTRICT
547 River Street
Troy, NY 12180
P: 518.273.0055

NORTH COUNTRY
375 Bay Road
Queensbury, NY 12804
P: 518.812.0515

CENTRAL NEW YORK
721 E. Genesee Street
Syracuse, NY 13210
P: 315.251.1013

NASHVILLE
3200 West End Ave., Ste. 900
Nashville, TN 37203
P: 615.783.1628

Correspondence from the Hudson Valley Office

Exhibit A

SURVEY DESCRIPTION
HUDSON VALLEY HOUSING
TAX PARCEL 48.071-2-1

ALL that plot, piece or parcel of land situate and being in the City of Kingston, County of Ulster and State of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of the herein described parcel, said point being on the westerly bounds of Washington Street and said point being the northeasterly corner of the lands now or formerly of Super 8 Motels of Kingston, Inc., described in Liber 1503 of deeds at page 88 and said point being located, N 24°47'49" E 0.95 feet from a concrete monument found; thence along the division line between the herein described parcel and said lands of Super 8 Motels of Kingston, Inc. and also along the lands now or formerly of Goodson-Toddman Enterprises, Ltd., described in Liber 1507 of deeds at page 1089, lands now or formerly of Thomas P. Cummings, described in Liber 4313 of deeds at page 74, lands now or formerly of Ulster County Development Agency, described in Liber 4424 of deeds at page 154, lands now or formerly of Hurley Meadows, Inc., described in Liber 2709 of deeds at page 335, lands now or formerly of Andrew Angstrom, described in Liber 1967 of deeds at page 128 and lands now or formerly of Robert J. Dittus, Sr., and Kathleen H. Dittus, described in Liber 1631 of deeds at page 141, N 75°07'50" W 113.09 feet, S 22°59'38" W 10.39 feet, N 75°07'42" W 1439.01 feet to the point of curvature of a curve to the left having a radius of 2695.52 feet; thence continuing along the lands of Dittus and also along the lands now or formerly of Sitour North America East, Inc., described in Liber 3230 of deeds at page 101, lands now or formerly of Thomas G. and Diane M. Brown, described in Liber 1412 of deeds at page 1144, lands now or formerly of Kingston Midtown Realty, Inc. as described in Liber 3617 of deeds at page 79, along said curve to the left, an arc length of 455.56 feet, having a chord bearing, N 79°58'12" W 455.02 feet to the point of compound curvature of a curve to the left having a radius of 2831.93 feet; thence along said curve, an arc length of 275.55 feet, having a chord bearing, N 87°35'57" W 275.44 feet to the southwesterly corner of the herein described parcel, said point being on the easterly bounds of the New York State Thruway as shown on Thruway Fee Map No. 476R2, Parcel No. 626; thence in part along the easterly and northerly bounds of said New York State Thruway, N 37°37'48" E 73.72 feet, thence N 83° 34' 59" W 13.93 feet, N 12° 06' 47" W 2.66 feet and N 32° 33' 35" E 4.15 feet to a point; thence along the southerly bounds of the lands now or formerly of St. Clara Church of God and Christ, described in Liber 3366 of deeds at page 300, and also along the reputed other lands of Ulster Savings Bank as shown on Filed Map #9804, along a curve to the right having a radius of 2897.93 feet, an arc length of 248.68 feet and a chord bearing, S 87°16'12" E 248.60 feet to the point of compound curvature of a curve to the right having a radius of 2761.52 feet; thence along said curve an arc length of 466.72, having a chord bearing S 79°58'12" E 466.16 feet to a point on the southerly bounds of the lands now or formerly of the County of Ulster as described in Liber 1414 of deeds at page 933; thence along the southerly bounds of the lands of the County of Ulster, S 75°07'42" E 1466.99 feet, S 17°53'50" E 24.60 feet and S 75°07'42" E 55.25 feet to a point on the westerly bounds of Washington Avenue, said point being located, N 06°34'56" W 1.31 feet from a concrete monument found; thence along the westerly bounds of Washington Avenue, S 12°20'22" E 39.38 feet to the point or place of beginning.

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www.chazenco.com

HUDSON VALLEY HOUSING
NOVEMBER 14, 2016
Page 2 of 2

CONTAINING 3.37 ACRES OF LAND MORE OR LESS.

Being and intending to be the premises as described in Liber 1902 of Deeds at Page 26. Subject to easements and conditions as described in said document.

November 15, 2016

C:\Users\jmh\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.IE5\QNT2204T\METIS 80LAW05 4879-2-1.docx



HUDSON VALLEY
21 Fox Street
Poughkeepsie, NY 12601
P: 845.454.3980

CAPITAL DISTRICT
547 River Street
Troy, NY 12180
P: 518.273.0055

NORTH COUNTRY
375 Bay Road
Queensbury, NY 12804
P: 518.812.0513

CENTRAL NEW YORK
721 E. Genesee Street
Syracuse, NY 13210
P: 315.251.1013

NASHVILLE
3200 West End Ave., Ste. 500
Nashville, TN 37203
P: 615.763.1628

Correspondence from the Hudson Valley Office

**SURVEY DESCRIPTION
HUDSON VALLEY HOUSING
TAX PARCEL 48.070-1-7.2**

ALL that plot, piece or parcel of land situate and being in the City of Kingston, County of Ulster and State of New York, bounded and described as follows:

BEGINNING at a point being the southwesterly corner of lands Now or Formerly of Kingston Motel Corp. as described in Liber 2470 of deeds at Page 163, said point being on the northerly line of lands Now or Formerly of the County of Ulster as described in Liber 1414 of deeds at Page 933, said point also being the southeasterly corner of the herein described parcel; thence along the division line between the herein described parcel and said lands Now or Formerly of the County of Ulster, N 75° 07' 42" W 713.31 feet to a point on the easterly line of the lands Now or Formerly of St. Clara Church of God in Christ as described in Liber 3366 of deeds at Page 300; thence along the division line between the herein described parcel and said lands Now or Formerly of St. Clara Church of God in Christ, N 17° 40' 22" W 188.19 feet to a point on the easterly line of the New York State Thruway as shown on taking Map 367 Parcel 588, said point being marked by a concrete monument; thence along the easterly line of the New York State Thruway, N 27° 07' 42" E 619.85 feet, northeasterly along a non-tangent curve to the right, having a radius of 7536.44 feet, an arc length of 609.85 feet and a chord bearing N 29° 32' 29" E 609.66 feet to a point on the southwesterly side of the Esopus Creek; thence along the southwesterly side on the Esopus Creek; S 39° 38' 50" E 71.34 feet, S 38° 11' 17" E 97.87 feet, S 19° 55' 07" E 139.96 feet, S 23° 27' 14" E 100.55 feet, S 18° 33' 13" E 224.27 feet, S 28° 23' 51" E 233.21 feet, S 38° 31' 50" E 75.47 feet and S 45° 40' 34" E 123.72 feet to a point on the westerly line of said lands Now or Formerly of Kingston Motel Corp., being the northeasterly corner of the herein described parcel; thence along the division line between the herein described parcel and said lands of Kingston Motel Corp., S 34° 26' 32" W 602.07 feet and S 14° 52' 18" W 30.00 feet to the point or place of beginning

CONTAINING 19.55 ACRES OF LAND.

Being and intending to be the premises as described in Liber 2470 of Deeds at Page 156 and together with and subject to easements and conditions as described in said document.

November 15, 2016

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Chazen Engineering, Land Surveying & Landscape Architecture Co., D.P.C (New York) Chazen Engineering Consultants, LLC (Tennessee)
www.chazencompanies.com

EXHIBIT B

7/10/17

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter “Memorandum of Understanding” or “MOU”) entered into as of the __ day of _____, 2017, by and between the ULSTER SAVINGS BANK, a New York mutual Savings Bank, with offices at 180 Schwenk Drive, Kingston, New York 12401 (hereinafter “the Bank”), and THE COUNTY OF ULSTER, a New York municipal corporation, with offices at 244 Fair Street, Kingston, New York 12402 (hereinafter “the County”).

WITNESSETH:

WHEREAS, the County is the owner of certain lands in the City of Kingston generally known as the former Ulster & Delaware railroad corridor, currently used for public trail and tourism railroad purposes (“U & D corridor”), a portion of which is located between the Thruway crossing and Washington Avenue in the City of Kingston, and designated on the Ulster County Tax Maps as Section 48.080 Block 1 Lot 31 (hereafter, “PARCEL A”); and

WHEREAS, the County has for several years been conducting public reviews to establish a public trail system (“Kingston Rail Trail”—PIN 8758.04) on the Ontario & Western railroad corridor (“O & W corridor”), which runs south of and roughly parallel to and proximate to the U & D corridor in the area between the Thruway crossing and Washington Avenue in the City of Kingston; and

WHEREAS, the Bank is the fee owner of the section of the O & W corridor between the Thruway crossing and Washington Avenue, such property being 3.37 acres in size, identified on the Ulster County Tax Maps as Section 48.071 Block 2 Lot 1 (hereafter, “PARCEL B”); and

WHEREAS, the Bank also owns a 19.5 acre parcel, identified on the Ulster County Tax Maps as Section 48.070 Block 1 Lot 7.2 (hereafter, “PARCEL C”) which is north of PARCEL B and separated therefrom by the County U & D Corridor (PARCEL A); and

WHEREAS, the Bank has requested the County to grant to the Bank a permanent and non-exclusive easement over a 0.11 acre portion of PARCEL A (EASEMENT A-1) to permit

7/10/17

vehicular and pedestrian crossing and related utility connections between PARCEL B and PARCEL C, together with related drainage and temporary construction easements totaling 0.24 acres (EASEMENTS A-2 and A-3), reserving to the County the continued right to use all of such easement areas for public trail tourist rail purposes; and

WHEREAS, as consideration for such easement conveyance, the Bank proposes to convey to the County a permanent and non-exclusive easement over the 3.37 acre PARCEL B (EASEMENT B) for purposes of operating and maintaining the Kingston Rail Trail, and the Bank further proposes to assure that said easement is improved with a 10 foot wide paved travelway, as detailed further below, such EASEMENT B reserving to GRANTOR the rights to cross the easement for its driveway to and from PARCEL C and to occasionally use the 10 foot wide paved travelway for emergency access between PARCEL C and Washington Avenue; and

WHEREAS, the attached Map (EXHIBIT "A") shows the respective properties and easements as follows:

1. PARCEL A, the County U & D rail and trail corridor section, is shown in light green, and the proposed easements crossing such corridor from the County to the Bank shown in dark green, separately showing:
 - a. EASEMENT A-1: a 0.11 acre access and utility easement
 - b. EASEMENT A-2: a 0.10 acre temporary construction easement and permanent drainage easement
 - c. EASEMENT A-3: a 0.14 acre temporary construction easement.
2. PARCEL B, the Bank-owned O & W corridor section, is shown in light brown color. The proposed easement from the Bank to the County (EASEMENT B) covers all of PARCEL B; and

WHEREAS, an appraisal of the respective easements has been prepared by Richard J. Lampert, a New York State Certified Real Estate Appraiser, resulting in the following valuations:

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1. Value of proposed EASEMENTS A-1, A-2, and A-3, covering 0.35 acres:
\$1,431.00
2. Value of proposed EASEMENT B, covering 3.37 acres: \$5,100.00

Copies of the above appraisals are attached hereto, collectively designated as EXHIBIT "B"; and

WHEREAS, the County has received estimates from Barton & Loguidice of the costs of improving the section of the Kingston Rail Trail O&W corridor on the Ulster Savings Bank PARCEL B, dated June 16, 2017, in the amount of \$248,000, a copy of which estimate is attached as EXHIBIT "C"; and

WHEREAS, the Bank has proposed to build its proposed emergency access over PARCEL B to the design specifications set by the County for the trail construction, to be illustrated by an incorporated section drawing, (Exhibit "D") such paved emergency access/trail to be 10 feet wide with a 6 inch base covered by 3 inches of hot mix asphalt installed in two lifts, the installation of which will be periodically inspected by a licensed engineer for dimensional conformance to the attached section drawing and emergency access site plan. Upon completion of the work, the Bank shall cause an as-built survey of the improvements, prepared by a licensed land surveyor, to be provided to the County; and

WHEREAS, the proposed use of EASEMENTS A-1, A-2, and A-3 have been the subject of a coordinated SEQR review, resulting in the adoption of a SEQR Negative Declaration by the City of Kingston Planning Board, as Lead Agency, dated January 14, 2013; and the proposed use of EASEMENT B has been the subject of a coordinated SEQR review, resulting in the adoption of a SEQR Negative Declaration by the Ulster County Legislature dated March 15, 2016 (copies of both Negative Declarations are attached, collectively designated as Exhibit "E"); and

WHEREAS, the proposed use of EASEMENTS A-1, A-2, and A-3 is consistent with the County's "Rail and Trail" policy, and the terms of the proposed improvements to create and maintain the crossing and coordinate same with the County and the Catskill Mountain Railroad have been extensively discussed with representatives of the Catskill Mountain

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Railroad and the Ulster County Legislature-Ulster County Railroad Advisory Committee, resulting in agreements on the specifications for the design of the crossing at a meeting dated June 23, 2011, and summarized in a memorandum dated July 11, 2011, attached as EXHIBIT "F," and further agreed, *inter alia*, that the proposed detailed plans for the crossing are to be submitted to and approved by CMRR before construction; that all work on railroad property must be performed in accordance with the requirements for Railroad Roadway Worker Protection and with regard for train operations in accordance with 49 CFR and with CMRR's operating rules; and that no construction on weekends would take place in months when the CMRR is operating, (see memorandum attached as EXHIBIT "F" for remaining terms); and

WHEREAS, the parties hereby agree that the agreement between them, and the easements to be conveyed by each party to the other, shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns forever; and

WHEREAS, the parties hereby acknowledge that the proposed conveyance of EASEMENT A requires, and is subject to, approval of the Ulster County Legislature in the exercise of its legislative discretion; that the establishment of the Kingston Rail Trail project on the O & W right-of-way PARCEL B requires, and is subject to, completion of the federal review process; and that the proposed construction of the emergency access on PARCEL B requires, and is subject to, City of Kingston Planning Board approval; and

WHEREAS, the parties are desirous of setting forth their proposed agreement in detail and preparing for the proper exchange of the easements in the event that the legislative approval is granted;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Ulster Savings Bank and Ulster County agree as follows:

1. The provisions of the above "WHEREAS" clauses are incorporated in this agreement as if fully repeated herein.
2. Attached as EXHIBIT "G" to this agreement is the proposed EASEMENT A (consisting of EASEMENT A-1, A-2, and A-3) to be granted by the County to the Bank.

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3. Attached as EXHIBIT "H" to this agreement is the proposed EASEMENT B to be granted by the Bank to the County.
4. The County _____ shall present a Resolution to the County Legislature for its consideration, authorizing the surplusing of EASEMENT A to the UCIDA, such Resolution to recite conditions for the mutual exchange by which the County would obtain EASEMENT B, and the further assurances that a performance bond or other security acceptable to the County Attorney be provided, in the amount of \$248,000 (see Exhibit "C") to assure that such improvements will be timely made within 12 months after conveyance of the easement; together with such other and further conditions as the Legislature may deem appropriate in the exercise of its legislative discretion.
5. Upon the adoption of such a Resolution by the Legislature, the Bank shall apply for Site Plan approval from the Kingston Planning Board to construct the improvements within EASEMENT B as shown on the site plan, which will incorporate the design shown in the Section Drawing Exhibit "D." Upon the issuance of such approval, the Bank shall prepare EASEMENT B for delivery to the County in substantially the form annexed hereto as EXHIBIT "E".
6. Upon the adoption of such a Resolution by the Legislature, the County shall proceed to convey EASEMENT A to the Ulster County Industrial Development Agency (UCIDA.) UCIDA shall thereafter prepare a proposed easement conveyance to the Bank such easement to be in substantially the form annexed as EXHIBIT F, together with any additional terms required by the Legislature.
7. The County shall continue to pursue the finalization of the federal review process for establishment of the Kingston Rail Trail, including the section located on PARCEL B.
8. EASEMENT A and EASEMENT B shall be held in escrow by the respective attorneys for the parties until the completion of the actions described in paragraphs 5, 6 , and 7.

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9. Upon the completion of the last of the actions described in paragraphs 5, 6 and 7, the parties shall set a date within 30 days for the exchange of the easements (the Closing Date).
10. On the Closing Date, the County may require the posting of a performance bond, in an amount of \$248,000 to cover the costs of the improvements relating to the paved travelway.
11. This agreement, and the easements to be conveyed, shall be binding upon and shall inure to the benefit of the parties hereto and to their successors and assigns.

IN WITNESS WHEREOF, the parties have set their hands of the date and year first above written.

ULSTER SAVINGS BANK

BY: _____

THE COUNTY OF ULSTER

BY: _____

EXHIBIT C

Authorizing The Required Steps For The Transfer Of 0.18 Acres Of County Property In Kingston To The Ulster County Economic Development Alliance

Referred to: The Economic Development, Tourism, Housing, Planning and Transit Committee (Chairman James Maloney and Legislators Archer, Delaune, Litts, Maio, Rodriguez, and Woltman), and The Ways and Means Committee (Chairman Gerentine and Legislators Archer, Bartels, Lopez, Maio, James Maloney, Joseph Maloney, and Petit)

Chairman of the Legislature, Kenneth J. Ronk Jr., offers the following:

WHEREAS, it is the policy of the State of New York to promote the economic welfare and prosperity of its inhabitants and to actively promote, attract, encourage and develop economically sound commerce and industry; and

WHEREAS, the County of Ulster has the responsibility and burden to promote the health, safety and general welfare of the residents of the County by, among other things, preventing unemployment and economic deterioration, increasing and maintaining employment opportunities, and attracting and sustaining economically sound commerce; and

WHEREAS, the County of Ulster owns certain real property comprising approximately 1.02 acres of property between Cornell and Oneil Streets in the City of Kingston along the former Ulster & Delaware Railroad Corridor (SBL No. 48.8-1-31.11, the "Property"); and

WHEREAS, although the Property has been delineated for development as the Midtown Linear Park, a 0.18-acre portion of the Property ("Parcel A") is not required for development of the trail or other public facilities proposed for the Property; and

WHEREAS, the physical layout of the Property and encroachment on it by an adjoining property owner preclude the use of Parcel A for other County purposes; and

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the "LDC Act") authorizes the establishment of not-for-profit local development corporations operated exclusively for the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carry on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

Resolution No. 509 December 18, 2018

Authorizing The Required Steps For The Transfer Of 0.18 Acres Of County Property In Kingston To The Ulster County Economic Development Alliance

WHEREAS, the LDC Act further authorizes the legislative body of a county, by resolution, to determine that certain real property of the County may be sold or leased to a not-for-profit local development corporation for purposes that include retention of an industry and maintenance of job opportunities; and

WHEREAS, Section 1411(d) of the LDC Act further provides that the sale or lease may be on such terms as may be agreed upon by the County and a local development corporation, without public bidding; and

WHEREAS, in furtherance of the public purposes set forth above, the County Legislature proposes to transfer its interest in certain real property (the "Disposition") as depicted as the Parcel A on the "Map of Land To Be Conveyed From Ulster County to the Ulster County Economic Development Alliance," prepared by Brooks & Brooks Land Surveyors, P.C. and dated August 27, 2018, to the Ulster County Economic Development Alliance, Inc. ("UCEDA"), formed pursuant to Section 1411(s) of the LDC Act; and

WHEREAS, to accomplish the purposes and powers as set forth within the LDC Act and the Purposes and powers of the UCEDA, including relieving the burdens of the County and the undertaking of the Disposition, the County desires to task the UCEDA with such burdens and responsibilities: and

WHEREAS, pursuant to and in accordance with Section 1411(d) of the LDC Act, a public hearing relating to the Disposition was duly scheduled, noticed and conducted by the Ulster County Legislature prior to the adoption of this resolution which hearing was held on November 13, 2018; now, therefore be it

RESOLVED, that the Disposition constitutes a Type II action under Section 4.1.5 of the County of Ulster's State Environmental Quality Review Act ("SEQRA") Type II List that was adopted pursuant to Resolution No. 188 on April 20, 2010 and as such, will not have a significant potential environmental impact; and be it further

RESOLVED, the Ulster County Legislature hereby authorizes the following:

1. Pursuant to Section 1411(d)(1) of the LDC Act and upon due consideration of the presentations and comments received during the public hearing, the County legislature hereby determines that title to Parcel A is not required for use by the County; and

Resolution No. 509 December 18, 2018

Authorizing The Required Steps For The Transfer Of 0.18 Acres Of County Property In Kingston To The Ulster County Economic Development Alliance

2. Pursuant to Section 1411(d) of the LDC Act, the County of Ulster hereby authorizes the undertaking of the Disposition, including transfer of title of Parcel A to UCEDA pursuant to a deed to be approved by the County Attorney (the "Deed") and submission for any local subdivision and/or lot line revision approvals required; and

3. The County shall transfer title to UCEDA in fee, and the County shall require that the net proceeds of the Disposition and of any eventual sale to a third party are paid to the County; and

4. The Chairman of the Ulster County Legislature and/or the County Executive, as may be set forth in the Ulster County Charter and Administrative Code and/or as may be required otherwise, are hereby authorized to execute any and all documents related to the Disposition, including the Deed, subject to approval by the County Attorney, along with any other agreements, forms, applications, or certificates necessary to effectuate the foregoing,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Passed Committee: Economic Development, Tourism, Housing, Planning and Transit on _____.

Passed Committee: Ways and Means on _____.

FINANCIAL IMPACT:

NONE



MEMBER MUNICIPALITIES

- CITY OF KINGSTON
- TOWN OF ULSTER
- TOWN OF HURLEY
- TOWN OF MARBLETOWN
- TOWN OF ROCHESTER
- TOWN OF WAWARSING
- VILLAGE OF ELLENVILLE

P.O. BOX 111 STONE RIDGE, NY 12484

To: The Ulster County Legislature
Subj: Kingston Rail Trail Project – PIN 8758.04
Comments for Public Hearing – December 11, 2018

The O&W Rail Trail Coalition of Municipalities, which represents seven municipalities along the O&W Rail Trail, strongly supports construction of the Kingston Rail Trail Project (PIN 8758.04).

Long a desire for easy, safe, contiguous access to the O&W Rail Trail, this approximately 1.8 mile stretch of trail from the City of Kingston, through the Town of Ulster into the Town of Hurley, this project has now come into view with the potential for completion by the end of the year 2019.

Two recent New York State trail studies have shown the continued high potential for trail user growth in the O&W trail corridor from Hurley to Marbletown and beyond. The addition of the Kingston Rail Trail Project will add a much needed O&W trail head at Washington Avenue in Kingston as well as provide access to the health, economic, cultural and transportation benefits offered by a well connected 14 mile northern section of the O&W in Ulster County.

In addition, our beautiful Rondout and Esopus valleys will be further exposed to the growing trend of regional agritourism via the O&W all the way through to the Village of Ellenville and will readily support walkers, hikers, runners, and bicyclists alike using our trail system.

The Coalition has championed this project since our inception in 2015. We heartily endorse the work of the Ulster County Planning Department and thank the Legislature for its ongoing support of this critical project. We look forward to the growth of the trail user population for both local residents and tourists that will surely happen upon completion of this project.

For the Coalition,

Carl Pezzino, Chair

December 11, 2018

County of Ulster
244 Fair Street
Kingston, NY 12401

Re: PIN 8758.04 – Kingston Rail Trail Project
Map No. 06, Parcel No. 06, Tax ID No. 48.71-2-1
City of Kingston, Town of Hurley, Town of Ulster, Ulster County, New York
Eminent Domain Procedure Law Public Hearing Notice

Dear Legislative Members:

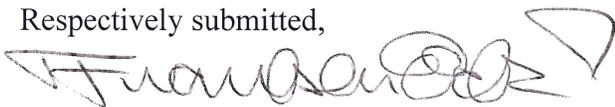
This letter shall serve as a submission on behalf of Ulster Savings Bank. Ulster Savings Bank is the owner of real property which will be impacted by the proposed eminent domain proceedings.

First, any public taking must be the minimal taking necessary to satisfy the public purpose. In this regard, the bank has been informed that the County is seeking a non-exclusive easement over the lands of Ulster Savings Bank.

Second, the easement must not prohibit the owner from utilizing the area impacted by the easement for other uses and purposes. In this regard, the property owner must be able to utilize the area impacted by the easement for ingress and egress of vehicles, emergency vehicles, pedestrians etc. The fee owner's use and enjoyment of its fee ownership interest must be protected and preserved.

Thank you for your review and consideration.

Respectively submitted,



Franklin Eck, Jr.,
General Counsel

The Ulster County Legislature
Kingston Rail Trail Project – PIN 8758.04
Public Comments
December 28, 2018

Thank you for the opportunity to submit comments on this rail trail project.

I bought my first mountain bike in 1982. The first rides I took on that bicycle were on U&D and O&W railroad corridors. I was familiar with these rail corridors from hearing stories of people using them for motorcycle and snowmobile riding. As such it was just natural that they'd lend themselves to mountain biking. As such, over that past 36 years I've used the O&W rail trail on a year round basis for walking, mountain biking, and wildlife observation.

Early on the trail was quite usable as the railroad tracks had been removed in 1957 and the brush had been kept at bay by the motorcyclists and snowmobilers. With the formalization of the corridor as the rail trail the motor vehicles were prohibited and the brush and trees grew pretty much uninhibited. Central Hudson and Trailways did do some mowing over the years that keep those sections reasonably clear. On the other hand, the segment between Washington Avenue and the Thruway, owned by Ulster Savings Bank, became badly overgrown and even blocked by downed trees at times. The trail in the bank segment was reduced to a meandering single track path and trail users were subject to scrapes from the thorn bushes and their clothing would collect burrs from the brush.

In 1995 I bought a home near the Washington Avenue trailhead in Kingston. I started minor maintenance on the bank segment by cutting back thorn canes and removing downed trees and tree branches. This was done mostly to facilitate my own use but there were other users. Women who lived nearby told me they would not use that segment as the trail conditions left them fearful. There were several homeless living along the trail which added to the women's concerns.

On April 22, 2012 Kingston Land Trust scheduled a trail cleanup day on the bank segment. That was my first introduction to the land trust and I was delighted to have help! It also motivated me to become more formally involved in the rail trail development in Ulster County. Operating under the revocable license agreement the D&H Canal Heritage Corridor Alliance had with the bank to use the trail my brush and tree clearing efforts escalated.

In 2015 I formally joined the D&H Canal Heritage Corridor Alliance. In 2016 the O&W Rail Trail Coalition of Municipalities was formed and I was appointed by Mayor Noble to represent the City of Kingston. Also in 2016 I was appointed to the board of the D&H Canal Heritage Corridor Alliance.

In the bank segment I removed the dead and fallen trees and cut back most of the heavy brush myself. More volunteer days were held in conjunction with the Kingston Land Trust, the Corridor Alliance, and the Ulster County Probation department's Alternative Sentencing

program. Even after all that clean up there is evidence of the former neglect. This as the meandering grassless single track is still visible.

For the past few years two volunteers in Kingston have regularly picked up trash, mowed the grass trail surface, and cleared debris from the bank's segment of the corridor. In Hurley the rail trail committee has taken on the mowing of the grass trail surface. The latest development is that the pastor of Cross Point Fellowship church, Pete Schulz, offered to have church volunteers take on maintenance in the Town of Ulster segment of the trail. That will commence in the spring.

These maintenance efforts have led to a large increase in trail usage. Users include walkers and bicyclists, young and old. Some use it as a transportation corridor and many for recreation. For example, one young woman with Asperger's syndrome uses that segment multiple times per day as a transportation corridor. A young man from Hurley uses the corridor to get to and from his job weather permitting. Residents of Stony Run apartments and Country Village condominiums use the trail as well as the Kingston High School track team. For the past few years the Tour de Kingston bicycle rides have used the O&W rail trail for multiple group rides as well as does the YMCA bicycle program. Long distance bicycle tourists are also encountered on the trail.

Having the O&W rail trail developed into a paved multi-use, year-round-use trail offers recreational, health, and transportation benefits to the community. Those benefits have been limited in the past by brush, trees, rough trail conditions and mud. The neglect stemmed from the inability to secure funding to fully develop the trail due to the revocable license agreements with Central Hudson and Ulster Savings Bank. Because of those constraints, the homeless, substance abusers, and mischief makers had free reign of that segment while women, children, and all but the most competent bicyclists were precluded from use of the trail.

The neglected bank segment in particular is critical to the utility of the O&W corridor for transportation and recreational uses. The trail between Kingston and Hurley has become part of the community with growing user and volunteer bases. As such, permanent easements, or ownership of those properties, will greatly benefit the community.

Respectively submitted,

John Grossbohl
16 Quarry Street
Kingston, NY 12401

D&H Canal Heritage Corridor Alliance, board member
O&W Rail Trail Coalition of Municipalities, City of Kingston representative
Bike Friendly Kingston, member
City of Kingston, Complete Streets Advisory Council, member
Friends of Catskill Mountain Rail Trail, committee member

HUDSON VALLEY HOUSING DEVELOPMENT FUND COMPANY, INC.

December 31, 2018

Christopher White, Deputy Director
Ulster County Planning Department
244 Fair Street
Kingston, New York 12401

RE: PIN 8758-04 – Kingston Rail Trail Project
Map No. 06, Parcel No. 06, Tax ID. 48.71-2-1
City of Kingston, Town of Hurley, Town of Ulster, Ulster County, New York
Eminent Domain Procedure Law Public Hearing Comments

Dear Deputy Director White:

Please be advised that Hudson Valley Housing Development Fund Company, Inc., Contract Vendee of the above referenced parcel known as Parcel No. 06, Tax ID. 48.71-2-1, challenges the condemnation of referenced parcel known as Parcel No. 06, Tax ID. 48.71-2-1 by Ulster County.

The challenge to the condemnation is based upon the following four (4) Federal and State Laws:

- i. Eminent Domain Procedure Law: Article 2, Section 202;
- ii. New York Civil Practice Laws and Rules: Article 78;
- iii. Fair Housing Act: Affirmative Furthering of Fair Housing; and,
- iv. State Environmental Quality Review Act.

The first basis for challenge is the Eminent Domain Procedure Law: Article 2, Section 202 and the fact that the provided legal description for the proposed Kingston Rail Trail Project over the parcel known as Parcel No. 06, Tax ID. 48-71-2-1, sought to be acquired provides no owner's rights of access across and along the proposed taking. The proposed excessive taking violates the basic right to ordinary and reasonable use of the property by the owner. When compared to the easements negotiated with the two other property owners involved with the Kingston Rail Trail Project, PIN 8758-04 known as the O & W rail line, Central Hudson Gas & Electric Corporation and Adirondack Trailways, both of which retain *all owner's rights*, the property known as Parcel No. 06, is treated differently and rendered useless for its stated purpose of providing access to the proposed Kingston Meadows Senior Housing Complex.

(NOTE: The Kingston Meadows Senior Housing Complex underwent a State Environmental Quality Review Act (SEQRA) Coordinated Review which resulted in the Lead Agency, City of Kingston Planning Board, issuing a Negative Declaration, and had Ulster County Listed as an involved party.)



The second basis for challenge is the applicability of New York Civil Practice Laws and Rules: Article 78, and the raising of the following questions:

- a. Whether Ulster County failed to perform a duty enjoined upon it by law;
- b. Whether Ulster County is about to proceed without or in excess of jurisdiction; and,
- c. Whether Ulster County has taken an arbitrary and capricious action.

Under the Fair Housing Act, (a) Ulster County is not only prohibited discrimination in housing related activities and transactions, but also has a "duty to affirmatively further fair housing." This duty means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. (As documented in the Coordinated SEQRA Review for Kingston Meadows Senior, which included Ulster County as an Involved Party, Kingston Meadows Senior is to serve very low income senior citizens in a structure which will be 100% handicap accessible.)

Under the Eminent Domain Procedure Law, (b) Ulster County is about to proceed without or in excess of jurisdiction as the published Eminent Domain Procedure Law Public Hearing related to Parcel No. 06, Tax ID. 48.71-2-1, proposes the taking of all of the owner's rights, inclusive of the reasonable and ordinary use by the Owner for access onto and over the property and proposes a taking in excess of the easements agreed to for the same PIN 8758.04 – Kingston Rail Trail Project from Central Hudson Gas & Electric Corporation and Adirondack Trailways.

Additionally, it is documented on the U.S. Department of Transportation that on the adjacent Ulster & Delaware (U & D) Rail Trail there are no less than fifteen (15) existing public and private crossings within the City of Kingston. Accordingly, Ulster County has a well-established and documented knowledge of existing crossings which are over a rail trail which is used by a recreational train.

And, as recently as December 18, 2018, Ulster County has adopted Resolution 509, Authorizing The Required Steps for The Transfer of .018 Acres of County Property in Kingston to the Ulster County Economic Development Alliance, which .018 acres of County Property is known as part of a 1.02 acres parcel between Cornell and O'Neil Streets in the City of Kingston along the former Ulster and Delaware Railroad Corridor (SBL No 48.8-1-31.11). These required steps for the transfer of county owned property reflect the same steps that Hudson Valley Housing Development Fund Company, Inc. was prepared to take per the DRAFT easements produced by Hudson Valley Housing Development Fund Company, Inc.'s Attorney and reviewed by the Ulster County Attorney.

Under both the Fair Housing Act and Eminent Domain Procedure Law, (c) by all appearances Ulster County has taken action with its December 11, 2018, Public Hearing for acquisition of the referenced Parcel No. 6, Tax ID. 48.71-2-1, which meets the NY CPLR Article 78, in that said action:

- i. Seeks a greater taking than the limits of the easements provided for with the same PIN 8758.04-Kingston Rail Trail Project, by Central Hudson Gas & Electric and Adirondack Trailways;
- ii. Effectively blocks existing "as of right" access to the Kingston Meadows Senior Complex, an affordable housing development targeted to low income and special needs senior citizens inclusive of physically disabled;
- iii. Effectively blocks the development of the Kingston Meadows Senior Complex, an affordable housing development targeted to low income and special needs senior citizens inclusive of physically disabled, with the refusal to proceed with a transfer of an easement over the adjoining U & D Rail Trail as required under Fair Housing and the "Affirmative Furthering of Fair Housing" by taking the meaningful action of removing a barrier across the U & D Rail Trail.

It is Hudson Valley Housing Development Fund Company, Inc. who would be granting the O & W Rail Trail easement under the PIN 8758-04-Kingston Rail Trail and it is Hudson Valley Housing Development Fund Company, Inc. who requires an easement over the adjacent U & D Rail Trail, an easement which amounts to 10% of the easement sought by Ulster County for the O & W – Kingston Rail Trail.

Ulster County has transferred county owned property in fee as documented with the Ulster County Legislative Resolution No. 509, dated December 18, 2018, and Hudson Valley Housing Development Fund Company, Inc. seeks an easement only not fee ownership over the U & D.

The third basis for challenge is the Fair Housing Act, specifically Ulster County's duty to the Affirmatively Furthering Fair Housing Rule. Under the AFFH rule, Ulster County is obligated to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

More specifically, AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity. Meaningful actions mean significant actions that are designed and can be reasonably expected to achieve a material positive change. ***The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.***

Christopher White, Deputy Director
December 31, 2018
Page 4

Kingston Meadows Senior responds to the documented needs for housing for senior citizens in the City of Kingston, a City that has not had any senior citizen housing built for more than 12 years.

Kingston Meadows Senior responds to the documented need for more than 1,000 units of housing in the City of Kingston as reported and supported by Ulster County Planning Department with the 2008 Tri-County Housing Needs Assessment. Since the publication of said needs assessment, less than 60 units, or 6%, have been constructed over the past decade.

Kingston Meadows Senior is positioned to move forward "all but" immediately with Ulster County's provision of an easement over the Ulster & Delaware (U & D) Rail Trail, which would equate to a material positive change as defined by the Fair Housing Act's Affirmatively Furthering Fair Housing Rule.

The fourth basis for challenge is related to the adopted State Environmental Quality Review Act and Ulster County's adoption of a Negative Declaration (Resolution No. 168, March 16, 2016). More specifically:

- i. The O & W Rail Trail's proximity to the Kingston Stockade District calls for a Type 1 classification, triggering the needs for the preparation of a full EAF and a Coordinated Review. "Any Unlisted action ...occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site" is a Type 1 (See Section 617.4b(9)). The NYS DEC EAF Workbook notes that a project is automatically deemed "substantially contiguous": "If the project site contains, or is within 500' of a building or district listed on the State or National Register of Historic Places...". The Report indicates that the Historic Stockade District is approximately 375 feet from the Rail Trail project site. (Page 4-8)
- ii. Design option B-2 cuts thru Ulster County Agricultural District #4. Unlisted actions that include a nonagricultural use occurring wholly or partially within an agricultural district and exceeds 2.5 acres of disturbance constitutes a Type 1 action. (See Section 617.4b(8)).

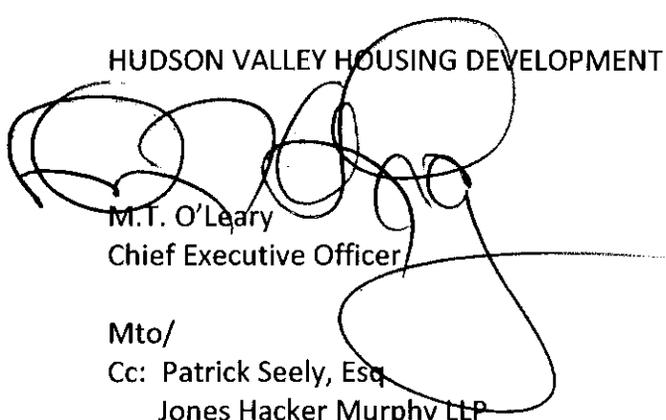
Per the published NOTICE OF PUBLIC HEARING PURSUANT TO THE EMINENT DOMAIN PROCEDURE LAW, excerpt: "Any property owners who may subsequently wish to challenge the condemnation of their property by judicial review may do so only on the basis of issues, facts, and objections raised at the hearing." Said notice did not reflect the fact that issues, facts, objections, and/or comments are to be accepted until 5:00 p.m. on December 31, 2018.

Christopher White, Deputy Director
December 31, 2018
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Accordingly, this correspondence being email prior to 4:00 p.m. on December 31, 2018, meets the deadline for comments as stated during your presentation during the Public Hearing held on December 11, 2018.

Sincerely,

HUDSON VALLEY HOUSING DEVELOPMENT FUND COMPANY, INC.



M.T. O'Leary
Chief Executive Officer

Mto/

Cc: Patrick Seely, Esq.
Jones Hacker Murphy LLP
Frank Eck, Esq.
Ulster Savings Bank