

VILLAGE OF SOUTH NYACK RESOLUTION
To Address Serious Failures in the Land Acquisition Actions of the New
York State Thruway Authority Under New York State Eminent
Domain Procedure Law (EDPL)

And

To Pursue Alternative Options for Secondary Access to Minimize
Negative Impacts on the Village without Relinquishment of Our
Limited Public Parkland

WHEREAS, the Village of South Nyack communicated to the New York State Thruway Authority on April 12, 2016 that it had determined that proposed “Alternate Plan F”, which placed the primary site of the western terminus of the New Bridge’s Shared Use Path, designed for bicyclists and pedestrians, within the helix which is formed by the intersection of the New York State Thruway (Interstate 87/287) and New York State Route 9W would have a “*de minimis*” effect on the Village; and

WHEREAS, Alternate Plan F locates the primary site of the western terminus of the Shared Use Path exclusively upon lands owned by the New York State Thruway Authority or the State of New York; and

WHEREAS, Alternate Plan F also included a secondary spur path for bicyclists and pedestrians, designated as the “Connector”, which proposed to link the Shared Use Path with the Esposito Trail, which is Village of South Nyack parkland, with an outlet at the intersection of Clinton Avenue and Franklin Street; and

WHEREAS, the Connector requires that the New York State Thruway Authority or the State of New York cross and re-cross lands and interests in real property owned by the Village of South Nyack; and

WHEREAS, the determination of the South Nyack Village Board that Alternate Plan F would have a *de minimis* effect on the Village of South Nyack was arrived at by the Village Board with the express understanding that all issues relating to the Connector or secondary spur path, which crosses and re-crosses South Nyack parkland, including all possible alternatives to the location of that Connector would be revisited and re-examined by the Village Board on future occasions; and

WHEREAS, environmental assessment or environmental review as required under the laws and regulations of the United States and the State of New York was deficient with respect to aspects and details relating to the Connector or secondary spur path, which would be located upon and cross and re-cross lands and interests in real property owned by the Village of South Nyack, including parklands comprising the Esposito Trail and its surroundings; and

WHEREAS, the New York State Thruway Authority or the State of New York has attempted to conduct condemnation or eminent domain proceedings pursuant to Article 2

of the New York Eminent Domain Procedure Law against lands and interests in real property owned by the Village of South, including parklands comprising the Esposito Trail and its surroundings; and

WHEREAS, the New York State Thruway Authority in the attempted condemnation or eminent domain proceedings against the Village with regard to the Connector or secondary spur path has failed or refused to comply with various notice procedures mandated or required by the provisions of Eminent Domain Procedure Law Article 2 and in particular no notice was personally served or delivered to the Village or to any Village officer or official as mandated in such proceedings pursuant to section 204 (C.) of said statutes; and

WHEREAS, inquiry was submitted to counsel for the New York State Thruway Authority on Wednesday, February 7, 2017 seeking assurances or confirmation that the various notice procedures mandated or required by the provisions of Eminent Domain Procedure Law Article 2 were properly effectuated and in particular notice to be personally served or delivered to the Village or to any Village officer or official as mandated in such proceedings pursuant to section 204 (C.) of said statutes were accomplished and no response has been received to such inquiry; and

WHEREAS, this Village Board has determined that the New York State Thruway Authority or the State of New York does not have valid rights under the Eminent Domain Procedure Law to condemn or enter upon or utilize the lands and interests in real property owned by the Village of South Nyack, including parklands comprising the Esposito Trail and its surroundings; and

WHEREAS, this Village Board has determined that it is in the best interests of the Village of South Nyack to revisit, explore, and analyze the details, including possible alternative designs and locations, for the “Connector” or secondary spur path including an “Alternate Plan F with Modifications” and “Alternate F Refined” as have recently been proposed; and

WHEREAS, based upon the planned closing of an entry road to the Thruway which is located immediately to the south of the Village Hall of the Village of South Nyack, the possible use of such roadway or portions thereof as the Connector or secondary spur path is now a feasible alternative which should be explored for various reasons including applicable provisions of the New York State Environmental Quality Review Act; and

WHEREAS, the use of such roadway for the Connector or secondary spur path would provide greater safety and security for local residents based on its close proximity to South Nyack Police Headquarters, and its distance from the intersection of Clinton Avenue and Franklin Street which faces increased traffic congestion due to the future routing of the Lower Hudson Valley Bus Rapid Transit double-decker buses;

NOW, THEREFORE, BE IT RESOLVED that the Mayor is hereby authorized and directed to secure and direct the Village Attorney or any assigned special counsel to

represent the interests of the Village of South Nyack, in accordance with the findings of fact upon which this resolution is based and the Mayor is hereby directed to take all proper and appropriate steps, including but not limited to the assertion of the defenses of failure of required notice, to protect the Village of South Nyack from either any improper entry upon, or any improper utilization by, the New York State Thruway Authority or the State of New York of any of the lands and interests in real property owned by the Village of South Nyack, including parklands comprising the Esposito Trail and its surroundings, in the absence of legal entitlement to do so by voluntary or consensual sale or conveyance upon approval by this Village Board or by an Eminent Domain Proceeding properly effectuated to protect all rights of the Village including due process and similar rights under the federal and state constitutions and compliance with the procedures required pursuant to the Eminent Domain Procedure Law of the State of New York, including parklands comprising the Esposito Trail and its surroundings.

MOTION BY: _____

SECONDED BY: _____

ADOPTED: VOTE: AYES: _____ **NAYS:** _____

DATE: _____

RESOLUTION NUMBER: _____