

# Warren County Board of Supervisors

## RESOLUTION No. 68 OF 2026

**RESOLUTION INTRODUCED BY SUPERVISORS CONOVER, STRAINER, BRUNO, DIAMOND, PATCHETT, NILES AND BEATY**

**RESOLUTION SETTING FORTH THE BASIS FOR THE EXEMPTION FROM THE EMINENT DOMAIN ARTICLE 2 PUBLIC HEARING REQUIREMENT WITH RESPECT TO ACQUISITIONS ACCOMPLISHED IN CONNECTION WITH THE ADIRONDACK AND BEAVER POND BRIDGES OVER THE MILL BROOK REPLACEMENT PROJECT IN THE TOWN OF HORICON, WARREN COUNTY, NEW YORK (PIN 1761.49)**

WHEREAS, the Warren County Department of Public Works is undertaking the Adirondack and Beaver Pond Bridges Replacement Project (the “Project”) for the purpose of replacing an aging bridge structure, improving public safety and enhancing transportation efficiency, and

WHEREAS, by Resolution No. 426 of 2025, the Warren County Board of Supervisors authorized the Superintendent of Public Works to commence the necessary proceedings under Article 4 of the Eminent Domain Procedure Law (“EDPL”) to acquire a fee interest and a temporary easement interest in, to, on, over and through portions of a parcel of real property situated on Johnson Road and bearing Tax Map Reference No. 20.10-1-24 (“Zapletal Parcel”) in the Town of Horicon, Warren County, New York, and

WHEREAS, EDPL Article 2 requires, as a condition precedent to acquiring title by means of eminent domain, that the County of Warren (the “County”) conduct a public hearing to inform the public and to review the public use to be served by the proposed project and the impact on the environment and residents of the locality where the proposed project will be constructed unless such project is exempt from the EDPL Article 2 hearing requirements in accordance with EDPL Section 206, and

WHEREAS, it is the opinion of the Warren County Board of Supervisors that the Project is exempt from the EDPL public hearing requirements in accordance with EDPL Section 206(A) and (D), and

WHEREAS, the Project is a Locally Administered Federal Aid Transportation Project administered by the County, with oversight provided by the New York State Department of Transportation (“NYSDOT”), and

WHEREAS, as part of its oversight responsibilities with respect to Locally Administered Federal Aid Transportation Projects, NYSDOT has prepared and disseminated a publication entitled *Locally Administered Federal Aid Manual* (LAFAP), the purpose of which to assist local project sponsors,, such as the County, to understand the steps, activities, approvals and other requirements needed to ensure that Federally Aided projects are developed, designed and constructed in accordance with Federal and State requirements, and

WHEREAS, Section 11.2.1(5) of Chapter 11 of LAFAP provides that if a local sponsor, such as the County, intends to acquire property interests by means of eminent domain without conducting a public hearing, the County must formalize, by local resolution, the basis for the exemption from the public hearing requirement, and

WHEREAS, EDPL Section 206(A) provides that the County is exempt from compliance with the

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provisions of the EDPL Article 2 hearing requirements 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 of the EDPL, 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, other similar approval from such agency, board, or commission, and

WHEREAS, the factors enumerated in EDPL Section 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 resident of the locality;
- 4) such other facts as it considers relevant, and

WHEREAS, the Project is being progressed by the County, with oversight by the NYSDOT and in close coordination with the Federal Highway Administration (“FHWA”), in accordance with the requirements of FHWA regulations, the NYSDOT LAFAP manual and other applicable FHWA and NYSDOT documents and policies, and

WHEREAS, in order to progress the Project through the project design phase and qualify for funding for later phases, it was necessary for the County to obtain from NYSDOT and FHWA approval that the County has satisfied the requirements of the NYSDOT “Procedures for Locally Administered Federal Aid Projects” manual and other applicable NYSDOT documents, as well as Federal law and regulations, and

WHEREAS, in accordance with the NYSDOT Project Development Manual (17 NYCRR Part 15) and 23 CFR 771, the County, in conjunction with its consultant, completed a Final Design Report (the “Final Design Report”) for the Project in January 2025, which was required to be submitted to FHWA and NYSDOT for approval and authorization to proceed with Final Design and Right of Way acquisitions, and

WHEREAS, 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, and

WHEREAS, 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, and

WHEREAS, the County submitted the Final Design Report to NYSDOT for its approval, NYSDOT completed a review of the Final Design Report, and NYSDOT has approved the preferred alternatives, which involve the placement of mast arm poles, pull boxes and conduit, and

WHEREAS, following its approval of the Final Design Report, NYSDOT has issued Final Design

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Approval, and FHWA has issued its Authorization to Proceed with ROW Acquisition, and

WHEREAS, Federal and State requirements for projects such as the Project include a mandate that the County undertake the action and satisfy the requirements of National environmental Policy Act (“NEPA”) and the New York State Environmental Quality Review Act (“SEQRA”) as conditions precedent to FHWA and NYSDOT granting Final Design Approval and ROW Authorization, and

WHEREAS, in accordance with the NYSDOT/FHWA Programmatic Agreement Regarding Categorical Exclusions, the NYSDOT has made the NEPA determination for the Project, and

WHEREAS, in satisfaction of its obligations under NEPA and FHWA regulations, the Project is being progressed in conjunction with NYSDOT and FHWA as a NEPA Class II action (Categorical Exclusion) in accordance with 23 CFR 771.117(c), as the Project will not have significant environmental effects and does not normally require additional federal approval regarding NEPA, and, more particularly, the Project meets the description in 23 CFR 771.117(c)(28) described as “bridge rehabilitation, reconstruction or replacement” and meets the constraints listed in 23 CFR 771.117(e), and

WHEREAS, NYSDOT has concurred that the Project will not induce significant environmental impacts, and it meets the conditions and criteria for a NEPA Class II (Categorical Exclusion) in accordance with 23 CFR 771.117, and

WHEREAS, the County has satisfied the requirements of 23 CFR 771.129 in regard to the evaluation of the Project under NEPA, and

WHEREAS, New York State law requires the examination and consideration of land-air-water environmental, social, economic, historic and cultural factors when progressing a project such as the Project, and

WHEREAS, as is more fully set forth in the Final Design Report, the County has examined and considered land-air-water environmental, social, economic, historic and cultural factors when progressing a project such as the Project, and

WHEREAS, the County has completed its environmental review as required by the New York State Environmental Quality Review Act (“SEQRA”) and has determined that the Project is a SEQRA Type II Action under 6 NYCRR Part 617.5(c)(2), “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site,” and

WHEREAS, the County has determined that the Project does not violate any of the criteria contained in Subdivision 617.7(c) and does not meet or exceed any of the thresholds in 6 NYCRR Section 617.4, and

WHEREAS, in light of the several written approvals of NYSDOT and FHWA 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 State statutes, and NYSDOT 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, and

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WHEREAS, EDPL §206(D) provides, in pertinent part, that the County is exempt from compliance with the hearing and determination and findings requirements of EDPL Article 2 “when in the opinion of the condemnor the acquisition is de minimis in nature so that the public interest will not be prejudiced by the construction of the project,” and

WHEREAS, the Zapletal Parcel consists of approximately 0.68 acres of rural, vacant land, and

WHEREAS, the portion of the Zapletal Parcel in which the fee interest is sought consists of an approximately 1156 square feet, rectangular shaped parcel situated immediately adjacent to the southern highway boundary of Johnson Road and partially within (434 square feet) the Mill Brook, and

WHEREAS, the portion of the Zapletal Parcel in which the County seeks to acquire a fee interest constitutes less than 3% of the total land area of the Zapletal Parcel, and

WHEREAS, the purposes of acquiring the fee interest in and to a portion of the Zapletal Parcel are installation of the bridge structure and appurtenances and grading, and

WHEREAS, the County’s acquisition in fee of a portion of the Zapletal Parcel will not affect the use or result in any consequential damages to the remainder of the Zapletal Parcel, and

WHEREAS, the portion of the Zapletal Parcel in which the temporary easement interest is sought consists of an approximately 1966 square feet, strip parcel situated immediately adjacent to the southern highway boundary of Johnson Road, and

WHEREAS, the purposes of acquiring the temporary easement interest on, over and through a portion of the Zapletal Parcel are to provide for contractor access to the construction area and for erosion control, and

WHEREAS, the Project and the nature and extent of the County’s acquisition of the aforementioned real property interests in and to portions of the Zapletal Parcel is de minimis in nature such that the public interest will not be prejudiced by the construction of the Project, as a consequence of which the County has satisfied the criteria set forth in EDPL Section 206(D), now, therefore, be it

RESOLVED, that the project development process implemented by the County, as well as the approvals necessarily obtained from FHWA and NYSDOT, and the de minimis nature of the proposed acquisition of a fee interest and temporary easement interest in, to, on, over and through portions of the Zapletal Parcel, qualify the county and this Project for exemptions from the hearing requirements of EDPL Article 2, pursuant to EDPL Section 206(A) and (D), and be it further

RESOLVED, that this Resolution shall take effect immediately.