



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



JEFF BRILLHART, P.E.
ACTING COMMISSIONER

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Bureau of Right-of-Way
April 9, 2015

REQUESTED ACTION

The Department of Transportation, Bureau of Right-of-Way, requests authorization to pay property owners \$250,000.00 as documented in the Contemplated Awards List for amounts greater than \$5,000.00 for the period extending from April 1, 2015 through April 7, 2015, effective upon approval by Governor and Council.

Funding is available based on the
source of funds for each particular project.

FY 2015
\$250,000.00

EXPLANATION

These contemplated award payments are being submitted for approval to compensate property owners, tenants and/or claimants for impacts resulting from Transportation Improvement Projects. The Department certifies that all payments will be made in accordance with all applicable State and Federal regulations as they relate to property acquisition and relocation.

Respectfully,

David J. Brillhart
Acting Commissioner

DJB/CRS/dd
Attachments



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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CONTEMPLATED AWARDS

Project: PLAISTOW - KINGSTON; MGS-STP-T-X-5375 (010); 10044B
(NH 125: Reconstruction East Road, Plaistow
northerly approximately 6.0 miles to Main St.,
Kingston)

OWNER: [Parcel #340] STORAGE LOCKER PLAISTOW LLC & BARONS
COMMERCIAL PARK CONDOMINIUM

900 SF CONSTRUCTION EASEMENT \$20,000.00
1250 SF DRAINAGE EASEMENT
10650 SF SLOPE EASEMENT
.67 AC COMMERCIAL LAND W/BLDG

(PURCHASE OF LAND AND RESULTANT DAMAGES-REGULAR)

OWNER: [Parcel #339] BACZAK INC

ACQUISITION \$80,000.00
(PURCHASE OF LAND AND RESULTANT DAMAGES-REGULAR)

Project: SALEM TO MANCHESTER; IM-IR-0931 (174); 10418C
(RECONSTRUCT & WIDEN MAINLINE, EIS & FINAL DESIGN -
MA. S/L IN SALEM TO I-293 IN MANCHESTER-PE & ROW)

OWNER: [Parcel #M070] PAUL J COWETTE REVOCABLE TRUST

0.63 AC RESIDENTIAL LAND \$45,000.00

(PURCHASE OF LAND AND RESULTANT DAMAGES-REGULAR)

OWNER: [Parcel #W032] MARK HODGDON, ESQ. & FIN-LYN TRUST

OUT OF COURT SETTLEMENT PRIOR TO A HEARING BEFORE \$105,000.00
THE NHBTLA BETWEEN THE ATTORNEY GENERALS OFFICE AND
THE LAND OWNER IN THE AMOUNT OF \$300,000.00

5/4/2012 - AWARDED \$195,000.00 AND REFUSED
5/9/2012 - DEPOSIT OF DAMAGES WITH CLERK NHBTLA IN
AMOUNT OF \$195,000.00
BALANCE FOR APPROVAL...\$105,000.00

(PURCHASE OF LAND AND RESULTANT DAMAGES-REGULAR)

TOTAL CONTEMPLATED AWARDS: \$250,000.00

Handwritten signature of Charles R. Schmidt, PE
ADMINISTRATOR

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

February 4, 2015

David J. Brillhart, Acting Commissioner
NH Department of Transportation
P. O. Box 483
Concord, New Hampshire 03301

Re: Fin-Lyn Trust v. State of New Hampshire
Rockingham County Superior Court- Docket No. 218-2014-CV-225
Project: Salem-Manchester, 13933-I, (Parcel W-032)

Dear Acting Commissioner Brillhart:

The above-captioned case has been settled with the Plaintiffs/Condemnees prior to the upcoming trial of this matter. This case involves the fee taking of 2.3 acres of property and encumbering 2,900 square feet with a permanent drainage easement. The subject property is an approximately 46 acre parcel of vacant residential land located on the southern frontage of Route 111 in Windham. This property was acquired in connection with the realignment of Route 111 at the Route 93 Exit 3 interchange. Based on the appraisal of Jeffrey Leidinger, the State offered the Condemnees \$195,000 for the acquisition. The Condemnees rejected the offer and obtained their own appraisal determining the value of the taking to be \$560,000. The Board of Tax and Land Appeals conducted a hearing on this case in 2013 and assessed damages at \$240,000. The Condemnees appealed this decision to the Superior Court.

The central issues in this litigation are the per-acre value of the subject parcel and the value deducted from the property as a result of a limitation on access. Specifically, approximately 1400' of the frontage to the property was transferred from right of way to control of access right of way. The Condemnees argued that the restriction on access would greatly increase the costs for a residential development and thus detract from the value of the property. The State's appraiser conceded that the restriction on access harmed the value of the property but believed that the diminution in value was approximately 4%. It was felt that a jury would likely assess the damages closer to 10% of the remaining value and anticipated a jury verdict in excess of \$400,000.

In light of the factors listed above, this office in consultation with Charles Schmidt and William Cass entered into an agreement with the Plaintiff/Condemnees to pay an additional

\$105,000 in compensation for a total compensation of \$300,000 and allowed one defined break in the Controlled Access Right of Way subject to district permitting and approval. It is felt that this settlement is fair and reasonable in light of the risks presented by a trial in this matter.

Therefore, kindly have drawn and sent to me a check in the amount of **\$105,000.00**, made payable to "**Mark Hodgdon Esq. as Attorney for the FIN-LYN Trust.**" Please do not hesitate to contact me if you have any questions or concerns. Thank you.

Very truly yours,



John J. Conforti
Assistant Attorney General
Transportation & Construction Bureau
(603) 271-3675

cc: Charles Schmidt, Administrator, Bureau of Right-of-Way, Dept. of Transportation

Project Name S-M
Project Number 10418 X
Checked by JMce Date 4/6/15
Approved by [Signature] Date: 4/6/15