

## Guidelines for Mediation – Public Act 09-186

### Introduction

Section 9 of Public Act 09-186 (Attachment A) allows an eligible owner, as defined in the act and notwithstanding General Statutes §13a-80, to request mediation to resolve any dispute with the Department of Transportation (DOT) that the owner and DOT have been unable to resolve on their own regarding the value or purchase price of property no longer needed by DOT for highway purposes. Public Act 09-186 limits the issues to be mediated to “the value of the property and the purchase price.”

- Mediation is an informal, cooperative, problem-solving process. Its goal is to assist participants in reaching an agreement that is acceptable to and binding on both sides.
- The mediator, a neutral third party, facilitates the efficient discussion of issues and the exploration of options to resolve any differences. Pursuant to the public act, a three-person panel (the “panel”) will mediate this dispute.
- The mediation process is confidential; information shared during mediation will not be disclosed to anyone, unless otherwise required by applicable law (e.g. Freedom of Information Act). No stenographic or taped record shall be made of the mediation session. However, the Public Act requires the panel to submit for approval a written summary of the agreement reached in mediation to the legislative committees having cognizance of transportation and government administration.
- When parties mediate, they decide how their differences will be resolved. The panel cannot impose a decision or settlement on the parties. The panel may request relevant information it believes is necessary to assist the parties in resolving their dispute. The panel also reserves the right to terminate the mediation if it believes that further effort will not likely lead to a successful resolution. The panel may offer a non-binding recommendation to the parties individually or in joint session upon request.

### Process and Procedures

#### PRE-MEDIATION

- At least fourteen days prior to the mediation session, the parties shall deliver to the panel a memorandum setting forth a statement of facts and a summary of each party’s position. The parties should include any supporting documents, including leases, contracts, and property appraisals.
- Each party may be represented by legal counsel or an authorized representative. The parties shall identify such person to the panel at least three days prior to the scheduled session.

- Each party shall sign the attached document acknowledging the receipt of these guidelines and agreeing to abide by them and any additional terms of the mediation. Signed documents must be received prior to the start of the mediation session.

## MEDIATION

- The session begins with an introductory statement from the panel that explains the process and provides guidelines for the mediation. Each party will then have an opportunity to tell their story in their own words without interruption.
- After the initial statements are presented, the panel may have a separate meeting with each party called a “caucus.” During the caucus, participants may discuss other interests or issues confidentially with the panel. The panel will not disclose information revealed during caucus sessions to the other party without permission.
- At the panel’s discretion, the process may continue with combined meetings and caucuses to develop options and ultimately reach an agreement.
- If an agreement is reached, the parties intend to be bound by it but understand it is subject to the approval of the legislative committees referenced in the Public Act. If there is no agreement, the panel may suggest other options that may be available to the parties.

## POST-MEDIATION

- The mediation panel is required to prepare and submit a report to the appropriate legislative committees summarizing the results of the mediation process. These committees will approve or disapprove any agreement reached between the parties as a result of the mediation. The panel will provide the parties a copy of its report at the time it is submitted to the legislative committees.
- After approval of the agreement by the legislative committees, the eligible owner has 15 days to sign a purchase and sale agreement for the agreed upon and approved amount.

## PARTY RESPONSIBILITIES

- Be prepared to discuss the issues, explain your needs or concerns, share information, and propose and consider all solutions, including those newly proposed. Listen attentively and ask questions to clarify anything that is not clear.
- Ensure at least one participant has authority to bind the party to terms of any agreement.
- Agree to keep all discussions confidential, unless certain exceptions are agreed to.

## MEDIATOR RESPONSIBILITIES

- Members of the panel will maintain confidentiality as referenced in these guidelines unless compelled to break that confidentiality by operation of law.
- Members of the panel have disclosed any potential conflicts of interest to the parties that would affect the ability of that member to be impartial. Please see Attachment B.