

15516

DATE: November 23, 2010

TO: Board of Acquisition and Contract

FROM: Edward Buroughs Mary Mahon
Acting Commissioner of Planning Director of Real Estate

SUBJECT: Resolution authorizing the County to enter into agreements to purchase and subsequently convey approximately 18.77 acres of real property and to fund the construction of site work and infrastructure improvements all in support of the Roundtop fair and affordable housing development in the Town of Cortlandt

The attached resolution authorizes the County of Westchester (the "County") to enter into an agreement (the "Purchase Agreement") with Roundtop Housing Development Fund Company Inc. or its designee or assigns (the "HDFC") and Rocco Triglia or the current owner(s) of record to purchase approximately 18.77 acres of real property located at Route 9A in the Town of Cortlandt (the "Property") for an amount not to exceed \$4,440,000. The total purchase price will be allocated as follows: (i) \$1,659,000 in New Homes Land Acquisition ("NHLA") funds from the County; and (ii) \$2,781,000 as a land acquisition loan to the HDFC from capital project BPL50 - Fair and Affordable Housing ("FAH"). A fair and affordable housing development to be known as Roundtop (the "Development") will be constructed on the Property and will provide 91 new rental (the "Units") that will that affirmatively further fair housing ("AFFH") as set forth in 42 U.S.C. Section 5304(b)(2).

The County will file a Declaration of Restrictive Covenants against the Property requiring a period of affordability of not less than 50 years.

The attached resolution further authorizes the County to enter into an agreement (the "Sale Agreement") with the HDFC and WB Montrose, LLC, its designee or assigns, (the "LLC") to (i) convey the Property to the HDFC; (ii) accept any necessary property rights; and (iii) provide up to \$4,300,000 as a loan to the HDFC to finance a portion of the infrastructure improvement costs, as may be approved by HUD, which will be allocated as follows: (a.) up to \$2,693,000 in FAH to finance that portion of the infrastructure costs related to the Section 7(b) Units; and (b.) up to \$1,607,000 in Community Development Block Grant ("CDBG") funds for infrastructure costs related to the 7(c) Units and the Local Units. The Sale Agreement shall begin on or about December 10, 2010 and end upon the satisfaction of the loans.

The land acquisition loan to the HDFC will be provided at initial closing and the loan funding infrastructure costs will be provided as work is completed. Interest on the loans, in the total amount of \$5,474,000, will accrue at an interest rate of .25% until 30 years after the permanent loan closing, which shall occur upon completion and occupancy in accordance with the project schedule. Thereafter, the loans will be paid off based on a .25% annual interest rate and a 20 year fully amortizing loan schedule.

Pursuant to the Stipulation and Order of Settlement of Dismissal entered into in connection with a lawsuit entitled U.S. ex rel. Anti-Discrimination Center vs. Westchester (the "Settlement Agreement"), the County is required to develop 750 units of fair and affordable housing. Pursuant to letter from the federal monitor dated November 15, 2010, the County has been advised that 57 of the Units will constitute affordable AFFH units under paragraph 7(b) of the Settlement Agreement and 26 of the Units will constitute affordable AFFH units under paragraph 7(c) of the Settlement Agreement. The remaining eight (8) Units are not eligible to be counted under the terms of the Settlement Agreement, but nonetheless will meet the Countys standards as fair and affordable units. The Units will be affordable to families at or below 60% of the Westchester County area median income. In furtherance of these objectives, the County provides funding to assist in the development or rehabilitation of affordable AFFH housing units, including the Units in the proposed Development.

On November 8, 2010 the Westchester County Board of Legislators authorized, by Act No. 151-2010, an amendment of the 2010 County Capital Budget to increase the appropriation for Capital Project BPL50 by \$5,474,000 to partially fund acquisition of the Property and construction of infrastructure improvements in support of the Development. In addition, on November 8, 2010, the County was authorized by the Westchester County Board of Legislators through Act No. 150-2010 to purchase and subsequently convey the Property, to accept, at no cost, a grant of any property rights necessary in connection with the Development and which set the loan terms. In addition, on November 15, 2010 the Board, by Act No. 152-2010 approved the NHLA Bond Act, which partially funds the land acquisition.

The Agreement will serve the public purpose of providing affordable AFFH units. The goal and objective of this Agreement is to create fair and affordable housing which is safe, secure and energy efficient. The project will create rental opportunities for lower and moderate income individuals and families who are burdened with the high cost of housing in Westchester County. It will also enhance the neighborhood with interactive design and landscaping. Department of Planning staff will monitor and track construction of the Development, as well as monitor compliance with the affordability requirements.

EB/lk
Attachment

RESOLUTION

UPON A COMMUNICATION FROM THE ACTING COMMISSIONER OF PLANNING AND THE DIRECTOR OF REAL ESTATE, BE IT HEREBY

RESOLVED: the County of Westchester (the "County") is hereby authorized to enter into an Agreement with Roundtop Housing Development Fund Company Inc., its designee or assigns (the "HDFC") and Rocco Triglia or the current owner(s) of record to purchase approximately 18.77 acres of real property located at Route 9A in the Town of Cortlandt (the "Property") for an amount not to exceed \$4,440,000, noting that the total purchase price will be allocated as follows: (i) \$1,659,000 in New Homes Land Acquisition ("NHLA") funds from the County; and (ii) \$2,781,000 as a land acquisition loan to the HDFC from capital project BPL50 - Fair and Affordable Housing ("FAH"); and be it further

RESOLVED: the County will file a Declaration of Restrictive Covenants against the Property requiring a period of affordability of not less than 50 years, and be it further

RESOLVED: the County is hereby authorized to enter into an Agreement with the HDFC and WB Montrose, LLC, its designee or assigns, (the "LLC") to (i) convey the Property to the HDFC; (ii) accept any necessary property rights and (iii) provide up to \$4,300,000 as a loan to the HDFC to finance such infrastructure costs as permitted by HUD pursuant to Title 1 of the Housing and Community Development Act of 1974, as amended 42 USC § 5301 et seq. and its implementing regulations, 24 CFR Part 570, to be allocated as follows (i) up to \$2,693,000 in FAH funds; and (ii) up to \$1,607,000 in Community Development Block Grant ("CDBG") funds; and be it further

RESOLVED: that the term of the Sale Agreement shall begin on or about December 10, 2010 and end upon the satisfaction of the loans as described below; and be it further

RESOLVED: that the proposed fair and affordable housing development to be known as Roundtop (the "Development") will, in compliance with the requirement that the County affirmatively further fair housing ("AFFH") as set forth in 432 U.S.C. Section 5304(b)(2) and as required pursuant to the Stipulation and Order of Settlement of Dismissal entered into in connection with a lawsuit entitled U.S. ex rel. Anti-Discrimination Center vs. Westchester provide ninety-one (91) newly constructed one and two-bedroom fair and affordable rental units plus a superintendent's unit; and it is further

RESOLVED: that the total loan amount is comprised of (i) \$2,781,000 to finance a portion of the total property acquisition costs to be provided at the initial closing for the land acquisition and (ii) up to \$2,693,000 to finance a portion of the infrastructure improvement costs to be provided as work is completed, all in support of the Development; and it is further

RESOLVED: that per Section 5 of Act No. 150-2010, interest on the loans, in the total amount of \$5,474,000, will accrue at the rate of .25% until 30 years after the permanent loan closing, which shall occur upon completion and occupancy in accordance with the project schedule, thereafter, the loans will be paid off based on a .25% annual interest rate and a 20 year

fully amortizing loan schedule, noting that said loans will be non-recourse and subordinate to the project financing provided by the New York State Homes and Community Renewal (“HCR”), including the Housing Finance Agency (“HFA”) and Division of Housing & Community Renewal (“DHCR”); and it is further

RESOLVED: that the County Executive or his duly authorized designee is authorized to execute any documents and take any actions necessary to effectuate purposes hereof.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
318	19	BPL50-02-S	6050	N/A	\$5,474,000
276	19		Balance Sheet A/C 2028		\$1,607,000
318	19	BPL10-44-S	6050	N/A	\$1,659,000

Budget Funding Year(s) FY 2010 Start Date: December 10, 2010 End Date: upon the satisfaction of the loans

Funding Source

Tax Dollars _____

State Aid _____

\$8,740,000.00
(must match resolution)

Federal Aid _____

Other \$8,740,000.00

APPROVED BOARD OF ACQUISITION & CONTRACT - 12-2-2010 - JOMARY VEIRA, SECRETARY