

52350

DATE: July 5, 2016

TO: Board of Acquisition and Contract

FROM: Edward Buroughs
Commissioner of Planning

Adam Rodriguez
Director of Real Estate

SUBJECT: Resolution authorizing the County of Westchester to enter into any and all agreements necessary to purchase and subsequently convey approximately +/-0.41-acre at 322 Kear Street, Town of Yorktown, and to provide construction financing all in support of the affirmatively furthering fair housing affordable development that will be constructed thereon and to grant and accept all necessary property rights in connection therewith

The attached resolution authorizes the County of Westchester to enter into agreements to (i) purchase approximately +/-0.41-acre of land located at 322 Kear Street in the Town of Yorktown, identified on the tax maps as Section 37.18, Block: 2, Lot: 51 (the "Property") from 322 Kear LLC, its successors or assigns (the "Developer") or the current owner(s) of record for an amount not-to-exceed \$284,000.00 which will be funded from Capital Project BPL30 - New Homes Land Acquisition II (NHLA) and (ii) convey fee title to the Property to the Developer for one dollar (\$1.00) all in support of six one-bedroom and six two-bedroom rental units for a total of 12 affordable affirmatively further fair housing ("AFFH") rental units (the "Affordable AFFH Units") to be constructed thereon (the "Development") and to grant and accept all necessary property rights in connection therewith.

On December 14, 2015 the Westchester County Board of Legislators, through Act No. 266-2015, authorized the County to purchase and subsequently convey the Property and, through Bond Act No.267-2015, approved the funds for the land acquisition.

Upon acquisition of the Property and prior to conveyance thereof, the County will file a Declaration of Restrictive Covenants against the Property requiring that the Affordable AFFH Units constructed thereon will AFFH as set forth in 42 U.S.C. Section 5304(b)(2) and in accordance with the Settlement Agreement (defined below). The Declaration will also require that the Affordable AFFH Units have rents that are affordable to households with incomes at or below 50% and 60% of the Westchester County Area Median Income for a period of affordability of not less than 50 years.

The attached resolution further authorizes the County to enter into an agreement with the Developer to finance a portion of the development costs in support of the Development (the "FAH Subsidy Agreement") in an amount not-to-exceed \$840,000.00 from Capital Project BPL50 - Fair and Affordable Housing ("FAH") and to grant and accept all necessary property rights in connection therewith. On December 14, 2015 the Westchester County Board of Legislators approved the funds for the FAH

Subsidy Agreement through Bond Act No. 268-2015. The FAH Subsidy Agreement will commence upon execution and continue for a term of two (2) years.

Pursuant to the Stipulation and Order of Settlement and Dismissal entered into in connection with a lawsuit titled U.S. ex rel. Anti-Discrimination Center vs. Westchester (the "Settlement Agreement"), the County is required to ensure the development of 750 affordable AFFH units. In furtherance of these objectives, the County provides funding to assist in the development or rehabilitation of affordable AFFH housing units, including the Affordable AFFH Units proposed herein. The proposed Affordable AFFH Units will be located in a census block that conforms to Section 7(a) of the Settlement Agreement.

The goal and objective of these agreements is to carry out the County's obligations under the Settlement Agreement by constructing affordable AFFH units in accordance with the terms of said Settlement Agreement. In addition, the Development, which will be safe, secure and energy efficient, will provide rental opportunities for lower and moderate income individuals and families who may not otherwise be able to afford to live in Westchester County. The Development will also enhance the neighborhood through its 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/cp/LC
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION
01/24/2016
LIAM M. HARRIS, SECRETARY

RESOLUTION

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

RESOLVED: that the County of Westchester is hereby authorized to enter into an agreement with 322 Kear LLC its successors or assigns (the "Developer") or the current owner(s) of record to purchase approximately +/-0.41-acre located at 322 Kear Street in the Town of Yorktown, identified on the tax maps as Section: 37.18, Block: 2, Lot: 51 (the "Property") for a total amount not to exceed \$284,000.00, noting that the total purchase price will be funded from Capital Project BPL30 - New Homes Land Acquisition II (NHLA); and be it further

RESOLVED: that following the purchase, the County will file a Declaration of Restrictive Covenants against the Property requiring that the affordable affirmatively further fair housing ("AFFH") units constructed thereon will have rents that are affordable to households with incomes at or below 50% and 60% of the Westchester County Area Median Income for a period of affordability of not less than 50 years; and be it further

RESOLVED: that the development will contain a combination six one-bedroom and six two-bedroom rental units for a total of 12 affordable AFFH rental units (the "Affordable AFFH Units"), in compliance with 42 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; and be it further

RESOLVED: the County is hereby authorized to enter into an agreement to convey the Property to the Developer for one dollar (\$1.00) in support of the development and to grant and accept all necessary property rights in connection therewith; and be it further

RESOLVED: the County is hereby authorized to enter into an FAH Subsidy Agreement with the Developer to provide FAH grant funding in an amount not to exceed \$840,000.00 to finance a portion of the development costs in support of the Development, which agreement will commence upon execution and continue for a term of two (2) years and will be funded from Capital Project BPL50 - Fair and Affordable Housing (FAH); and be it further

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

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
19	318	BPL30-04-R Bond Act 267-2015	6050	N/A	\$284,000
19	318	BPL50-42-C Bond Act 268-2015	6050	N/A	\$840,000

Budget Funding Year(s) FY 2015

Purchase and Sale Contracts Start Date: Upon Execution End Date:
 FAH Construction Agreement: Start Date: Upon Execution End Date: Two years from execution

Funding Source Tax Dollars \$1,124,000.00
 State Aid _____
\$1,124,000.00 Federal Aid _____
 (must match resolution) Other _____