

73801

To: The Board of Acquisition and Contract

From: George Latimer
County Executive

Date: January 8, 2020

RE: Resolution authorizing the County of Westchester to release a reverter clause in a 1965 indenture to the City of Yonkers (the “City”) with respect to a parcel identified as Parcel 1 (Portion of Residual Parcel QQ) in said indenture.

Transmitted herewith for your consideration is a resolution which, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to release the reverter clause contained in the 1965 indenture to the City of Yonkers (the “City”) with respect to a parcel identified as Parcel 1 (Portion of Residual Parcel QQ) (the “Parcel”) in said indenture.

Pursuant to Westchester County Board of Supervisors Act No. 52-1965, the County conveyed the Parcel to the City by an indenture, dated August 19, 1965 (the “Indenture”). The Parcel was no longer needed for park, parkway or county purposes. The Indenture contains a clause (the “Reverter Clause”) that reads as follows;

“...that the party of the second part or its successors shall use the said premises solely and exclusively for park and recreation purposes and same shall not be conveyed, transferred, leased or assigned by the party of the second part without the consent of the party of the first part. In the event that the premises so conveyed are put to any other use than herein mentioned, or in the event that said premises are not put to such park and recreation use within five years after August 16, 1965, then, and in either of such events, the land hereby conveyed and any and all improvements thereon or thereto shall revert to the party of the first part herein or its successors, and all right, title and interest of the party of the second part or its successors shall be forfeited and the title to said premises shall revert to the party of the first part or its successors without the necessity of re-entry by the party of the first part, hereby creating as to said premises a determinable fee, to be terminated upon breach of the conditions herein set forth.”

Pursuant to Westchester County Board of Legislators Act No. 89-1985, the County approved the conveyance of the Parcel to the Westchester Industrial Development Agency (the “Westchester IDA”) as part of the development of the Austin Avenue Site.

Pursuant to Westchester County Board of Legislators Act No. 205-2016, the County approved a settlement of a lawsuit concerning the Austin Avenue Site and an Order and Stipulation of Settlement,

pursuant to which, the Westchester IDA granted a purchase option and a right of first refusal to the Parcel to Morris Westchester Junior Retail Associates, LLC (“Morris”). The Westchester IDA has informed the County that Morris has exercised the purchase option and, upon the urging of the title company, the Westchester IDA has requested the County release the Reverter Clause and quitclaim the Parcel to the Westchester IDA in order to confirm insurable title of the Parcel in the Westchester IDA and carry out the terms and conditions and comply with an Order and Stipulation of Settlement.

The Parcel is also designated as Section 3, Block 3286 and Lot 2 on the official Tax Maps for the City of Yonkers and known as 901 Sprain Road, Yonkers, New York.

The objective and public purpose of this resolution is to alleviate potential title issues with respect to former County property that is not needed by the County. It should be noted that an act authorizing the release of the Reverter Clause was approved by the County Board of Legislators on December 3, 2019. Accordingly, approval of the attached resolution authorizing the release of the Reverter Clause and the execution of a quitclaim deed conveying the County’s interest in former residual parcel “QQ” to the Westchester County IDA is respectfully requested.

APPROVED BOARD OF ACQUISITION & CONTRACT - 21053009 - IDA MRIJALSECRETARY

RESOLUTION

UPON A COMMUNICATION FROM THE COUNTY EXECUTIVE, BE IT HEREBY

RESOLVED, that the County of Westchester (the “County”), with respect to “Parcel 1 (Portion of Residual Parcel QQ)” identified in the indenture dated August 19, 1965, recorded in the Westchester County Clerk’s Office in Liber 6542 at page 397 (the “1965 Indenture”), is authorized to release the following condition which is contained in the 1965 Indenture:

“...that the party of the second part [the City] or its successors shall use the said premises solely and exclusively for park and recreation purposes and same shall not be conveyed, transferred, leased or assigned by the party of the second part without the consent of the party of the first part [the “County”]. In the event that the premises so conveyed are put to another use than herein mentioned, or in the event that said premises are not put to such park and recreation use within five years after August 16, 1965, then, and in either of such events, the land hereby conveyed and any and all improvements thereon or thereto shall revert to the party of the first part herein or its successors, and all right, title and interest of the party of the second part or its successors shall be forfeited and the title to said premises shall revert to the party of the first part or its successors without the necessity of re-entry by the party of the first part, hereby creating as to said premises a determinable fee, to be terminated upon breach of the conditions herein set forth.”

and be it further

RESOLVED, the County Executive or his authorized designee is hereby empowered to execute all instruments, including a release of the right of reverter and quitclaim deed, in order to release the aforementioned condition and quitclaim the County’s interest in Parcel 1, Portion of Residual Parcel QQ, identified in the 1965 Indenture to the Westchester IDA, and take such action as may be reasonably 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
						N/A

Budget Funding Year(s) Start Date _____ End Date _____

Funding Source Tax Dollars _____
 State Aid _____
\$ N/A Federal Aid _____
 (must match resolution) Other _____