

15992

December 8, 2010

To: Honorable Board of Acquisition and Contract

From: Edward Buroughs  
Acting Commissioner Department of Planning

Re: Authority for the County of Westchester to enter into an intermunicipal agreement with the Village of Dobbs Ferry for the construction, use and maintenance of a segment of RiverWalk in the Village, the transfer of a portion of Ashford Avenue to the Village, and the development of at least ten (10) affordable affirmatively furthering fair housing units in the Village

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Authority is requested to enter into an intermunicipal agreement (“IMA”) with the Village of Dobbs Ferry (“Village”) for the construction, use and maintenance of a portion of a trailway project commonly referred to as RiverWalk. RiverWalk is the County's proposed continuous trailway along the entire Hudson River shoreline in Westchester County, spanning over 50 miles between the county border with Putnam County and the county border with the City of New York. The trailway will be open to the general public for recreational purposes such as walking, running, biking, rollerblading and other similar activities. The trailway will weave through various Hudson River communities and provide access and linkages to recreational, cultural and historic resources and to inland trail systems. This section of RiverWalk will be approximately 0.5-mile long and run between the northern end of the Village's Waterfront Park and the southern end of the park.

Under the proposed IMA, the Village will grant an easement to the County for the construction, use and maintenance of the trailway and associated improvements on Village property for the life of the project bonds. The total cost of the project is estimated to be \$7,000,000. The County will be responsible for design, environmental review and permitting of the project. The Village will have responsibility for construction and construction management of the improvements. The County will reimburse the Village up to \$2,000,000 towards the design and construction of the project. Following construction, the Village will be responsible for the operation, maintenance and security of this section of the trailway and any other portion of the RiverWalk trailway that is constructed within the Village, at its own expense. The facility will be operated by the Village, but will be available to all Westchester County residents in perpetuity and public parking will be available for park patrons. The

Village will also assume all liability for the property and will indemnify and hold the County harmless in any law suits. The term of the IMA will be fifteen (15) years.

Upon execution of the IMA, the Village will take responsibility for the repair, operation and maintenance of Ashford Avenue (CR #134) between Broadway and the Village of Ardsley line, (the "Road") a distance of 1.17 miles, including traffic signals at the intersection of Ashford Avenue and Northfield Avenue and at the intersection of Ashford Avenue and the northbound Saw Mill River Parkway ("SMRP") ramp. The signal at the SMRP ramp will be replaced as part of the County's rehabilitation project of the Ashford Avenue Bridge. The County will retain ownership, maintenance and repair responsibility of the structure of the Ashford Avenue Bridge (BIN 5348380 and 534838A) over Interstate 87, the Saw Mill River Parkway and the South County Trailway (the "Bridge") and the Village will assume maintenance of all items above the Bridge deck, including but not limited to wearing surface, traffic signals and street lighting. Additionally, the Village will undertake repaving and other improvements to the Road and the County will reimburse the Village an amount not to exceed \$350,000. The Village will submit plans and specifications to the County for approval before undertaking the work. The Village will be reimbursed for the work upon submission of properly executed payment vouchers. Ownership of the Road, except for the Bridge, will transfer to the Village upon retirement of the bonds for the repaving improvement.

The IMA will require that, following the transfer of the Road, the Village will continue to comply with, and agree that the County Planning Board will continue to have the jurisdiction under, Section 277.61 of the Laws of Westchester County and Sections 239-1 through 239-n of the New York General Municipal Law, as may be amended from time to time, as if the Road was still a County road. Without limiting the foregoing, the Village will continue to give notice of hearings and refer actions to the County Planning Board; the County Planning Board will continue to have the right to appear at hearings and make recommendations on proposed actions; and the Village will continue to not act contrary to said recommendations, except as described in Section 277.61 of the Laws of Westchester County. In order to safeguard the aforementioned County rights, this provision will survive expiration of the IMA.

Pursuant to section 115-b of the New York State Highway Law, a road or part of it may be removed from a county highway system and transferred to a town, village or city within which it lies. Section 115-b establishes a three-step procedure for such transfer: 1) the county superintendent of highways must recommend that the road or part of it be conveyed to a town, village or city; 2) the transfer must be agreed to in writing by the town, village or city, or, if no agreement can be reached, by the State commissioner of transportation; and 3) the county board of supervisors must authorize removal of the road or part of it from the county road system. In addition, pursuant to section 115-c of the Highway Law, the County must give notice to the clerk and supervisor of the town, village or city thirty days before the transfer is effective.

The Commissioner of Public Works exercises the powers of the County Superintendent of Highways, pursuant to section 131.11 of the County Charter, and has recommended that the Road be conveyed to the Village. The Village, in turn, is prepared to

accept the Road through the proposed IMA. The attached legislation provides the necessary approval of your Honorable Board to remove the Road from the County highway system.

In order to further the Westchester County Fair and Affordable Housing Implementation Plan, dated August 9, 2010, the IMA will also require the Village to ensure the development of at least ten (10) affordable affirmatively furthering fair housing (“AFFH”) units within a four-year period beginning upon execution of the IMA. “Affordable” is defined as a household paying no more than 30% of household income towards housing costs. The units must be restricted with regard to income of occupant and either sale price or rental cost to the occupant through a deed restriction, or other method, for a period of at least 50 years. Maximum income for ownership units will be at or below 80% of Westchester County’s Annual Median Income (“AMI”) and for rental units will be at or below 60% AMI, unless County funds are used, in which case affordability requirements will be the County standard in effect at that time. For your information, the County’s current standard is that 20% of the rental units must be affordable to 50% AMI and the remaining rental units affordable at or below 60% AMI.

The Village will submit annual reports to the County detailing its progress toward meeting the affordable housing requirement. If all of the affordable AFFH units are not approved, under construction or completed within a four-year period beginning upon execution of the IMA, then the Village will repay to the County a pro rata portion of the \$2,000,000 bonded for the RiverWalk project, the interest on the bonds to that date, plus County “soft costs” incurred, based upon the number of units not approved, under construction or completed within the required timeframe. The County, through the Commissioner of Planning, in its discretion, may grant extensions of the four-year period for additional six (6) month periods as needed and will consider tangible efforts made by the Village in pursuing the construction of the affordable AFFH units in determining whether to grant the aforesaid extensions. The County will not unreasonably withhold an extension subject to factors specified in the IMA.

The goals of this project are: (1) to complete a segment of the County’s RiverWalk trailway and to provide access to all county residents to the Hudson River waterfront; (2) to promote the development of affordable housing throughout the county, and (3) to continue to divest itself of the ownership of roads from a fragmented County-owned road network. This project makes strides towards meeting all of these goals. Department of Planning staff will monitor and track construction of the Development, as well as monitor compliance with the affordability requirements.

The Board of Legislators approved Act No. 167-2010 on December 6, 2010 authorizing this IMA. This IMA is exempt from the operation of the Westchester County Procurement Policy pursuant to Section 3 (a)(iii) thereof.

I recommend approval of the attached proposed Resolution.

EB/DLV/dv

## RESOLUTION

Upon a communication from the Acting Commissioner of Planning, be it hereby

RESOLVED, that the County of Westchester is hereby authorized to enter into an intermunicipal agreement (“IMA”) with the Village of Dobbs Ferry (the “Village”) whereby the Village shall grant an easement to the County and the County shall provide funding not to exceed \$2,000,000 for the design, construction, use and maintenance of a portion of a trailway project and associated improvements commonly referred to as RiverWalk in the Village. The easement area shall be approximately 0.5-mile long and run from the northern end of the Village’s Waterfront Park to the southern end of the park; and be it further

RESOLVED, that pursuant to the IMA, the County shall be responsible for design, environmental review and permitting of the project. The Village shall be responsible for construction and construction management of the improvements. The County shall reimburse the Village up to \$2,000,000 of the costs of the design and construction of the project. Following construction, the Village shall be responsible for the operation, maintenance and security of this section of the RiverWalk trailway and any other portion of the RiverWalk trailway that is constructed within the Village, at its own expense. The facility shall be operated by the Village, but shall be available to all Westchester County residents in perpetuity and public parking shall be available for park patrons. The Village shall also assume all liability for the property and shall indemnify and hold the County harmless in any law suits; and be it further

RESOLVED, as further consideration for the County’s investment in the RiverWalk improvements, the IMA shall also provide that upon execution of the IMA, the Village shall take responsibility for the repair, operation and maintenance of Ashford Avenue (CR #134) from Broadway to the Village of Ardsley line, a distance of 1.17 miles, including traffic signals at the intersection of Ashford Avenue and Northfield Avenue and at Ashford Avenue and the northbound Saw Mill River Parkway (“SMRP”) ramp (the “Road”). The signal at the SMRP ramp shall be replaced as part of the County’s rehabilitation project of the Ashford Avenue Bridge. The County shall retain ownership, maintenance and repair responsibility of the structure of the Ashford Avenue Bridge (BIN 5348380 and 534838A) over Interstate 87, the Saw Mill River Parkway and the South County Trailway (the “Bridge”) and the Village shall assume maintenance of all items above the Bridge deck, including but not limited to wearing surface, traffic signals and street lighting. Additionally, the Village shall undertake repaving and other improvements to the Road and the County shall reimburse the Village an amount not to exceed \$350,000. The Village shall submit plans and specifications to the County for approval before undertaking the work. The Village shall be reimbursed for the work upon submission of properly executed payment vouchers. Ownership of the Road, except for the Bridge, shall transfer to the Village upon retirement of the bonds for the repaving improvement. The County shall remove the Road from the County road system in the manner prescribed by Section 115-b of the Highway Law; and be it further

RESOLVED, as additional consideration for the County’s investment in the RiverWalk improvements, and to further the Westchester County Fair and Affordable

Housing Implementation Plan dated August 9, 2010, the IMA shall require the Village to ensure the development of at least ten (10) affordable affirmatively furthering fair housing (“AFFH”) units within a four-year period beginning upon execution of the IMA. “Affordable” shall be defined as a household paying no more that 30% of household income towards housing costs. The units shall be restricted with regard to income of occupant and either sale price or rental cost to the occupant through a deed restriction, or other method, for a period of at least 50 years. The maximum income for ownership units shall be at or below 80% of Westchester County’s Annual Median Income (“AMI”) and for rental units shall be at or below 60% AMI, unless County funds are used, in which case affordability requirements will be the County standard in effect at that time. The Village shall submit annual reports to the County detailing its progress toward meeting the affordable housing requirement. If all of the affordable AFFH units are not approved by the Village, under construction or completed within a four-year period beginning upon execution of the IMA, then the Village shall repay to the County a pro rata portion of the \$2,000,000 bonded for the RiverWalk project, the interest on the bonds to that date, plus County “soft costs” incurred, based upon the number of units not approved, under construction or completed within the required timeframe. The County, through the Commissioner of Planning, in its discretion, may grant extensions of the four-year period for additional six (6) month periods as needed and shall consider tangible efforts made by the Village in pursuing the construction of the affordable AFFH units in determining whether to grant any extension. The County shall not unreasonably withhold an extension subject to factors specified in the IMA; and be it further

RESOLVED, that the term of the IMA shall be fifteen (15) years; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to implement this Resolution.

Account to be Charged/credited	Fund	Agency	Capital Project Or Org	Object/ Sub Object	Trust Account	Activity	Dollars
N/A	318	19	BLA01-51-S	6050	N/A	N/A	\$2,000,000.00
	346	46	RB162-00-S	6050	N/A	N/A	\$ 350,000.00

Budget Funding Year(s) 2010 Start Date: Commences upon execution End Date: Expires 15 years later  
 (must match resolution)

Funding Source Tax Dollars \$2,350,000.00  
 State Aid \_\_\_\_\_  
 Federal Aid \_\_\_\_\_  
 Other \_\_\_\_\_