

25872

DATE: March 28, 2012

TO: Board of Acquisition and Contract

FROM: Edward Buroughs
Commissioner of Planning

Mary Mahon
Director of Real Estate

SUBJECT: Resolution authorizing the County to enter into agreements to purchase and subsequently convey approximately 0.78 acres of real property and enter in an intermunicipal-development agreement with the Village of Briarcliff Manor and 445 North State Road Partners, LLC to fund the construction of site work and infrastructure improvements all in support of the affordable affirmatively furthering fair housing (AFFH) development at 445 North State Road in the Village of Briarcliff Manor

The attached resolution authorizes the County of Westchester to enter into three agreements by which the County will (i) purchase approximately 0.78 acres of real property located at 445 North State Road in the Village of Briarcliff Manor (the "Property") from 445 North State Road Partners, LLC or the current owner(s) of record for an amount not to exceed \$910,000.00 which will be funded from capital project BPL50 - Fair and Affordable Housing (FAH) ("BPL50") and (ii) convey fee title to the Property back to 445 North State Road Partners, LLC and/or its designee or assigns for One (\$1.00) Dollar. The purchase agreement and the sale agreement shall both have a one-year term commencing upon execution. The resolution will also (iii) authorize the County to enter into an intermunicipal-development agreement ("IMDA") for the purpose of effectuating publicly owned infrastructure improvements.

Upon acquisition of the Property and prior to reconveyance thereof, the County will file a Declaration of Restrictive Covenants against the Property requiring that the Affordable AFFH Units constructed thereon (described below) will be affordable to households with incomes at or below 80% of the Westchester County Area Median Income for a period of affordability of not less than 50 years.

Pursuant to the IMDA with the Village of Briarcliff Manor and 445 North State Road Partners, LLC for the County will finance construction of certain infrastructure improvements in support of the development in an amount not to exceed \$600,000.00 to be funded by BPL50. The IMDA will also provide that the County may accept all necessary property rights in connection therewith. The IMDA will commence upon execution and continue for a term not to exceed the life of the bonds, which is anticipated to be 15 years.

The authorizations requested herein are in support of an affordable, affirmatively furthering fair housing development to be known as 445 North State Road which will be constructed on the Property and will provide fourteen (14) two-bedroom affordable AFFH ownership townhomes which will affirmatively further fair housing as set forth in 42 U.S.C. Section 5304(b)(2) and in accordance with the Settlement Agreement (defined below).

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 units of 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 in the proposed Development. Pursuant to a letter from the federal monitor dated September 14, 2011, the County has been advised that the proposed affordable AFFH Units constitute eligible units under Section 7(a) of the Settlement Agreement.

On March 12, 2012, the Westchester County Board of Legislators authorized the County, through Act No. 13-2012, to purchase and subsequently convey the Property. In addition, on March 12, 2012, the Board, through Act No. 14-2012, authorized the County to enter into an IMA with the Village of Briarcliff Manor for the construction of certain infrastructure improvements and accept all necessary property rights in connection therewith. In addition, on March 12, 2012 the Board, by Act No. 15-2012 approved the Bond Act, which funds the land acquisition and costs of the Infrastructure Improvements.

The goal and objective of these agreements is to carry out the County's obligations under the Settlement Agreement by supporting the construction of Affordable AFFH Units in accordance with the terms of said Settlement Agreement. In addition, the Development, which is safe, secure and energy efficient, will create home ownership opportunities for lower and moderate income individuals and families who may not otherwise be able to afford to purchase a home 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
Attachment

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 (the "Purchase Contract") with 445 North State Road Partners, LLC or the current owner(s) of record to purchase approximately 0.78 acres of real property located at 445 North State Road in the Village of Briarcliff Manor (the "Property") and purchase the Property for a total amount not to exceed \$910,000.00, noting that the total purchase price will be funded as follows: from capital project BPL50 - Fair and Affordable Housing ("FAH"); and be it further

RESOLVED: that the County will file a Declaration of Restrictive Covenants against the Property requiring that it be used for the development of the affordable AFFH development to be known as 445 North State Road; and be it further

RESOLVED: that the Development will provide fourteen (14) newly constructed, two-bedroom, ownership townhomes which affirmatively further fair housing ("AFFH"), in compliance with 42 U.S.C. Section 5304(b)(2) and as required 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 and which will be available to households with incomes at or below 80% of the Westchester County Area Median Income for 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 to convey the Property to 445 North State Road Partners, LLC and/or its designee or assigns and to convey the Property for One (\$1.00) Dollar in support of the Development; and be it further

RESOLVED: the County is hereby authorized to enter into an intermunicipal-development agreement with the Village of Briarcliff Manor and 445 North State Road Partners, LLC pursuant to which the County will provide FAH grant funding in an amount not to exceed \$600,000.00 to finance construction of certain site/infrastructure improvements in support of the Development, which agreement will commence upon execution and continue for a term not to exceed the life of the bonds.

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
19	318	BPL50-08-S	6050	N/A	\$1,510,000.00

Budget Funding Year(s) FY 2012

Purchase and Sale Contracts Start Date: Upon Execution End Date: One year from execution

IMDA: Start Date: Upon Execution End Date: Expiration of the Bonds

Funding Source Tax Dollars \$1,510,000.00

State Aid _____

\$1,510,000.00 Federal Aid _____

(must match resolution)

Other _____