

53901

DATE: December 14, 2016

TO: Board of Acquisition and Contract

FROM: Edward Buroughs Adam Rodriguez
Commissioner of Planning Director of Real Estate

SUBJECT: Resolution 1) rescinding a prior resolution which authorized the County of Westchester (the "County") to enter into any and all agreements necessary to purchase and subsequently convey approximately 53.2+/- acres of real property at Clayton Boulevard/US Route 6, Town of Somers and 2) authorizing the County to enter into a development subsidy agreement in order to fund a portion of the construction of an affordable rental complex that will Affirmatively Further Fair Housing ("AFFH")

On December 10, 2015 your Honorable Board approved a resolution (the "December 10, 2015 Resolution") to purchase approximately 53.2+/- acres of real property at Clayton Boulevard/US Route 6, Town of Somers (the "Property"), from Avalon Somers, LLC, its successor or assigns (hereinafter collectively "Avalon") in an amount not to exceed \$838,000.00 and to re-convey the property back to Avalon for the purpose of developing ten (10) affordable AFFH rental units within a 152 unit complex.

However, subsequent to the approval of the December 15, 2016 Resolution, Avalon advised that the purchase and conveyance of the Property would result in additional title fees to Avalon of approximately \$140,000. Accordingly, the Planning Department advised that it would be preferential to instead fund a portion of the construction costs of the affordable AFFH rental units, as opposed to the acquisition of the property.

Thus, the attached resolution would authorize the County to enter into a Fair and Affordable Housing Development Agreement (the "Agreement") with Avalon to finance a portion of the development costs of the 10 affordable AFFH rental units in an amount not to exceed \$838,000 from Capital Project BPL50 - Fair and Affordable Housing ("FAH") as approved by Bond Act No. 2016-361. The Agreement will have a two-year term commencing upon full execution of the Agreement. It should be noted by your Honorable Board that the County's subsidy in an amount not-to-exceed \$838,000.00 shall remain unchanged.

Prior to execution of the Agreement, Avalon will file a Declaration of Restrictive Covenants against the Property requiring that the AFFH rental units will affirmatively further fair housing

as set forth in 42 U.S.C. Section 5304(b)(2) and that the units will be affordable to eligible households with incomes at or below 50% and up to 60% of the Westchester County Area Median Income (“AMI”) for a period of affordability of not less than 50 years

Pursuant to 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 Paragraph 7(a) of the Settlement Agreement.

The goal and objective of this agreement is to provide affordable housing units in Westchester County to low and moderate income households. This fair and affordable rental housing will provide affordable housing opportunities for those families who would not otherwise be able to rent homes in Westchester County. Department of Planning staff will monitor compliance with the ongoing affordable housing requirements

For all the foregoing reasons, we recommend that your Honorable Board approve the attached.

EB/cp/JPI
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION
12/2/2016 - US/INT/AS/SECRETARY

RESOLUTION

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

RESOLVED: that the resolution approved on December 10, 2015 authorizing the County of Westchester to enter into any and all agreements necessary to purchase approximately 53.2+/- acres of real property at Clayton Boulevard/US Route 6, Town of Somers, (the "Property") from Avalon Somers, LLC, its successor or assigns (hereinafter collectively "Avalon") for a total not-to-exceed amount of \$838,000 and to re-convey the Property back to Avalon for one Dollar (\$1.00) and to accept and/or release any and all property rights in connection therewith is hereby rescinded in its entirety; and be it further

RESOLVED: the County is hereby authorized to enter into a Fair and Affordable Housing ("FAH") Development Agreement ("Development Subsidy Agreement") with Avalon in order to provide FAH grant funding in an amount not-to-exceed \$838,000 to finance a portion of the development costs of the construction of ten (10) fair and affordable rental units upon the Property, having a two (2) year term commencing upon full execution of the Development Subsidy Agreement which will be funded from Capital Project BPL50 - Fair and Affordable Housing; and be it further

RESOLVED: that prior to the execution of the Development Subsidy Agreement, Avalon will file a Declaration of Restrictive Covenants against the Property requiring that ten (10) fair and affordable rental units constructed thereon will have rents that are affordable to households with incomes at or below 50% and up to 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 this will create ten (10) one and two bedroom units in this 152 unit complex that will Affirmatively Further Fair Housing as set forth in 42 U.S.C. Section 5304(b)(2) and in accordance with the settlement of a lawsuit titled United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York; and be it further; and be it

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.

Original Agreement \$838,000
This Amendment \$ 0

TOTAL \$838,000

AGREEMENT NUMBER C-LA-16-60

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
318	19	BPL50-84-C Bond Act 361-2016	6050	N/A	\$838,000

Budget Funding Year(s) FY 2016

Purchase and Sale Contracts Start Date: _____ End Date: _____

Funding Source Tax Dollars \$838,000

\$838,000
(must match resolution)

State Aid _____

Federal Aid _____

Other _____

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APPROVED BOARD OF ACQUISITION & CONTRACT - 12/22/2016 - LISA MRIJAS SECRETARY