

110132

DATE December 16, 2024

TO: Board of Acquisition and Contract

FROM: Blanca P. Lopez, M.S.
Commissioner of Planning

SUBJECT: Amending a resolution approved on September 27, 2024, that authorized a loan agreement with MacQuesten Development LLC, its successors and/or assigns, in an amount not to exceed \$9,000,000 from the Westchester County Affordable Housing Investment Fund, also known as the Westchester County Housing Flex Fund Program, in order to amend the calculation of interest.

On September 27, 2024, your Honorable Board approved a resolution (“September 27th Resolution”) authorizing the County of Westchester (the “County”), acting by and through its Department of Planning (the “Department”) to enter into a loan agreement (the “Agreement”) with MacQuesten Development LLC, its successors and/or assigns, or any entity created to carry out and fund the purposes of the proposed transaction (the “Developer”), in an amount not to exceed \$9,000,000 in loan funds (the “Loan Funds”) from the County Affordable Housing Investment Fund (“CAHI”), also known as the County Housing Flex Fund Program. The Loan Funds will be provided to the Developer from the County and will be used to supplement the cost of the construction of seventy-four (74) studio, one, two -bedroom affordable rental units that will affirmatively further fair housing (“Affordable AFFH Units”) to be located at 136 Croton Avenue (Section 89.16: Block 7; Lots: p/o 79 & 80) in the Village of Ossining (the “Development”). The Loan Funds will be secured by a note and mortgage. The September 27th Resolution specified that pursuant to the terms of the Agreement, the loan will accrue interest at 5% compounded annually. Payments on the loan shall be made annually based on 50% of the Developer’s cash flow once the deferred developer fee is fully paid. Fifty percent of the cash flow shall be calculated based on an annual audited statement submitted by the Developer. The annual payment to the County will be equal to 50% of the remaining cash flow, after the Developer’s payment of operating costs and any debt payments.

The Developer has requested that in order to meet certain Low Income Housing Tax Credit (“LIHTC”) requirements that the interest calculation be modified from compounded annually to simple interest. The reason for this request from the

Developer is that under the LIHTC regulations, the development must show that all loans have an expectation of being paid off at the end of their term. The counsel for the tax credit investor was unable to make this representation with the interest compounded annually. With a change to a simple interest calculation, tax credit counsel is able to render an opinion to the developer and tax credit investor that the CAHI loan can be repaid at the end of its term therefore maintain the full amount of LIHTC equity to be delivered to the Development at closing.

Based upon the foregoing, it is requested that your Honorable Board amend the September 27th Resolution to modify the manner in which interest is calculated on the CAHI loan.

Except as specifically provided herein, all remaining terms and conditions of the September 27th Resolution shall remain in full force and effect.

Accordingly, I respectfully recommend your Honorable Board's approval of the attached Resolution.

BPL/lg/dlv
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 12/19/2024 - RAYMOND SCULKY, SECRETARY

RESOLUTION

UPON A COMMUNICATION FROM THE COMMISSIONER OF PLANNING, BE IT HEREBY

RESOLVED, that the Resolution approved on September 27, 2024, authorizing the County of Westchester (the "County"), acting by and through its Department of Planning, to enter into a loan agreement (the "Agreement") with MacQuesten Development LLC, its successors and/or assigns, or any entity created to carry out and fund the purposes of the proposed transaction (the "Developer"), whereby the County will loan the Developer an amount not to exceed \$9,000,000 in loan funds from the County Affordable Housing Investment Fund, also known as the County Housing Flex Fund Program, is hereby amended in order to change the method of interest calculation on the loan from compounded annually to simple interest; and be it further

RESOLVED, that all of the remaining terms and conditions of the September 27, 2024 Resolution except shall remain in full force and effect; 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 purposes hereof.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
318	19	BPL42-15-S	6050	N/A	\$0.00

Budget Funding Year(s) FY 2024 Start Date: upon execution End Date: 30 years thereafter

Funding Source Tax Dollars 0.00
 State Aid _____
\$ 0.00 Federal Aid _____
 (must match resolution) Other _____

APPROVED BOARD OF ACQUISITION & CONTRACTS - 12/19/2024 - 136 CROTON AVENUE OSV HFF AMENDMENT.docx SECRETARY