

110144

DATE December 17, 2024

TO: Board of Acquisition and Contract

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

SUBJECT: Authority to amend a prior resolution approved on November 27, 2024 which authorized the County of Westchester *inter alia* to enter into a loan agreement with Kearney Realty & Development Group Inc., its successors and/or assigns, from the Westchester County Affordable Housing Investment Fund, also known as the Westchester County Housing Flex Fund Program to create 82 affordable rental housing units that will affirmatively further fair housing.

On November 27, 2024, your Honorable Board approved a resolution (the "November 27th Resolution") authorizing the County of Westchester (the "County"), acting by and through its Department of Planning (the "Department") in part, to enter into a loan agreement (the "Agreement") with Kearney Realty & Development Group Inc., 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 \$5,500,000 in loan funds (the "Loan Funds") from the County Housing Flex Fund ("HFF") Program ("HFF Loan"). The Loan Funds will be provided to the Developer from the County and will be used to supplement the cost of the construction of eighty-two (82) affordable rental units that will affirmatively further fair housing ("Affordable AFFH Units") to be located at 23 Park Avenue in the City of Yonkers (the "Development") (formerly known as 21-23 Park Avenue, City of Yonkers). As previously informed, the Loan Funds will be secured by a note and mortgage. 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 Agreement has not been executed yet.

The November 27th Resolution authorized that the Agreement would commence upon execution, and continue for a term of thirty-two (32) years including a two (2) year

construction grace period. According to the term sheet prepared for the HFF Program, in the event that the senior loan maturity does not align with the 30-year repayment period, the construction term can be extended at the discretion of the County for up to six (6) months, subject to your Honorable Board's further approval.

It has now been made known to the County that in order to meet the permanent lender, Federal Home Loan Mortgage Corporation ("Freddie Mac") requirements, the loan term of the Agreement needs to be extended from what was previously approved as noted above. Freddie Mac requires that its permanent period loan matures six (6) months before any subordinate debt such as the HFF loan. It has now been advised that the Freddie Mac loan term is expected to begin on April 1, 2028 and will reach maturity on April 1, 2058. As such, the HFF loan term of the Agreement will need to reach maturity at the end of 2058.

The November 27th Resolution authorized that the Agreement have a HFF loan term beginning at construction closing with a two-year construction period and then a transition to a 30- year permanent period for a total of 32 years. The Development is scheduled to close on December 30, 2024 and therefore the end of the HFF loan term would be December 30, 2056, nearly two (2) years prior to the Freddie Mac maturity. Therefore, to meet Freddie Mac's requirement, the construction period of the HFF loan term of the Agreement needs to be extended from two (2) years, to four (4) years, thereby extending the HFF loan term of the Agreement from 32 years to 34 years. With a term of 34 years, the new HFF loan term maturity will be December 30, 2058.

Based upon the foregoing, it is requested that your Honorable Board approve an amendment to the November 27th Resolution in order to modify the term of the HFF loan as described herein.

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

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

BPL/lg
Attachment

RESOLUTION

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

RESOLVED, that the Resolution authorized by this Board on November 27, 2024 (the “November 27th Resolution”) which authorized the County of Westchester (the “County”) to, *inter alia*, enter into a loan agreement (the “Agreement”) with Kearney Realty & Development Group Inc., 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 \$5,500,000 in loan funds from the County Affordable Housing Investment Fund, also known as the County Housing Flex Fund Program for the purpose of constructing 82 affordable units that will affirmatively further fair housing at 21-23 Park Avenue Yonkers, New York, in order to modify the length of the loan term to meet the requirements of the permanent lender from 32 years, including a two-year construction period, to 34 years including a four-year construction period; and be it further

RESOLVED, that all of the remaining terms and conditions of the November 27th Resolution except as modified herein, 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	BPL42-06-S	6050	N/A	\$0.00

Budget Funding Year(s) FY 2024 Start Date: upon execution End Date: 34 years thereafter

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