

# Budget & Appropriations Meeting Agenda



Committee Chair: Jewel Williams Johnson

800 Michaelian Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
[www.westchesterlegislators.com](http://www.westchesterlegislators.com)

---

**Monday, March 31, 2025**

**10:00 AM**

**Committee Room**

---

## CALL TO ORDER

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

Legislator Colin Smith will be participating remotely from 1132 Main St., Suite 1, Peekskill, NY 10566

## MINUTES APPROVAL

Monday, March 24, 2025 at 10:00 AM Minutes

Wednesday, February 19, 2025 at 10:00 AM Minutes

Wednesday, May 29, 2024 at 1:00 PM Minutes

Monday, May 6, 2024 at 10:00 AM Minutes

Monday, April 29, 2024 at 10:00 AM Minutes

Monday, April 15, 2024 at 10:00 AM Minutes

Monday, April 8, 2024 at 10:00 AM Minutes

## I. ITEMS FOR DISCUSSION

1. [2025-117](#) **BOND ACT(Amended)-BPL1A-Housing Implementation Fund II**

A BOND ACT (Amended) amending the design of the development known as Brookfield Commons Phase III and revising the number of units from 174 to 168.

**COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, PUBLIC WORKS & TRANSPORTATION AND HOUSING & PLANNING**

Joint with HP and PWT.

Guests: Planning Department

Commissioner Blanca Lopez

Program Administrator (Housing & Community Development) Leonard Gruenfeld

2. [2025-118](#) **ACT-Amending Act 146-2024-IMDA-White Plains, WP Housing Authority, and Trinity Financial, Inc.**

AN ACT amending Act No. 146-2024 authorizing the County of Westchester to enter into an inter-municipal developer agreement with the City of White Plains, the White Plains Housing Authority and Trinity Financial, Inc., its successors or assigns, to find certain infrastructure improvements as well as authorizing the County to grant and accept any property rights necessary in furtherance thereof, all for the purpose of constructing 174 affordable rental units at 161 South Lexington Avenue in the City of White Plains, that will affirmatively further fair housing and remain affordable for a period of not less than 50 years, in order to modify the number of affordable rental units from 174 units to 168 units.

**COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, PUBLIC WORKS & TRANSPORTATION AND HOUSING & PLANNING**

Joint with HP and PWT.

Guests: Planning Department

Commissioner Blanca Lopez

Program Administrator (Housing & Community Development) Leonard Gruenfeld

## II. OTHER BUSINESS

## III. RECEIVE & FILE

1. [2025-120](#) **HON. JEWEL WILLIAMS JOHNSON- 2025 CBAC Interim Capital Budget Report**

Forwarding the 2025 Citizens Budget Advisory Committee, CBAC, Interim Capital Budget Report.

**COMMITTEE REFERRAL: COMMITTEE ON BUDGET & APPROPRIATIONS**

B&A Only.

Guests: Citizens Budget Advisory Committee

Co-Chair John McGarr

Co-Chair Julie Stern

## ADJOURNMENT



Kenneth W. Jenkins  
County Executive

March 5, 2025

Westchester County Board of Legislators  
800 Michaelian Office Building  
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

On August 5, 2024, your Honorable Board enacted legislation in connection with “Capital Project BPL1A – Housing Implementation Fund II” to finance certain infrastructure improvements, including, but not limited to, on-site and off-site paving, curbing, sidewalks, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs (the “Infrastructure Improvements”) in support of the construction of one (1) building (the “Development”) with one hundred seventy-four (174) affordable rental units that will affirmatively further fair housing (the “Affordable AFFH Units”) at 161 South Lexington Avenue in the City of White Plains (the “Property”) which is owned by the White Plains Housing Authority (“WPHA”). In particular, your Honorable Board enacted Bond Act No. 145-2024 which authorized the issuance of bonds of the County of Westchester (“County”) in an amount not-to-exceed \$8,134,000 as part of Capital Project BPL1A to finance the Infrastructure Improvements, and Act No. 146-2024 which authorized the County to enter into an Inter-Municipal Developer Agreement (the “IMDA”) with the City of White Plains (the “City”), White Plains Housing Authority and Trinity Financial, Inc., its successors or assigns (“collectively the “Developer”) for the construction of the Infrastructure Improvements.

Following the approval of the legislation by your Honorable Board, the Department of Planning (“Planning”) was advised that the design of the building was revised and that instead of 174 units, it will now include 168 units. The changes in the units by income level are shown in the chart below.

Income Level	Original Number of Units	Revised Number of Units
30% AMI	8	8
50% AMI	35	33
60% AMI	112	109
90% AMI (includes employee unit)	<u>19</u>	<u>18</u>
Total	174	168

Office of the County Executive

Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Telephone: (914)995-2900 E-mail: (914) ceo@westchestergov.com





Therefore, it is necessary to amend Bond Act No. 145-2024 and Act No. 146-2024 to modify the number of Affordable AFFH Units from 174 units to 168 units. All other aspects of the Development remain the same as originally presented and all other aspects of the approved legislation will remain unchanged, including but not limited to the requirement that the Affordable AFFH Units will remain affordable for a term of not less than fifty (50) years.

On February 4, 2025, the Westchester County Planning Board (the "Planning Board") was informed of the modification in the number of units from 174 to 168. The Planning Board Information Item is annexed hereto for your Honorable Board's review.

Based on the importance of increasing the number of Affordable AFFH Units in the County, your favorable action on the annexed amended Act and Bond Act is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read 'KW Jenkins', with a long horizontal flourish extending to the right.

Kenneth W. Jenkins  
County Executive

Attachments  
KSJ/BL/DLV

**HONORABLE BOARD OF LEGISLATORS  
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive recommending the adoption of an Act in order to amend the number of units in a development known as Brookfield Commons Phase III (the “Development”) to be located in the City of White Plains.

Your Committee is advised that on August 5, 2024, August 5, 2024, your Honorable Board enacted legislation in connection with “Capital Project BPL1A – Housing Implementation Fund II” to finance certain infrastructure improvements, including, but not limited to, on-site and off-site paving, curbing, sidewalks, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs (the “Infrastructure Improvements”) in support of the construction of one (1) building (the “Development”) with one hundred seventy-four (174) affordable rental units that will affirmatively further fair housing (the “Affordable AFFH Units”) at 161 South Lexington Avenue in the City of White Plains (the “Property”) which is owned by the White Plains Housing Authority (“WPHA”). In particular, your Honorable Board enacted Bond Act No. 145-2024 which authorized the issuance of bonds of the County of Westchester (“County”) in an amount not-to-exceed \$8,134,000 as part of Capital Project BPL1A to finance the Infrastructure Improvements, and Act No. 146-2024 which authorized the County to enter into an Inter-Municipal Developer Agreement (the “IMDA”) with the City of White Plains (the City”), White Plains Housing Authority and Trinity Financial, Inc., its successors or assigns (“collectively the “Developer”) for the construction of the Infrastructure Improvements.

Following the approval of the legislation by your Honorable Board, the Department of Planning (“Planning”) was advised that the design of the building was revised and that instead of 174 units, it will now include 168 units. The changes in the units by income level are shown in the chart below.

Income Level	Original Number of Units	Revised Number of Units
30% AMI	8	8
50% AMI	35	33
60% AMI	112	109
90% AMI (includes employee unit)	<u>19</u>	<u>18</u>
Total	174	168

Therefore, it is necessary to amend Bond Act No. 145-2024 and Act No. 146-2024 to modify the number of Affordable AFFH Units from 174 units to 168 units. All other aspects of the Development remain the same as originally presented and all other aspects of the approved legislation will remain unchanged, including but not limited to the requirement that the Affordable AFFH Units will remain affordable for a term of not less than fifty (50) years.

Your Committee is also advised that on February 4, 2025, the Westchester County Planning Board (the “Planning Board”) was advised of the change in the number of units via an information item. The Planning Board Resolution is annexed hereto.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act have been met. The Planning Department has advised the City Common Council classified this project as an Unlisted action. On July 3, 2023, the City Common Council issued a notice of intent to serve as lead agency and circulated Part 1 of a Full Environmental Assessment Form and circulated a Full Environmental Assessment Form to involved agencies, including the Westchester County Board of Legislators. On August 7, 2023, the City Common Council issued a Negative Declaration for the project. Since the City undertook coordinated review and the County was included as an involved agency, then, in accordance with section 617.6(b)(3), no further environmental review is required by the County.

After careful review, your Committee believes that the amended Acts are in the best interest of the County and therefore recommends their adoption, noting that the amendment to Act No. 146-2024 requires an affirmative vote of the majority of your Honorable Board, while the amended Bond Act requires the affirmative vote of two-thirds of your Honorable Board.

Dated: \_\_\_\_\_, 2025  
White Plains, New York

**COMMITTEE ON**

c/dv/1/31/25

# FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: BPL1A

☐ NO FISCAL IMPACT PROJECTED

## SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

☒ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

Source of County Funds (check one):

☒ Current Appropriations

☐ Capital Budget Amendment

**161 SOUTH LEXINGTON AVE WHITE PLAINS Amend BA 145-2024 to change number of units**

## SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 8,134,000 PPU 15 Anticipated Interest Rate 3.02%

Anticipated Annual Cost (Principal and Interest): \$ 681,997

Total Debt Service (Annual Cost x Term): \$ 10,229,955

Finance Department: Interest rates from March 6, 2025 Bond Buyer - ASBA

## SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): \$ -

Potential Related Revenues (Annual): \$ -

Anticipated savings to County and/or impact of department operations  
(describe in detail for current and next four years):

\_\_\_\_\_  
\_\_\_\_\_

## SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded: n/a

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget

Date: 3/6/25

Reviewed By: 

003/17/25

Budget Director

Date: 3/17/25

TO: Leonard Gruenfeld, Program Director  
Division of Housing & Community Development

FROM: David S. Kvinge, AICP, RLA, CFM  
Assistant Commissioner



DATE: March 4, 2025

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR MODIFICATION OF  
BROOKFIELD COMMONS PHASE III, WHITE PLAINS  
(BPL1A HOUSING IMPLEMENTATION FUND II)**

---

Pursuant to your request, Environmental Planning staff has reviewed the above referenced action with respect to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 (SEQR).

The action involves an amendment of prior legislation authorizing the provision of County funding under capital project BPL1A, along with an associated intermunicipal agreement, to support the third phase of the redevelopment of Winbrook public housing complex located in White Plains. Renamed Brookfield Commons, the third phase consists of the construction of an 11-story residential building that was to contain 174 new affordable apartments and approximately 2,100 square feet of community space, along with 63 parking spaces on an approximately one-acre site at 161 South Lexington Avenue in the City of White Plains. The number of housing units has subsequently been reduced from 174 to 168, in order to accommodate more 3-bedroom units in place of 1- and 2-bedroom units. Subsequent changes also include some minimal building adjustments in size and height to comply with the latest New York State Homes and Community Renewal requirements and to provide for Passive House design. There will be no change to the other site plan components.

Capital Project BPL1A, known as Housing Implementation Fund II, will support a portion of the infrastructure improvements, such as paving, curbing, sidewalks, stormwater management, water lines, sanitary sewer system, lighting, signage, and landscaping. These elements remain unchanged.

With respect to SEQR, the White Plains Common Council classified the original project as an Unlisted action, conducted coordinated review and issued a Negative Declaration for the project on August 7, 2023. The modifications were considered minor amendments and no further environmental review was conducted by the City. Since the City Common Council served as Lead Agency and the County of Westchester was included as an involved agency, then in accordance with section 617.6(b)(3), no further environmental review is required by the County.

Please do not hesitate to contact me if you have any questions regarding this matter.

DSK/cnm

cc: Blanca Lopez, Commissioner  
David Vutera, Associate County Attorney  
Claudia Maxwell, Principal Environmental Planner

To: Honorable Members of the Westchester County Planning Board

From: Blanca P. Lopez  
Commissioner  
Department of Planning

Leonard Gruenfeld  
Program Director– Community Development  
Department of Planning

Re: **No-Action Item to the Planning Board –  
Brookfield Commons Phase III Apartments  
161 South Lexington Avenue  
City of White Plains**

Date: January 30, 2025

Brookfield Commons Phase III Apartments (the “Development”) in the City of White Plains was recommended for assistance by the County of Westchester (“County”) through the Housing Implementation Fund (“HIF”) at the Planning Board (“Board”) meeting on June 4, 2024 via resolution 24-21. When presented to the Board, the development was contemplated to have a total of 174 units. The plans were revised and the number of units has been reduced to 168 units, a reduction of 6 units. All other aspects of the development remain the same.

The original allocation:

Affordable Units - Income Levels	Number of Units	Expected Monthly Rent/Unit
1-Bedrooms @ 30% AMI (PB Section 8)	2	\$879
2-Bedrooms @ 30% AMI (PB Section 8)	5	\$1,054
3-Bedrooms @ 30% AMI (PB Section 8)	1	\$1,219
1-Bedrooms @ 50% AMI	18	\$1,465
2-Bedrooms @ 50% AMI	14	\$1,757
3-Bedrooms @ 50% AMI	2	\$2,031
4-Bedrooms @ 50% AMI	1	\$2,343
1-Bedrooms @ 60% AMI	51	\$1,758
2-Bedrooms @ 60% AMI	58	\$2,108
3-Bedrooms @ 60% AMI	2	\$2,437
4-Bedrooms @ 60% AMI	1	\$2,812
1-Bedrooms @ 90% AMI	8	\$2,637

2-Bedrooms @ 90% AMI	7	\$3,163
3-Bedrooms @ 90% AMI	3	\$3,656
2-Bedrooms @ 90% AMI (Employee Unit)	1	\$0
<b>Total Units 30%-90%:</b>	<b>174</b>	

The revised unit allocation is below:

Affordable Units - Income Levels	Number of Units	Expected Monthly Rent/Unit
1-Bedrooms @ 30% AMI (PB Section 8)	2	\$879
2-Bedrooms @ 30% AMI (PB Section 8)	5	\$1,054
3-Bedrooms @ 30% AMI (PB Section 8)	1	\$1,219
1-Bedrooms @ 50% AMI	14	\$1,465
2-Bedrooms @ 50% AMI	16	\$1,757
3-Bedrooms @ 50% AMI	2	\$2,031
4-Bedrooms @ 50% AMI	1	\$2,343
1-Bedrooms @ 60% AMI	44	\$1,758
2-Bedrooms @ 60% AMI	54	\$2,108
3-Bedrooms @ 60% AMI	10	\$2,437
4-Bedrooms @ 60% AMI	1	\$2,812
1-Bedrooms @ 90% AMI	7	\$2,637
2-Bedrooms @ 90% AMI	8	\$3,163
3-Bedrooms @ 90% AMI	2	\$3,656
2-Bedrooms @ 90% AMI (Employee Unit)	1	\$0
<b>Total Units 30%-90%:</b>	<b>168</b>	

#### Comparison

Income Level	Original Number of Units	Revised Number of Units
30% AMI	8	8
50% AMI	35	33
60% AMI	112	109
90% AMI (includes employee unit)	<u>19</u>	<u>18</u>
Total	174	168



This development is slated to close on its construction financing with the State of New York this March and the Planning Department will notify the County Board of Legislators of this modification at their upcoming meeting.

ACT NO. -20\_\_\_\_\_

BOND ACT OF THE COUNTY OF WESTCHESTER, NEW YORK, AMENDING THE BOND ACT ADOPTED AUGUST 5, 2024, IN RELATION TO INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS ON PROPERTY LOCATED AT 161 SOUTH LEXINGTON AVENUE, IN THE CITY OF WHITE PLAINS, IN ORDER TO AFFIRMATIVELY FURTHER FAIR HOUSING (“AFFH”) PURSUANT TO THE COUNTY’S HOUSING IMPLEMENTATION FUND II CAPITAL PROJECT, AT THE MAXIMUM ESTIMATED COST OF \$8,134,000 (Adopted \_\_\_\_\_, 20\_\_\_\_).

WHEREAS, this Board has heretofore duly authorized the issuance of \$8,134,000 bonds to finance the cost of infrastructure improvements associated with the construction of affordable housing units on property located at 161 South Lexington Avenue, in the City of White Plains, pursuant to Act No. 145-2024 duly adopted on August 5, 2024; and

WHEREAS, it has now been determined that the number of affordable housing units to be constructed pursuant to the financing authorized by said resolution shall be reduced from 174 to 168; Now, therefore,

BE IT ENACTED BY THE COUNTY BOARD OF LEGISLATORS OF THE COUNTY OF WESTCHESTER, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Board), AS FOLLOWS:

**Section (A)** The bond act duly adopted by this Board on August 5, 2024, entitled:

“ACT NO. 145-2024

BOND ACT AUTHORIZING THE ISSUANCE OF \$8,134,000 BONDS OF THE COUNTY OF WESTCHESTER, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS ON PROPERTY LOCATED AT 161 SOUTH LEXINGTON AVENUE, IN THE CITY OF WHITE PLAINS, IN ORDER TO AFFIRMATIVELY FURTHER FAIR HOUSING (“AFFH”) PURSUANT TO THE COUNTY’S HOUSING IMPLEMENTATION FUND II CAPITAL PROJECT; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$8,134,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$8,134,000 BONDS HEREIN AUTHORIZED; AND PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS (Adopted 08/05, 2024)”

is hereby amended to read as follows:

BOND ACT AUTHORIZING THE ISSUANCE OF \$8,134,000 BONDS OF THE COUNTY OF WESTCHESTER, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS ON PROPERTY LOCATED AT 161 SOUTH LEXINGTON AVENUE, IN THE CITY OF WHITE PLAINS, IN ORDER TO AFFIRMATIVELY FURTHER FAIR HOUSING (“AFFH”) PURSUANT TO THE COUNTY’S

HOUSING IMPLEMENTATION FUND II CAPITAL PROJECT; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$8,134,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$8,134,000 BONDS HEREIN AUTHORIZED; AND PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS (Adopted , 20\_\_)

BE IT ENACTED BY THE COUNTY BOARD OF LEGISLATORS OF THE COUNTY OF WESTCHESTER, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Board), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law"), the Westchester County Administrative Code, being Chapter 852 of the Laws of 1948, as amended, and other laws applicable thereto, bonds of the County in the aggregate amount of \$8,134,000, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of infrastructure improvements associated with the construction of affordable housing units on property located at 161 South Lexington Avenue, in the City of White Plains (the "AFFH Property") at a cost to the County of \$8,134,000, including related costs incurred by the County, which may include construction management and engineering costs, and staff and legal fees, in order to support the construction of affordable housing units that will affirmatively further fair housing ("AFFH"). The infrastructure improvements may include, but shall not be limited to, paving with curbing and/or sidewalks, storm water detention, drainage systems, sanitary sewer systems, water lines, lighting, related signage and landscaping and construction management and County administrative costs. The funding requested herein, at the aggregate estimated maximum cost of \$8,134,000, is in support

of the construction of 168 Affordable AFFH units. The County shall enter into an Inter-municipal/Developer Agreement (“IMDA”) with the City of White Plains, White Plains Housing Authority and Trinity Financial, Inc. (the “Developer”), its successors or assigns, to finance eligible infrastructure improvements associated with the construction of said affordable AFFH units (the “Development”). A deed restriction will be filed against the AFFH Property to require that the AFFH units will be marketed and leased in accordance with an approved affirmative fair housing marketing plan to eligible households for a period of not less than 50 years. The cost of said infrastructure improvements for the AFFH Property is set forth in the County’s Current Year Capital Budget, as amended. To the extent that the details set forth in this act are inconsistent with any details set forth in the Current Year Capital Budget of the County and the Statement of Need, such Budget and Statement of Need shall be deemed and are hereby amended. The estimated maximum cost of said object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$8,134,000. The plan of financing includes the issuance of \$8,134,000 bonds herein authorized, and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy and collection of a tax on taxable real property in the County to pay the principal of and interest on said bonds and notes.

Section 2. The period of probable usefulness for which said \$8,134,000 bonds are authorized to be issued, within the limitations of Section 11.00 a. 91 of the Law, is fifteen (15) years.

Section 3. The County intends to finance, on an interim basis, the costs or a portion of the costs of said object or purpose for which bonds are herein authorized, which costs are

reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Bond Act, in the maximum amount of \$8,134,000. This Act is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 4. The estimate of \$8,134,000 as the estimated maximum cost of the aforesaid object or purpose is hereby approved.

Section 5. Subject to the provisions of this Act and of the Law, and pursuant to the provisions of section 30.00 relative to the authorization of the issuance of bond anticipation notes and the renewals thereof, and of sections 50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Board of Legislators relative to authorizing the issuance of any notes in anticipation of the sale of the bonds herein authorized, and the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds and the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Commissioner of Finance of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Act and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Westchester, payable as to both principal and interest by general tax upon all the taxable real property within the County. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on

said bonds and any notes issued in anticipation of the sale of said bonds and the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The validity of the bonds authorized by this Act and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of this Act or a summary hereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Act shall take effect in accordance with Section 107.71 of the Westchester County Charter.

**Section (B)** The amendment of the bond act set forth in Section (A) of this act shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond act, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond act, as so amended.

**Section (C)** This Act shall take effect in accordance with Section 107.71 of the Westchester County Charter.

\* \* \*

3960227.1 047331 LEG



STATE OF NEW YORK            )  
  : ss.:  
COUNTY OF WESTCHESTER)

I HEREBY CERTIFY that I have compared the foregoing Act No. -20\_\_ with the original on file in my office, and that the same is a correct transcript therefrom and of the whole of the said original Act, which was duly adopted by the County Board of Legislators of the County of Westchester on           , 20\_\_ and approved by the County Executive on           , 20\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County Board of Legislators this    day  
of           , 20\_\_.

\_\_\_\_\_  
Clerk and Chief Administrative Officer of the County  
Board of Legislators of the County of Westchester,  
New York

(SEAL)

STATE OF NEW YORK                    )  
  : ss.:  
COUNTY OF NEW YORK                )

I HEREBY CERTIFY that I have compared the foregoing Act No. -20\_\_\_\_\_ with the original on file in my office, and that the same is a correct transcript therefrom and of the whole of the said original Act, which was duly adopted by the County Board of Legislators of the County of Westchester on \_\_\_\_\_, 20\_\_\_\_\_ and approved by the County Executive on \_\_\_\_\_, 20\_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County Board of Legislators this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

The Clerk and Chief Administrative Office of the  
County Board of Legislators County of  
Westchester, New York

(SEAL)

## LEGAL NOTICE

A Bond Act, a summary of which is published herewith, has been adopted by the Board of Legislators on \_\_\_\_\_, 20\_\_ and approved by the County Executive on \_\_\_\_\_, 20\_\_ and the validity of the obligations authorized by such Bond Act may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Westchester, in the State of New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the Constitution. Complete copies of the Bond Act summarized herewith shall be available for public inspection during normal business hours at the Office of the Clerk of the Board of Legislators of the County of Westchester, New York, for a period of twenty days from the date of publication of this Notice.

ACT NO. \_\_\_\_\_-20\_\_

BOND ACT AUTHORIZING THE ISSUANCE OF \$8,134,000 BONDS OF THE COUNTY OF WESTCHESTER, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS ON PROPERTY LOCATED AT 161 SOUTH LEXINGTON AVENUE, IN THE CITY OF WHITE PLAINS, IN ORDER TO AFFIRMATIVELY FURTHER FAIR HOUSING ("AFFH") PURSUANT TO THE COUNTY'S HOUSING IMPLEMENTATION FUND II CAPITAL PROJECT; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$8,134,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$8,134,000 BONDS HEREIN AUTHORIZED; AND PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS (Adopted \_\_\_\_\_, 20\_\_)

**Object or purpose:** to finance the cost of infrastructure improvements associated with the construction of affordable housing units on property located at 161 South Lexington Avenue, in the City of White Plains (the "AFFH Property") at a cost to the County of \$8,134,000, including related costs incurred by the County, which may include construction management and engineering costs, and staff and legal fees, in order to support the construction of affordable housing units that will affirmatively further fair housing ("AFFH"). The infrastructure improvements may include, but shall not be limited to, paving with curbing and/or sidewalks, storm water detention, drainage systems, sanitary sewer systems, water lines, lighting, related signage and landscaping and construction management and County administrative costs. The funding requested herein, at the aggregate

estimated maximum cost of \$8,134,000, is in support of the construction of 168 Affordable AFFH units. The County shall enter into an Inter-municipal/Developer Agreement (“IMDA”) with the City of White Plains, White Plains Housing Authority and Trinity Financial, Inc. (the “Developer”), its successors or assigns, to finance eligible infrastructure improvements associated with the construction of said affordable AFFH units (the “Development”). A deed restriction will be filed against the AFFH Property to require that the AFFH units will be marketed and leased in accordance with an approved affirmative fair housing marketing plan to eligible households for a period of not less than 50 years. The cost of said infrastructure improvements for the AFFH Property is set forth in the County’s Current Year Capital Budget, as amended.

Amount of obligations to be issued  
and period of probable usefulness:                      \$8,134,000 - fifteen (15) years

Dated: \_\_\_\_\_, 20\_\_\_\_  
White Plains, New York

---

Clerk and Chief Administrative Officer of the County Board  
of Legislators of the County of Westchester, New York

## CAPITAL PROJECT FACT SHEET

<b>Project ID:*</b> BPL1A  <b>Fact Sheet Year:*</b> 2025  <b>Category*</b> BUILDINGS, LAND & MISCELLANEOUS	<input checked="" type="checkbox"/> CBA  <b>Project Title:*</b> HOUSING IMPLEMENTATION FUND 8 II  <b>Department:*</b> PLANNING	<b>Fact Sheet Date:*</b> 03-06-2025  <b>Legislative District ID:</b>   <b>CP Unique ID:</b> 2872
--	---	---

### Overall Project Description

This project continues the funding for the Westchester County Housing Implementation Fund (HIF) previously funded under BPL01. HIF is a unique housing incentive program established to provide municipalities with funds for public infrastructure and improvements such as water, sanitary and storm sewer, road and site improvements needed to facilitate the construction or rehabilitation of fair and affordable housing. This is a general fund, specific projects are subject to a Capital Budget Amendment.

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Best Management Practices | <input type="checkbox"/> Energy Efficiencies     | <input type="checkbox"/> Infrastructure |
| <input type="checkbox"/> Life Safety               | <input type="checkbox"/> Project Labor Agreement | <input type="checkbox"/> Revenue        |
| <input type="checkbox"/> Security                  | <input checked="" type="checkbox"/> Other        |   |

### FIVE-YEAR CAPITAL PROGRAM (in thousands)

	Estimated Ultimate Total Cost	Appropriated	2025	2026	2027	2028	2029	Under Review
<b>Gross</b>	86,060	86,060	0	0	0	0	0	0
<b>Less Non-County Shares</b>	0	0	0	0	0	0	0	0
<b>Net</b>	86,060	86,060	0	0	0	0	0	0

**Expended/Obligated Amount (in thousands) as of :** 32,056

**Current Bond Description:** Bonding is requested to provide funding for certain infrastructure improvements for a 168 unit 100% affordable AFFH apartment building with a total of 63 outdoor parking spaces at 161 South Lexington Avenue in the City of White Plains.

#### Financing Plan for Current Request:

Non-County Shares:	\$ 0
Bonds/Notes:	8,134,000
Cash:	0
<b>Total:</b>	<b>\$ 8,134,000</b>

#### SEQR Classification:

UNLISTED

#### Amount Requested:

8,134,000

#### Expected Design Work Provider:

- |                                       |                                     |  |
|---------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> County Staff | <input type="checkbox"/> Consultant | <input checked="" type="checkbox"/> Not Applicable |
|---------------------------------------|-------------------------------------|--|

**Comments:**

The County will enter into an Inter-Municipal/Developer Agreement with the City of White Plains, White Plains Housing Authority and Trinity Financial, Inc., its successors or assigns (the "Developer") to finance eligible infrastructure improvements associated with multi-family development to be constructed at 161 South Lexington Avenue in the City of White Plains (the "City"), identified on the tax maps as Section 125.83, Block 7, Lot 1 (the "Property"). The City will be responsible for operation and maintenance of the infrastructure and the County shall own the infrastructure improvements for the life of the County bonds. The developer will construct an eleven-story building with 168 apartments all of which will affirmatively furthering fair housing (the "Affordable AFFH Units") which will be affordable to households who earn at or below 90% of Westchester County's Area Median Income.

The building will have three elevators and residential amenities such as a fitness center, an onsite management office, a resident lounge, an outdoor rooftop terrace and seating areas, laundry facilities on each floor. The building will have 67 one-bedroom, 84 two-bedroom, 15 three-bedroom and 2 four-bedroom apartments and 63 on-site parking spaces reserved for residents.

A total of \$8,134,000 will finance the construction of infrastructure improvements that may include but will not be limited to: on-site and off-site paving, curbing, sidewalks, storm water detention, drainage systems, sanitary sewer systems, water lines, lighting, signage, landscaping, construction management and County administrative cost.

A deed restriction will be filed against the Property to require that the Affordable AFFH Units be marketed and leased in accordance with an approved affirmative fair housing marketing plan to eligible households for a period of not less than 50 years.

**Energy Efficiencies:**

GREEN TECHNOLOGY SUCH AS THE INSTALLATION OF ENERGY STAR APPLIANCES, LIGHTING AND HEATING SYSTEMS TO REDUCE THE EMISSIONS OF CARBON DIOXIDE INTO THE ENVIRONMENT AND A DETENTION SYSTEM TO MANAGE THE STORM WATER ONSITE.

**Appropriation History:**

Year	Amount	Description
2014	5,000,000	PUBLIC INFRASTRUCTURE IMPROVEMENTS
2015	3,000,000	PUBLIC INFRASTRUCTURE IMPROVEMENTS
2016	2,500,000	PUBLIC INFRASTRUCTURE IMPROVEMENTS
2017	3,500,000	GREENBURGH MANHATTAN AVE REDEVELOPMENT SENIOR HOUSING - \$1,000,000; CONTINUATION OF THIS PROJECT - \$2,500,000
2018	4,150,000	CONTINUATION OF THIS PROJECT.
2019	5,910,000	CONTINUATION OF THIS PROJECT
2020	10,000,000	CONTINUATION OF THIS PROJECT
2021	12,000,000	CONTINUATION OF THIS PROJECT \$10,000,000 ; INFRASTRUCTURE BROADBAND \$2,000,000
2022	25,000,000	CONTINUATION OF THIS PROJECT
2023	15,000,000	CONTINUATION OF THIS PROJECT

**Total Appropriation History:**

86,060,000

**Financing History:**

Year	Bond Act #	Amount	Issued	Description
15	164	0	0	INFRASTRUCTURE IMPROVEMENTS AT 16 ROUTE 6 IN TOWN OF SOMERS
15	170	2,400,000	2,399,395	FAH DEVELOPMENT AT 150 NORTH STREET AND THEODORE FREMD AVE IN CITY OF RYE
15	206	500,000	494,506	147, 165 AND 175 RAILROAD AVENUE, BEDFORD HILLS INFRASTRUCTURE IMPROVEMENTS
17	174	2,250,000	2,222,697	CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS TO 1847 CROMPOND ROAD PEEKSKILL
17	210	0	0	CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS AT 501 BROADWAY IN VILLAGE OF BUCHANAN
18	84	2,400,000	1,962,014	CONSTRUCTION OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS IN SUPPORT OF HIDDEN MEADOWS DEVELOPMENT
18	156	0	0	CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS FOR DEVELOPMENT OF AFFORDABLE HOUSING IN NEW ROCHELLE
18	188	1,300,000	1,155,841	INFRASTRUCTURE ASSOCIATED WITH CONSTRUCTION OF AFFORDABLE UNITS AT 25 SOUT REGENT ST IN PORT CHESTER
18	183	4,400,000	4,000,982	INFRASTRUCTURE ASSOCIATED WITH AFFORDABLE HOUSING AT 135 S. LEXINGTON AVE IN WHITE PLAINS
19	72	0	0	RESCINDING ACT NO. 156-2018, INFRASTRUCTURE IMPROVEMENTS IN NEW ROCHELLE
19	180	0	0	RESCINDS BOND ACT 210-2017
19	179	2,500,000	0	CONSTRUCTION OF AFFORDABLE RENTAL UNITS AT 11 GRADEN STREET, NEW ROCHELLE
19	152	5,760,000	5,760,005	CONSTRUCTION OF AFFORDABLE RENTAL UNITS AT 645 MAIN STREET IN PEEKSKILL
20	51	5,000,000	5,000,009	COST OF INFRASTRUCTURE IMPROVEMENTS OF AFFORDABLE HOUSING UNITS IN NEW ROCHELLE
20	97	5,000,000	3,358,249	COST OF INFRASTRUCTURE IMPROVEMENTS OF AFFORDABLE HOUSING UNITS IN YONKERS
20	201	2,500,000	0	INFRASTRUCTURE IMPROVEMENTS FOR AFFORDABLE HOUSING UNIT AT 48 MANHATTAN AVE., GREENBURG
22	28	3,500,000	241,204	AFFH AND HIF 23 MULBERRY STREET, YONKERS 60 RENTAL UNITS
23	147	5,555,000	0	HOUSING IMPLEMENTATION FUND II - 345 MCLEAN AVE YONKERS
23	58	2,750,000	0	HOUSING IMPLEMENTATION FUND II - 65 LAKE STREET WHITE PLAINS
24	145	8,134,000	0	

**Total Financing History:**

53,949,000

**Recommended By:**

**Department of Planning**  
MLLL

**Date**  
03-07-2025

**Department of Public Works**  
RJB4

**Date**  
03-10-2025

**Budget Department**  
DEV9

**Date**  
03-13-2025

**Requesting Department**  
SEDR

**Date**  
03-14-2025



## HOUSING IMPLEMENTATION FUND II ( BPL1A )

**User Department :** Planning

**Managing Department(s) :** Planning ;

**Estimated Completion Date:** TBD

**Planning Board Recommendation:** Project approved in concept but subject to subsequent staff review.

### **FIVE YEAR CAPITAL PROGRAM (in thousands)**

	Est Ult Cost	Appropriated	Exp / Obl	2025	2026	2027	2028	2029	Under Review
<b>Gross</b>	<b>86,060</b>	<b>86,060</b>	<b>32,047</b>						
<b>Non County Share</b>			<b>72</b>						
<b>Total</b>	<b>86,060</b>	<b>86,060</b>	<b>32,119</b>						

### **Project Description**

This project continues the funding for the Westchester County Housing Implementation Fund (HIF) previously funded under BPL01. HIF is a unique housing incentive program established to provide municipalities with funds for public infrastructure and improvements such as water, sanitary and storm sewer, road and site improvements needed to facilitate the construction or rehabilitation of fair and affordable housing. This is a general fund, specific projects are subject to a Capital Budget Amendment.

### **Current Year Description**

There is no current year request.

### **Impact on Operating Budget**

The impact on the Operating Budget is the debt service associated with the issuance of bonds.

### **Appropriation History**

Year	Amount	Description	Status
2014	5,000,000	Public infrastructure improvements	COMPLETE
2015	3,000,000	Public infrastructure improvements	COMPLETE
2016	2,500,000	Public infrastructure improvements	COMPLETE
2017	3,500,000	Greenburgh Manhattan Ave Redevelopment Senior Housing - \$1,000,000; continuation of this project -\$2,500,000	COMPLETE
2018	4,150,000	Continuation of this project.	COMPLETE
2019	5,910,000	Continuation of this project	COMPLETE
2020	10,000,000	Continuation of this project	IN PROGRESS
2021	12,000,000	Continuation of this project \$10,000,000 ; Infrastructure Broadband \$2,000,000	IN PROGRESS
2022	25,000,000	Continuation of this project	\$8,000,000 IN PROGRESS; \$17,000,000 AWAITING BOND AUTHORIZATION
2023	15,000,000	Continuation of this project	AWAITING BOND AUTHORIZATION
<b>Total</b>	<b>86,060,000</b>		

## HOUSING IMPLEMENTATION FUND II ( BPL1A )

### Prior Appropriations

	Appropriated	Collected	Uncollected
Bond Proceeds	86,060,000	26,648,042	59,411,958
Others		(71,958)	71,958
<b>Total</b>	<b>86,060,000</b>	<b>26,576,084</b>	<b>59,483,916</b>

### Bonds Authorized

Bond Act	Amount	Date Sold	Amount Sold	Balance
164 15				
170 15	2,400,000	12/15/17	1,053,460	605
		12/15/17	193,426	
		12/15/17	1,634	
		12/10/18	551,309	
		12/10/19	271,876	
		12/10/19	53,689	
		12/01/22	249,231	
		12/01/22	24,769	
206 15	500,000	12/15/17	262,311	5,494
		12/15/17	48,163	
		12/15/17	407	
		12/10/18	183,625	
174 17	2,250,000	12/10/18	24,138	27,303
		12/10/19	127,644	
		12/10/19	25,207	
		04/30/20	192,926	
		10/28/20	985,486	
		10/28/20	138,079	
		10/28/20	38,077	
		10/28/20	(38,077)	
		12/01/21	445,116	
		12/01/22	258,419	
		12/01/22	25,682	
210 17				
84 18	2,400,000	12/10/19	270,781	437,986
		12/10/19	53,472	
		04/30/20	560,358	
		10/28/20	389,869	
		10/28/20	54,626	
		10/28/20	15,064	
		10/28/20	(15,064)	
		12/01/21	632,909	

## HOUSING IMPLEMENTATION FUND II ( BPL1A )

156	18				
188	18	1,300,000	04/30/20	27,188	144,159
			10/28/20	487,032	
			10/28/20	68,239	
			10/28/20	18,818	
			12/01/21	294,989	
			12/01/22	207,794	
			12/01/22	20,651	
			11/30/23	28,340	
			11/30/23	2,792	
183	18	4,400,000	12/01/21	1,765,006	399,018
			12/01/22	1,282,442	
			12/01/22	127,450	
			11/30/23	752,011	
			11/30/23	74,073	
72	19				
152	19	5,760,000	12/01/21	2,419,574	(5)
			12/01/22	2,776,495	
			12/01/22	275,931	
			11/30/23	262,180	
			11/30/23	25,825	
179	19	2,500,000			2,500,000
180	19				
51	20	5,000,000	12/01/21	148,675	(9)
			12/01/22	3,943,713	
			12/01/22	391,930	
			11/30/23	469,449	
			11/30/23	46,241	
97	20	5,000,000	12/01/21	43,723	1,641,751
			12/01/22	1,122,890	
			12/01/22	111,594	
			11/30/23	1,893,528	
			11/30/23	186,513	
201	20	2,500,000			2,500,000

## HOUSING IMPLEMENTATION FUND II ( BPL1A )

28	22	3,500,000	11/30/23	219,576	3,258,796
			11/30/23	21,628	
58	23	2,750,000			2,750,000
147	23	5,555,000			5,555,000
145	24	8,134,000			8,134,000
Total		53,949,000		26,594,902	27,354,098

**ACT NO. \_\_\_\_ - 2025**

**AN ACT** amending Act No. 146-2024 authorizing the County of Westchester to enter into an inter-municipal developer agreement with the City of White Plains, the White Plains Housing Authority and Trinity Financial, Inc., its successors or assigns, to fund certain infrastructure improvements as well as authorizing the County to grant and accept any property rights necessary in furtherance thereof, all for the purpose of constructing 174 affordable rental units at 161 South Lexington Avenue in the City of White Plains, that will affirmatively further fair housing and remain affordable for a period of not less than 50 years, in order to modify the number of affordable rental units from 174 units to 168 units.

**BE IT ENACTED** by the members of the Board of Legislators of the County of Westchester as follows:

**Section 1.** Act No. 146-2024 authorizing the County of Westchester to enter into an inter-municipal developer agreement with the City of White Plains, the White Plains Housing Authority and Trinity Financial, Inc., its successors or assigns, to fund certain infrastructure improvements as well as authorizing the County to grant and accept any property rights necessary in furtherance thereof, all for the purpose of constructing 174 affordable rental units at 161 South Lexington Avenue in the City of White Plains, that will affirmatively further fair housing and remain affordable for a period of not less than 50 years, is hereby amended in order to modify the number of affordable rental units from 174 units to 168 units.

§2. All of the remaining terms and conditions of Act No. 146-2024, except as amended and ratified herein, shall remain in full force and effect.

§3. The County Executive or his duly authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to

effectuate the purposes hereof.

§4. This Act shall take effect immediately.



## **INTER-MUNICIPAL/DEVELOPER AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_nd day of 2025, by and among:

**THE COUNTY OF WESTCHESTER**, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (“County”), and

**THE CITY OF WHITE PLAINS**, a municipal corporation of the State of New York, having an office and place of business at 255 Main Street, White Plains, New York 10601 (the “Municipality”), and

**WHITE PLAINS HOUSING AUTHORITY**, a public housing authority established under the laws of the State of New York, having an office and place of business at 223 Dr. Martin Luther King, Jr. Boulevard., White Plains, New York 10601 (the "Housing Authority" and "Fee Title Owner"); and

**WP THREE HOUSING DEVELOPMENT FUND CORPORATION**, a not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law of the State of New York, having an office and place of business at 223 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York 10601 (the "HDFC"); and

**TRINITY BROOKFIELD COMMONS PHASE THREE LIMITED PARTNERSHIP**, a limited partnership organized and existing under the laws of the State of New York, having an office and place of business at 1350 Broadway, Suite 2203, New York, New York 10018 (the "LP" and, together with the HDFC, the "Developer"), and

(individually "Party" or collectively the "Parties")

**WHEREAS**, in an effort to encourage the development of affordable housing that will affirmatively further fair housing (“AFFH”) in Westchester County, the County has established a Housing Implementation Fund (“HIF”) to provide funds to assist in the construction of water facilities, sewer facilities, road improvements and other infrastructure improvements necessary for the development of Affordable AFFH Units (defined below) in Westchester County; and

**WHEREAS**, pursuant to the provisions of Chapter 298 of the Westchester County Administrative Code, the County agrees to enter into agreements with municipalities and developers pursuant to which the municipalities will construct public improvements in support of the development of affordable housing; and

**WHEREAS**, in furtherance of the foregoing, the County desires to enter into an Intermunicipal-Developer Agreements with municipalities and developers in the County in support of affordable AFFH developments; and

**WHEREAS**, the Developer has agreed to construct certain Affordable AFFH Units on the property more particularly described on Schedule “A,” attached hereto and made a part hereof (the “Affordable Housing Property”); and

**WHEREAS**, the Fee Title Owner owns the fee interest in that portion of the Affordable Housing Property located at 161 South Lexington Avenue and designated on the City Tax Map as Section 125.83, Block 7, Lot 1 (the “Property”), and the Developer has agreed to construct thereon a 11-story building with 168 Affordable AFFH Units including one employee unit (the “Development”); and

**WHEREAS**, the Housing Authority will be (i) the fee owner of the Affordable Housing Property, and (ii) the fee owner of the Infrastructure Improvements Property; and

**WHEREAS**, the Municipality and the Developer desire that the County shall fund the



Infrastructure Improvements (defined below) which support the Development and, in consideration thereof, acknowledge that the Property shall be subject to that certain declaration of restrictive covenants (the “Declaration of Restrictive Covenants”) of even date hereof, a form of which is described in Schedule “B” annexed hereto and forming a part hereof (the “Declaration of Restrictive Covenants”), which shall be submitted for recording against the Affordable Housing Property in the Office of the Westchester County Clerk, and the affordability requirements as defined in Schedule “B” of the Declaration of Restrictive Covenants (the “Affordability Requirements”), which is incorporated herein by reference; and

**WHEREAS**, following construction of the Development, the rental and re-rental of the Affordable AFFH Units will adhere to the provisions of the Affordability Requirements for the Period of Affordability set forth therein; and

WHEREAS, the City is the owner of the City’s right of way upon which a portion of the Infrastructure Improvements shall be constructed, as more particularly described in Schedule “C-1” attached hereto and made part hereof (the “Municipal Infrastructure Property”) and the Infrastructure Improvements on the Municipal Infrastructure Property shall be referred to herein as the “Municipal Infrastructure Improvements”; and **WHEREAS**, as stated above, the Housing Authority will be the fee owner of the Property as more particularly described on Schedule A,” attached hereto and made a part hereof (including all rights to develop the Property), upon which a portion of the Infrastructure Improvements shall be constructed, as more particularly described in Schedule “C-2”, attached hereto and made a part hereof (the “Developer Infrastructure Property”) and the Infrastructure Improvements on the Developer Infrastructure Property shall be referred to herein as the “Developer Infrastructure Improvements”; and

**WHEREAS**, the Infrastructure Improvements shall be constructed on a portion of the Property (referred to herein as, the “Infrastructure Improvements Property”); and

**WHEREAS**, the Infrastructure Improvements will include, but are not limited to, on-site and off-site paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management, County administrative costs and other related work, all as more fully set forth in Schedule “D” annexed hereto and forming a part hereof; and

**WHEREAS**, the County proposes to fund the cost of the construction of the Infrastructure Improvements and will use the proceeds of tax exempt general obligation bonds issued by the County for such funding (as defined in Section 5 below); and

**WHEREAS**, the Municipality desires to implement the construction of the Infrastructure Improvements; and

**WHEREAS**, the County prohibits the Developer from charging tenants of the Affordable AFFH Units for use of the Resident Parking Spaces during the Period of Affordability, without the express approval of the Commissioner of the County Department of Planning or her duly authorized designee (the “Commissioner”); and

**WHEREAS**, the County will require the installation of electric car charging stations as follows: for parking facilities with 250 or less parking spaces, 10% of the spaces must be equipped with level one charging stations and another 10% with level two charging stations that must also have the electrical capacity for level three charging stations. For parking facilities with 250 vehicles, 50 spaces must have charging stations, half with level one and half with level two that also have the capacity for level three charging stations.

**NOW, THEREFORE**, in consideration of the terms and conditions herein contained, the parties agree as follows:

1. **RECITALS:**

The above recitals are hereby incorporated by reference into the body of this Inter-Municipal Developer Agreement (the “Agreement” and/or “IMDA”).

2. **PERFORMANCE OF WORK:**

The Municipality shall implement the construction of the Infrastructure Improvements on the Infrastructure Improvements Property in accordance with the provisions as set forth in this Agreement, including, but not limited to, Schedule “D,” attached hereto and made a part hereof. The Infrastructure Improvements shall include, but not be limited to, on-site and off-site paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management costs and County administrative costs (hereinafter collectively referred to as the “Infrastructure Improvements”). The Infrastructure Improvements shall be constructed in accordance with the Plans (as defined in Schedule “D”). Modification of the Plans or change orders, if any, shall require the prior written approval of the Commissioner of the County Department of Planning or her duly authorized designee (the “Commissioner”).

The Developer, its successors or assigns shall adhere to all provisions set forth in Schedule “B” of the Declaration of Restrictive Covenants, including but not limited to meeting the Affordability Requirements for the Development’s 168 Affordable AFFH Units until the end of the Period of Affordability. The Municipality and the Developer shall comply with Chapter 298 of the Westchester County Administrative Code as applicable to the Affordable AFFH Units (“Chapter 298”).

It is understood and agreed that the Municipality represents that the construction of the Infrastructure Improvements to be performed hereunder will be awarded within one hundred twenty (120) days of the date hereof, by means of public competitive bidding pursuant to section

103 of the General Municipal Law or by means of Section 213 of the White Plains City Charter. In no event shall the retention of a contractor to perform work on the Infrastructure Improvements relieve or otherwise discharge the Municipality or Developer, from their respective obligations hereunder or create a third party beneficiary relationship between the County and any such contractors and the parties hereto expressly disclaim any intention to create such a relationship.

Construction of the Infrastructure Improvements shall be done in strict accordance with the plans approved for such work, in compliance with all applicable laws, rules, regulations, ordinances and governmental approvals, and in accordance with the construction schedule

The County shall not advance any HIF Funds (as defined in Section “4” hereof) to the Municipality and work will not be required to commence on the Infrastructure Improvements until:

(i) the Housing Authority has a fee interest in the Property (described in Schedule “A”) and the Housing Authority has a fee interest in the land underlying the Affordable Housing Property) free of liens, encumbrances, easements and agreements, unless such liens, encumbrances easements and agreements, if any, shall be subordinate to the Declarations of Restrictive Covenants or the Required Easement, except for any Declaration of Trust or Declaration of Restrictive Covenants for the benefit of the U.S. Department of Housing and Urban Development that shall be superior to the Declarations of Restrictive Covenants or the Required Easement (a “HUD Declaration”); and

(ii) the Municipality has awarded the bids and contracted for construction of the Infrastructure Improvements, provided, however, that in the event the lowest acceptable bid exceeds the amount of the County HIF Funds, prior to the awarding of the bid, the Developer shall either (i) contribute said amount in excess of the County HIF Funds through a cash deposit with the Municipality, to be held by the Municipality in escrow until duly paid out to the successful low bidder upon completion of the work or (ii) provides

evidence satisfactory to the Municipality of the availability of other funds sufficient to cover the expected excess costs; and

(iii) the Municipality has received either: (a) a performance and payment bond, including without limitation materials and labor, covering one hundred percent (100%) of the work to be performed in connection with the Infrastructure Improvements, in form and content and issued by a surety reasonably satisfactory to the Municipality; or (b), an instrument of credit or guarantee which is acceptable to the City and the County. The City will allow the Housing Authority and the Developer and their successors and assigns and the County and its successors and assigns, to be added as obligees under a multiple obligee rider to the payment and performance bonds for the infrastructure work, it being acknowledged by the County and the Municipality that the Developer will be required to assign its rights with respect to this Agreement to New York State Housing Finance Agency (“HFA”) and (“INSERT LENDER NAME”). Further, the Municipality agrees that if the contractor awarded the bid for construction of the Infrastructure Improvements fails to complete work within the timeframe provided for in the subject contract, then at any time from and after thirty (30) days following delivery of a notice of default to the defaulting contractor by the Municipality, the Municipality shall promptly, at the direction of the Developer, HFA, or (INSERT LENDER NAME) enforce its rights under the bond and cause the surety that has issued such bond to undertake and complete the work to be completed pursuant to the contract in accordance with the requirements and procedures of the surety and the bond) ; and

(iv) the Declaration of Restrictive Covenants has been executed and recorded against the Affordable Housing Property all as more fully set forth below; and

(v) the Developer has obtained a firm, unconditional commitment for construction financing for the Development and has committed to complete any Infrastructure Improvements that may become known and are not funded by HIF, at its sole cost and

expense, and which will be required to be certified completed before the retainage held on the Infrastructure Improvements to be publicly bid by the Municipality pursuant to this Agreement may be released; and

(vi) an indenture from the Developer to the Municipality and to the County granting an easement to the Infrastructure Improvements Property for the construction of the Infrastructure Improvements to be constructed thereon has been executed in substantially the form attached hereto and forming a part hereof as more particularly described in Schedule “G” (the “Required Easement”) and such Required Easement will be submitted for recording, as more fully set forth below; and

(vii) the County has received title insurance acceptable to the County insuring its interest in the Required Easement naming the County as an insured in an amount equal to 25% of the County HIF Funds (defined in Section 4 below), which insured amount shall be Two Million Thirty-three Thousand Five Hundred (\$2,033,500) Dollars, and;

(viii) the Developer has obtained any approvals necessary in connection herewith, including but not limited to receipt of the site plan and State Environmental Quality Review Act (“SEQRA”) approvals by the Municipality’s City Council, Planning Board and Zoning Board of Appeals; and

(ix) any necessary approvals from the Municipality’s and the Developer’s governing bodies have been obtained.

The requirements contained in clauses (i), (iv), (v), (vi), (vii), (viii) and (ix) above have been or shall be satisfied prior to or concurrent with execution of this Agreement. Moreover, construction shall not commence and the County may terminate this Agreement if the conditions contained in clauses (ii) and (iii) have not been satisfied within 120 days following execution of this Agreement.

The Developer shall execute all required documents for the recording of the Declarations of Restrictive Covenants and the Required Easement, as may be applicable, which the Developer, at its sole cost and expense, prior to commencement of any construction of the Infrastructure Improvements, shall submit for recording to the Office of the Westchester County Clerk. Proof of recording shall be provided to the County by the Developer within thirty (30) days of said recording. No payments shall be made to the Municipality until proof of filing of said documents for recording by the Westchester County Clerk has been provided to the County. The Municipality agrees to provide the Developer with copies of all requests for payment for work performed. Requests for payment shall not be paid until Developer has confirmed that all work for which payment is being requested, has been properly performed.

All of the provisions of this Section “2” will survive the expiration or other termination of this Agreement until the expiration of the County Period of Affordability as defined in Schedule “B”.

### **3. LIENS:**

The Municipality and the Developer shall assure that their contractor(s) and subcontractor(s) will not enter into any mortgage or other financing documents that place a lien on the Infrastructure Improvements. In addition, the Developer shall not enter into any mortgage or other financing documents which place a lien on the Property which conflict with or diminish the terms of the Declaration of Restrictive Covenants recorded against the Affordable Housing Property other than a HUD Declaration. In the event any lien is placed on the Infrastructure Improvements or the Infrastructure Improvements Property by a contractor or subcontractor, the Municipality or the Developer that engaged such contractor or subcontractor shall take immediate action to discharge or bond such liens.

#### **4. PAYMENT:**

The County's sole obligation under this IMDA is to pay the Municipality an amount not to exceed EIGHT MILLION ONE HUNDRED THIRTY-FOUR THOUSAND DOLLARS (\$8,134,000.00) (the "County HIF Funds") to fund the construction of the Infrastructure Improvements as more fully set forth in Schedule "D".

In no event will the Developer have any recourse against the County for payment hereunder. The Developer expressly acknowledge and agree that their only recourse will be against the Municipality for amounts distributed to the Municipality by the County. The County HIF Funds will be paid with the proceeds of the Bonds in accordance with the payment provisions of Schedule "D". The County will make such payment to the Municipality only after submission by the Municipality of all requested documentation concerning construction of the Infrastructure Improvements and after review and approval by the County for expenses properly incurred in the performance of this Agreement. Neither the Municipality nor the County will be liable for any costs or expenses in excess of the County HIF Funds incurred in connection herewith. The Municipality will promptly pay for work performed. In the event the cost of constructing the Infrastructure Improvements exceeds the amount of the County HIF Funds, the Municipality will pay said excess using the Developer funds being held in escrow, as may be applicable, in accordance with Paragraph 2 above, and any remaining excess above the amount of the HIF Funds and the Escrow Funds shall be paid by the Developer or an affiliate thereof.

County HIF Funds shall be expended solely and exclusively for the purchase of materials and performance of labor, or engineering services used in the design and/or construction of the Infrastructure Improvements, including the retention of a Project Manager, as described in Schedule D.

Prior to the making of any payments hereunder, the County, may, at its option audit such books and records of the Municipality and the Developer as are reasonably pertinent to this



Agreement to substantiate the basis for payment. The Municipality and Developer will require any contractor(s) or sub-contractor(s) to make their books and records available to the County for audit and inspection. The County shall not be restricted from withholding payment for cause found in the course of such audit or because of failure of the Municipality or the Developer to cooperate with such audit.

The Municipality will furnish the County, whenever requested to do so, satisfactory evidence showing that all monies already paid hereunder have been applied by the Municipality toward the costs of the Infrastructure Improvements. Until such evidence, which shall consist of an affidavit certified by the respective contractor(s) acknowledging receipt of payment from the Municipality, is produced, at the option of the County, no further payments need be made by the County hereunder.

Payments hereunder to the Municipality by the County will operate to release the County from any and all obligations or liabilities to the Municipality, the Developer, and their respective agent(s), contractor(s) or sub-contractor(s) in connection herewith. The County expressly disclaims the existence of any third-party beneficiary relationship between the County and any such parties.

In the event that the Infrastructure Improvements and the Development's 168 Affordable AFFH Units fail to be fully constructed, as evidenced with a Certificate of Occupancy or Temporary Certificate of Occupancy issued by the Municipality for the Development, within four (4) years from execution of this Agreement, subject to Sections 5(C) and 5(E), below, the County shall have the right, at its option, to require repayment from: (1) the Municipality of all County HIF funds paid to the Municipality pursuant to this Agreement but not yet disbursed in furtherance hereof; and/or (2) the Developer of all County HIF Funds received in accordance herewith.

All of the terms of this Section "4" shall survive the expiration or other termination of this Agreement.

## 5. TAX RESTRICTIONS:

A. The Bonds. The Municipality and the Developer acknowledge and understand that the funds available for the Infrastructure Improvements hereunder are expected to be made available from tax exempt general obligation bonds issued by the County (the “Bonds”), which have been, or shall be, issued to fund construction of the Infrastructure Improvements in accordance with the provisions of this Agreement. The Municipality and Developer further acknowledge and understand that in connection with the issuance of the Bonds, the Commissioner of Finance of the County of Westchester has executed or will execute an “Arbitrage and Use of Proceeds Certificate,” in compliance with the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the “Code”). The Municipality and the Developer agree that each will do all commercially reasonable acts and things, or refrain from taking action, as necessary, in order to assure that interest paid on the Bonds shall not be included in gross income of the owners of the Bonds for the purpose of Federal income taxation.

B. Commencement of Construction. The Municipality and Developer expect that the construction of the Infrastructure Improvements will commence as set forth in Schedule “D” and that the County HIF Funds made available hereunder will be expended for costs of constructing the Infrastructure Improvements in accordance with the budget contained in Schedule “D” and the construction of the Infrastructure Improvements will proceed substantially in accordance with said Schedule. The Municipality and Developer agree to notify the County in the event of changes in the expected schedule for completion of the Infrastructure Improvements.

C. Failure to Complete. The Municipality and Developer agree that should the Infrastructure Improvements fail to be completed in accordance with Schedule “D,” except as a result of any delay occasioned by reason of any unavoidable delays (including but not limited to *force majeure*) or other causes beyond the control of the Municipality or the Developer, the County, without limiting any other right or remedy to which it may be entitled, shall have the right

to terminate this Agreement upon thirty (30) days prior written notice to the Municipality and Developer and/or to deduct from any remaining payments due hereunder an amount equal to the penalties required by the Code for failure to expend the bond proceeds allocable to the Infrastructure Improvements in a timely manner.

D. Termination. Should the County terminate this Agreement pursuant to the terms hereof or should the remaining payments due the Municipality be insufficient to cover the amount of the aforementioned penalty, the Municipality and the Developer, to the extent any funds have been disbursed to the Developer, shall be obligated to immediately pay the County the full amount of any such penalty and the Developer, agrees to indemnify the Municipality for any such penalties that are not due to the fault of the Municipality.

E. Extensions. The Municipality and Developer shall use commercially reasonable efforts and good faith to meet any and all time periods provided for in this Agreement and in any schedule annexed hereto in connection with any obligation hereunder. If, despite the use of commercially reasonable efforts and good faith, the Municipality and the Developer are unable to meet any stated time period, then the Municipality or Developer can request an extension of such time period and all subsequent time periods affected thereby, subject to the consent of the County. Any such extension, if granted, shall not constitute waiver by the County of any terms or requirements herein.

F. No Loan. The parties hereto acknowledge and agree that the County HIF Funds do not constitute a loan. The County HIF Funds are to be paid to the Municipality in consideration for causing construction of the Infrastructure Improvements in support of the Development.

All of the provisions of this Section “5” shall survive the expiration or other termination of this Agreement until and for so long as the Bonds are outstanding.

## **6. OWNERSHIP OF INFRASTRUCTURE IMPROVEMENTS:**

The Municipality and the Developer acknowledge and agree that the Infrastructure Improvements shall be owned by the County for so long as the Bonds are outstanding. The Municipality and the Developer agree to execute or cause to be executed any and all such documents as are necessary and appropriate to effectuate the County ownership and right of access including but not limited to the Required Easement. Upon maturity or redemption of the Bonds, the County's ownership of the Infrastructure Improvements shall automatically terminate and title to the Infrastructure Improvements will immediately and without necessity of further action vest in the Developer. The County shall provide notice to the Developer of the maturity or earlier redemption of the bonds.

The parties hereto acknowledge and agree that the Developer and their respective successors and assigns, as applicable, at all times shall be entitled to use, operate and maintain (in accordance with Section "7" below) the Infrastructure Improvements.

Upon acceptance of the completed Infrastructure Improvements, the Municipality's interest in the Required Easement will automatically terminate.

All of the provisions of this Section "6" shall survive the expiration or other termination of this Agreement until and for so long as the Bonds are outstanding.

## **7. MAINTENANCE AND REPAIRS:**

The Infrastructure Improvements located in and on the Property shall be kept in good order and repair by the Developer, and its successors or assigns at the Developer's (including successors or assigns) sole cost and expense, the Developer, or its successors or assigns shall make all repairs and replacements, ordinary as well as extraordinary, foreseen and unforeseen, structural or otherwise, that may be necessary or required so that at all times the Infrastructure Improvements

shall be in thorough good order, condition and repair.

All of the provisions of this Section “7” will survive the expiration or other termination of this Agreement.

#### **8. REPORTS:**

To the extent that the parties have performed work hereunder, the Municipality and/or Developer shall furnish the County with progress reports as may be requested detailing the progress of the construction of the Infrastructure Improvements (with copies of any Municipality reports being furnished to the County to be furnished also to the Developer and vice versa). The Municipality and/or Developer shall prepare a final report describing the work performed by the Municipality and Developer in implementing the construction of the Infrastructure Improvements together with such supporting information and documentation in such form and at such times as the County may reasonably require.

#### **9. MAINTENANCE OF RECORDS:**

The parties will, each at their sole cost and expense, keep, maintain, and preserve at their respective principal offices throughout the term of this Agreement and for such later time as may be required by applicable law, full and detailed books, accounts, and records pertaining to its performance pursuant to this Agreement. Such books, accounts and records will include, without limitation, all bills, invoices, payrolls and other data evidencing, or in any material way relating to, the direct and indirect costs and expenses incurred in connection herewith. The County will have the right to inspect and audit, at reasonable times and upon reasonable notice, any and all such books, accounts and records at the office or offices where they are then being kept, maintained and preserved.

All of the provisions of this Section “9” will survive the expiration or other termination of this Agreement until the expiration of the County Period of Affordability.

**10. COUNTY’S RIGHT TO WITHHOLD PAYMENTS:**

If at any time the Municipality or the Developer shall neglect or fail to perform any of its obligations under this Agreement in any material respect, and such neglect or failure shall continue and remain uncured for a period of thirty (30) days after written notice thereof is sent to the Municipality, the Developer, then the County shall have the right to withhold, in whole or in part, any payments otherwise due or to become due to the Municipality hereunder until such neglect or failure shall have been remedied to the satisfaction of the County.

**11. REPRESENTATIONS, WARRANTIES AND GUARANTEES:**

A. The Municipality expressly represents, warrants and guarantees to the County that:

(a) it is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of New York; the execution and performance of this Agreement by the Municipality has been duly authorized by its governing body; this Agreement, and any other documents required in connection herewith, when so delivered, will constitute legal, valid and binding obligations of the Municipality enforceable against the Municipality in accordance with their respective terms; and the Municipality will deliver to the County at the time of execution of this Agreement a resolution adopted by its governing body authorizing the execution of this Agreement, and any other documents required to be delivered by the Municipality;

(b) the person signing this Agreement on behalf of the Municipality has full authority to bind the Municipality to all of the terms and conditions of this Agreement;

(c) it is financially and technically qualified to perform its obligations hereunder, including construction of the Infrastructure Improvements;

(d) it has received no information or documentation indicating that the Developer is not otherwise financially capable of completing the Development;

(e) it is familiar and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(f) the design, supervision and workmanship furnished with respect to the construction of the Infrastructure Improvements will be in accordance with sound and currently accepted scientific standards and best engineering practices;

(g) it will use its best efforts to assure and shall require in any contract documents with its contractor(s) that all materials, equipment and workmanship furnished by contractor(s) of the Municipality in performance of the work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and best engineering practices;

(h) to the best of the Municipality's current knowledge and information the budget proposal attached in Schedule "D" lists the anticipated true and correct costs for the Infrastructure Improvements;

(i) the consummation of the transactions contemplated by this Agreement and the performance of the Municipality's obligations hereunder will not result in any breach of or

constitute a default under other instruments or documents to which the Municipality is a party or by which it may be bound or affected; and

(j) construction of the Infrastructure Improvements is necessary to support the Development.

The Municipality expressly acknowledges that the County is materially relying on the above representations.

B. The Developer expressly represents, warrants and guarantees to the County and the Municipality that:

(a) it is a limited partnership duly organized, validly existing and in good standing under the laws of the State of New York. The Developer is duly qualified to do business and is in good standing in each jurisdiction where the conduct of its business requires it to be so qualified. The Developer has the corporate power, authority and legal right to execute and perform this transaction and to execute this Agreement; the execution and performance of this Agreement by the Developer have been duly authorized by its partners; this Agreement constitutes, and any other documents required to be delivered by the Developer, when so delivered will constitute, the legal, valid and binding obligations of the Developer enforceable against the Developer in accordance with their respective terms; the Developer has all requisite power and authority to enter into this Agreement; and the Developer will deliver to the County at the time of execution of this Agreement a resolution adopted by its partners authorizing the execution of this Agreement, and any other documents required to be delivered by the Developer;

(b) the person signing this Agreement on behalf of the Developer has full authority to bind the Developer to all of the terms and conditions of this Agreement, as noted above;



(c) the Developer is not on the low-income housing debarred list with either HUD or the State of New York, and it is not in default under any contract with the County;

(d) the Developer has not employed or retained any person, other than a bona fide full time salaried employee working fully for the Developer or an independent professional consultant to solicit or secure this Agreement, and that it has not paid or agreed to pay any person (other than counsel) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this Agreement;

(e) it is financially and technically qualified to perform its obligations hereunder including construction of the Development;

(f) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(g) to the best of the Developer's current knowledge and information, the budget proposal attached in Schedule "D" lists the anticipated true and correct costs for the Infrastructure Improvements;

(h) the consummation of the transactions contemplated by this Agreement and the performance of the Developer's obligations hereunder will not result in any breach of or constitute a default under other instruments or documents to which the Developer is a party or by which it may be bound or affected; and

(i) construction of the Infrastructure Improvements is necessary to support the Development.

The Developer expressly acknowledges that the County is materially relying on the above

representations.

C. The Developer expressly represents, warrants and guarantees to the County that:

(a) It is duly organized, validly existing and in good standing under the laws of the State of New York. The Developer is duly qualified to do business and is in good standing in each jurisdiction where the conduct of its business requires it to be so qualified. The Developer has the corporate power, authority and legal right to execute and perform this transaction and to execute this Agreement; the execution and performance of this Agreement by the Developer have been duly authorized by its Board of Directors and/or Members; this Agreement constitutes, and any other documents required to be delivered by the Developer, when so delivered will constitute, the legal, valid and binding obligations of the Developer enforceable against the Developer in accordance with their respective terms (subject to limitations imposed by bankruptcy, reorganization, insolvency, moratorium, and similar laws and related court decisions of general applicability relating to or affecting creditors' rights generally, general principles of equity and to the availability of equitable remedies) ; the Developer has all requisite power and authority to enter into this Agreement; and the Developer will deliver to the County at the time of execution of this Agreement a resolution adopted by its members authorizing the execution of this Agreement, and any other documents required to be delivered by the Developer;

(b) the person signing this Agreement on behalf of the Developer has full authority to bind the Developer to all of the terms and conditions of this Agreement;

(c) [N/A]

(d) it has received no information or documentation indicating that the Developer

is not otherwise financially capable of completing the Development;

(e) it is familiar and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(f) to the best of the Developer's current knowledge and information the budget proposal attached in Schedule "D" lists the anticipated true and correct costs for the Infrastructure Improvements;

(g) the consummation of the transactions contemplated by this Agreement and the performance of the Developer's obligations hereunder will not result in any breach of or constitute a default under other instruments or documents to which the Developer is a party or by which it may be bound or affected; and

(h) construction of the Infrastructure Improvements is necessary to support the Development.

The Developer expressly acknowledges that the County is materially relying on the above representations.

All of the provisions of this Section "11" shall survive the expiration or other termination of this Agreement.

## **12. INSURANCE; INDEMNIFICATION:**

A. In addition to, and not in limitation of, the insurance requirements contained in Schedule "E(i)" entitled "Standard Insurance Provisions, Municipality," attached hereto and made a part hereof, the Municipality agrees:

- (a) that except for the amount, if any, of damage contributed to, caused by or resulting from the sole negligence of the County, the Municipality shall indemnify and hold harmless the County, its elected officials, officers, employees and agents from and against any and all actual liability, damage, claims, demands, costs, judgments, fees, reasonable attorneys' fees or loss arising directly or indirectly under this Agreement as a result of the acts or omissions hereunder by the Municipality, the Developer, contractors or third parties under the direction or control of the Municipality or the Developer; and
- (b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action against the County directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and
- (c) In the event the Developer does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Developer shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

B. In addition, Developer shall provide defense for and defend, indemnify and hold harmless the Municipality, its officers, employees and agents from and against any and all actual liability, damage, claims, demands, costs, judgments, fees, reasonable attorneys' fees or loss arising directly or indirectly under this Agreement as a result of any cause whatsoever other than the acts or omissions hereunder by the Municipality or contractors or third parties under the direction or control of the Municipality. Notwithstanding anything to the contrary, nothing herein shall relieve the Municipality of its obligation to indemnify and hold harmless the County pursuant

to Section 12A, above; and

C. In addition to, and not in limitation of the County's insurance requirements contained in Schedule "E(ii)" entitled "Standard Insurance Provisions, Developer," attached hereto and made a part hereof, the Developer agree:

- (a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Developer and the Developer shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, reasonable attorney's fees or loss arising directly or indirectly out of the acts or omissions hereunder by the Developer, respectively, contractors or third parties under the direction or control of the Developer respectively; and
- (b) to the extent arising directly or indirectly out of the acts or omissions hereunder by the Developer, contractors or third parties under the direction or control of the Developer to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

### **13. ENVIRONMENTAL INDEMNIFICATION:**

A. The Municipality represents and warrants and guarantees to the County as follows:

(1) The Municipality has no knowledge of, and has not received any notice of any condition at, on, under or related Infrastructure Improvements Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property which may have a material effect on the value of the Infrastructure

Improvements Property or subject the owner thereof to potential liabilities in accordance with the Environmental Requirements (as defined below); and

(2) The Municipality has no knowledge of, has and has not received any notice of any condition at, on, under, or related to the Infrastructure Improvements or the Public ROW Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements presently or potentially posing a significant hazard to human health or the environment; such conditions being defined as “Hazardous Materials” below; and

Definitions. For the purposes of this Agreement and this Section “13”, the following definitions will apply:

- (a.) “Hazardous Materials” or “Hazardous Waste” will mean any substance:
  - (i) the presence of which requires investigation or remediation under any federal, state, or local statute, regulation, ordinance, order, action, policy or common law; or
  - (ii) which is or becomes defined as a hazardous waste, hazardous substance, pollutant or contaminant under any federal, state or local statute, regulation, rule, or ordinance or amendments thereto including, without limitation, the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC §9601 (14) 42 USC §9602, and any “hazardous waste” as defined in or listed under the United States Solid Waste Disposal Act, as amended, 42 USC §6901(5), 42 USC §6921; or
  - (iii) which is toxic, explosive, corrosive, flammable, infectious,

radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States, the State of New York or any political subdivision thereof; or

(iv) the presence of which, on the Infrastructure Improvements Property, causes or threatens to cause a nuisance on the Infrastructure Improvements Property or to nearby properties, or poses or threatens to pose a hazard to the health and safety of persons on, about or nearby the Infrastructure Improvements Property; or

(v) the presence of which on nearby properties would constitute a trespass by the owner of the Infrastructure Improvements Property; or

(vi) which contains, without limitation, gasoline, diesel fuel, or other petroleum hydrocarbons; or

(vii) which contains, without limitation, polychlorinated biphenols (PCBs), asbestos, or urea formaldehyde foam insulation.

(b.) “Environmental Requirements” will mean all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all government agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, the State of New York and the political subdivisions thereof; and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment.

(c) The Municipality hereby acknowledges and agrees that it will defend and indemnify the County for any Environmental Damages (as defined below), whether or not disclosed in the Environmental Reports (as defined below), arising out of or in any way connected with the Infrastructure Improvements. Environmental Damages will mean all claims, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any, whether or not such claim is ultimately defeated, and any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred as the result of the existence of "Hazardous Materials" or "Hazardous Waste" at, on, under or related to the Infrastructure Improvements (or ground or surface water associated therewith) or migrating or threatening to migrate to or from the Public ROW Property, or the existence of a violation of Environmental Requirements pertaining to the Infrastructure Improvements, regardless of when the existence of such Hazardous Materials or "Hazardous Waste" or the violation of Environmental Requirements arose, including without limitation:

- (i) damages for personal injury, death or injury to property or natural resources occurring on or off the Infrastructure Improvements, foreseeable or unforeseeable, including without limitation, lost profits, consequential damages, the cost of demolition or rebuilding of any improvements of real property, interest and penalties;
- (ii) fees incurred for the service of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such "Hazardous Materials" or



“Hazardous Waste” or violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or reasonably necessary to make the full use of the Infrastructure Improvements or any other property or otherwise expended in connection with such conditions;

- (iii) liability to any third person or governmental agency to indemnify such person or agency for the costs expended in connection with the items referenced in subsection (ii) herein; and
- (iv) diminution in the value of the Infrastructure Improvements and damages for loss of business from restriction on the use of the Infrastructure Improvements or any part thereof.

B. The Developer, with respect to the Property, and the Developer, solely as to itself, each represent and warrant and guarantee to the County and the Municipality as follows:

- (1) Except as described in the environmental reports listed on Schedule “F” hereto (the “Environmental Reports”), the Developer has no knowledge of, and have not received any notice of any condition at, on under or related to the Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Property which may have a material effect on the value of the Infrastructure Improvements Property or subject the owner thereof to potential liabilities in accordance with the Environmental Requirements as defined herein; and

- (2) Except as described in the Environmental Reports, the Developer have no knowledge, and have not received any notice of any Hazardous Materials on under or related to the Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Property which may have a material effect on the value of the Property or subject the owner thereof to potential liabilities; and
- (3) The Developer hereby acknowledges and agrees that it will defend and indemnify the County and the Municipality for any Environmental Damages, whether or not disclosed in the Environmental Reports, arising out of or in any way connected with the Property. Environmental Damages shall mean all actual claims, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred as the result of the existence of "Hazardous Materials" or "Hazardous Waste" at, on, under or related to the Property (or ground or surface water associated therewith) or migrating or threatening to migrate to or from the Property, or the existence of a violation of Environmental Requirements pertaining to the Property regardless of when the existence of such Hazardous Materials or "Hazardous Waste" or the violation of Environmental Requirements arose, including without limitation:
- (i) damages for personal injury, death or injury to property or natural resources occurring on or off the Property, foreseeable or unforeseeable, including without limitation, lost profits, consequential damages, the cost of demolition or rebuilding of any improvements of real property, interest and penalties;
  - (ii) fees incurred for the service of attorneys, consultants, contractors,

experts, laboratories and all other costs incurred in connection with the investigation or remediation of such “Hazardous Materials” or “Hazardous Waste” or violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or reasonably necessary to make the full use of the Property or any other property or otherwise expended in connection with such conditions;

- (iii) liability to any third person or governmental agency to indemnify such person or agency for the costs expended in connection with the items referenced in subsection (ii) herein; and
- (iv) diminution in the value of the Property and damages for loss of business from restriction on the use of the Property or any part thereof.

All of the provisions of this Section “13” will survive the expiration or other termination of this Agreement until the expiration of the County Period of Affordability.

#### **14. ASSIGNMENT OF RIGHTS:**

Any purported delegation of duties or assignment of rights under this Agreement without the prior express written consent of the County is void. The Municipality shall not subcontract any part of the work to be performed hereunder without the written consent of the County, provided, however, that the foregoing shall not be deemed to apply to contracts entered into by the Municipality to implement construction of the Infrastructure Improvements. All subcontracts shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. All work performed by a subcontractor shall be deemed work performed by the Municipality.

The County's consent to the assignment of the responsibility for or delegation of the duty hereunder shall not release the Municipality or Developer from their respective obligations under this Agreement. The Municipality and Developer shall remain liable to the County for the performance of all respective obligations under this Agreement.

**15. ENTIRE AGREEMENT; AMENDMENT:**

This Agreement including without limitation all Schedules and attachments constitute the entire Agreement between the parties with respect to the funding of the Infrastructure Improvements and shall supersede all previous negotiations, commitments and writings. This Agreement shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

**16. INDEPENDENT CONTRACTOR:**

The status of each of the Municipality and the Developer under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Municipality, the subcontractors, and their respective officers, agents, employees, representatives and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of the County nor make any claim, demand or application for any right or privilege applicable to the County, including without limitation, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit.

**17. COMPLIANCE WITH LAW:**

Each of the Municipality and the Developer shall perform the work hereunder in good workmanlike manner and shall obtain each, at its sole cost and expense, all permits, approvals and consents necessary for the proper conduct of its activities in connection with this Agreement. In addition to, and not in limitation of the foregoing, the Municipality, the Developer shall comply at their sole cost and expense with all applicable federal, state and local laws, rules and regulations, ordinances and requirements affecting the conduct of activities in connection with this Agreement.

All of the provisions of this Section “17” shall survive the expiration or other termination of this Agreement until the expiration of the County Period of Affordability provided the County has paid the County HIF Funds to the Municipality.

#### **18. NOTICES:**

All notices of any nature, requests, approvals and other communications which may be given by either party to the other under this Agreement shall be in writing and sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt:

To the County

Commissioner of Planning  
Michaelian Office Building, Room 432  
148 Martine Avenue  
White Plains, New York 10601

with a copy to:

County Attorney  
Michaelian Office Building, Room 600  
148 Martine Avenue  
White Plains, New York 10601

To the Municipality:

Mayor  
City of White Plains  
City Hall  
255 Main Street  
White Plains, New York 10601

with a copy to:

Corporation Counsel  
City of White Plains  
City Hall  
255 Main Street  
White Plains, New York 10601

To the Housing Authority:

White Plains Housing Authority  
223 Dr. Martin Luther King, Jr. Boulevard  
White Plains, New York 10601

With a copy to:

Ballard Spahr LLP  
1909 K Street, NW, 12<sup>th</sup> Floor  
Washington, DC 20006  
Attention: Molly Bryson, Esq.

To the HDFC:

WP Three Housing Development Fund Corporation  
223 Dr. Martin Luther King, Jr. Boulevard  
White Plains, New York 10601

With a copy to:

Ballard Spahr LLP  
1909 K Street, NW, 12<sup>th</sup> Floor  
Washington, DC 20006  
Attention: Molly Bryson, Esq.

To the LP:

Trinity Brookfield Commons Phase Three Limited Partnership  
1350 Broadway, Suite 2203  
New York, New York 10018

with a copy to:

Nixon Peabody LLP  
55 West 46<sup>th</sup> Street  
New York, New York 10036

and to:

New York State Housing Finance Agency  
641 Lexington Avenue  
New York, New York 10022  
Attention: Senior Vice President and Counsel, and  
Attention: Senior Vice President, Asset Management

**19. TERM OF AGREEMENT:**

The term of this Agreement shall commence upon execution and shall continue for fifteen (15) years, or until the County has retired the Bonds, whichever comes first, unless the Agreement is terminated sooner in accordance with the terms of this Agreement.

In the event of a dispute as to the value of the Work rendered by the parties prior to the date of termination, it is understood and agreed that the Commissioner shall, reasonably and in good faith, upon consultation with the Developer and/or the Municipality, as applicable, determine the value of such Work rendered by the Parties consistent with, and based upon the Schedule of work in the Municipality's contract for performance of Infrastructure Improvements. The Parties shall accept such reasonable and good faith determination as final.

**20. NON-DISCRIMINATION:**

Each of the Municipality and the Developer expressly agrees, solely for itself, that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Municipality and the Developer acknowledge and understand that the County maintains a zero-tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Under this IMDA it is recognized and understood that the County encourages the Municipality and the Developer to do similarly.



## **21. VALIDITY:**

If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement will in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision will be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision will be interpreted and enforced to give effect to the original written intent of the parties prior to determination of such invalidity or unenforceability.

## **22. LEGAL AND EQUITABLE RELIEF:**

The injury to the County arising from noncompliance with any of the material terms of this Agreement and the Schedules hereto, including without limitation failure to complete the Development or the Infrastructure Improvements in accordance herewith or noncompliance with the Affordability Requirements until expiration of the County Period of Affordability, would be great and the amount of consequential damage would be difficult to ascertain and may not be compensable by money alone. Therefore, in the event of any such noncompliance, which remains uncured for thirty (30) days after service on the Municipality and Developer of written notice thereof (the "Cure Period"), the County, at its option, may apply to any state or federal court for: (A) specific performance of this Agreement and the Schedules hereto; (B) an injunctive relief against any noncompliance; and/or (C) seek any and all appropriate legal and/or equitable remedies, including, but not limited to, damages, reasonable attorney's fees, disbursements and court costs in such amounts as shall be allowed by the court.

The Commissioner shall agree to stay any such enforcement beyond the Cure Period, provided that the County determines that the Municipality and/or the Developer are diligently and continuously acting to cure said noncompliance. Without limiting the foregoing, upon written notice to the Municipality and Developer, repeated non-compliance by the Municipality and/or the

Developer of any material duty or obligation under this IMDA shall be deemed a material breach of this IMDA justifying termination for cause hereunder without requirement for further opportunity to cure. Notice shall be effective as set forth in Section 18 of this IMDA.

The investor limited partner of the Developer (the “Investor”) and any first mortgagee of any interest in Development (the “First Mortgagee”) shall have the right, but not the obligation, to cure any and all defaults under this Agreement.

All of the provisions of this Section “22” will survive the Closing or other cancellation or termination of this Agreement until the expiration of the County Period of Affordability.

**23. COUNTY APPROVALS:**

The parties hereby acknowledge and agree that any request by the Municipality and/or the Developer for an extension or other modification of the terms hereof which requires consent of the County will be subject to the receipt of any and all necessary County approvals.

**24. EXECUTION:**

This Agreement may be executed simultaneously in several identical copies, each of which shall be an original and all of which shall constitute but one and the same Agreement.

**25. GOVERNING LAW:**

This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement will be brought in the County of Westchester.

**26. NO WAIVER:**

Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect.

**27. THIRD PARTIES:**

Except for HFA, (INSERT LENDER NAME), the First Mortgagee and the Investor, nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement.

**28. REQUIRED SCHEDULES:**

Attached hereto and forming a part hereof as Schedule “H” is a questionnaire entitled “Required Disclosure of Relationships to County.” The Developer agree to complete said questionnaire as part of this Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Agreement, the Developer, as applicable, agree to notify County in writing within ten (10) business days of such event.

Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Attached hereto and forming a part hereof as Schedule “J” is a questionnaire entitled “Business Enterprises Owned and Controlled by Persons of Color or Women” which the Developer agrees to complete.

**29. FORCE MAJEURE:**

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war or terrorism, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, pandemic, fire or other casualty, in each case if due to a cause beyond the reasonable control of the party obligated to perform, and other causes beyond the reasonable control of the party obligated to perform (collectively, “Force Majeure”) shall, notwithstanding anything to the contrary contained herein, excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Agreement specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party’s performance caused by a Force Majeure. For purposes of this Section 29, a cause shall not be deemed beyond a party’s control if it is within the control of such party’s agents, employees or contractors.

**30. LIABILITY:**

The parties hereby acknowledge and agree that, unless otherwise set forth in this Agreement, the Municipality, the Developer shall each be jointly and severally liable for all obligations hereunder and for any breach of the terms of this Agreement.

The provisions of this Section “30” will survive the Closing or other cancellation or termination of this Agreement.

**31. CONFLICT OF INTEREST:**

The Municipality and the Developer shall use all reasonable means to avoid any conflict of interest with the County and shall immediately notify the County in the event of a conflict of interest. The aforementioned parties shall also use all commercially reasonable means to avoid any appearance of impropriety.

### **32: ELECTRONIC FUNDS TRANSFER:**

All payments made by the County to the Municipality will be made by electronic funds transfer (“EFT”) pursuant to the County’s Vendor Direct program. Contractors doing business with Westchester County, who are not already enrolled in the Vendor Direct Program, will be required to fill out and submit an EFT Authorization Form in order to receive payment. The EFT Authorization Form and related information are annexed hereto as Schedule “I”. The completed Authorization Form must be returned by the Municipality to the Commissioner prior to execution of the contract. In rare cases, a hardship waiver may be granted. For a Hardship Waiver Request Form, please contact the Westchester County Finance Department.

### **33. ENFORCEMENT:**

This Agreement shall not be enforceable until signed by all parties and approved by the Office of the County Attorney.

**IN WITNESS WHEREOF**, each of the undersigned parties has caused this Agreement to be executed.

**THE COUNTY OF WESTCHESTER**

By: \_\_\_\_\_  
Name: Blanca P. Lopez  
Title: Commissioner of Planning

**CITY OF WHITE PLAINS**

By: \_\_\_\_\_  
Name: Thomas M. Roach  
Title: Mayor, City of White Plains

**WHITE PLAINS HOUSING AUTHORITY**

By: \_\_\_\_\_  
Name: Denise Brooks-Jones  
Title: Executive Director and Chief Executive Officer

**WP THREE HOUSING DEVELOPMENT FUND CORPORATION**

By: \_\_\_\_\_  
Name: Denise Brooks-Jones  
Title: Chief Executive Officer

**TRINITY BROOKFIELD COMMONS PHASE THREE LIMITED PARTNERSHIP**

By: \_\_\_\_\_  
Name:  
Title:

Approved by the Board of Legislators by Act No. 2024–146 adopted on August 5, 2024;

Approved by the Westchester County Board of Acquisition & Contract at a meeting duly held on the 5th day of December, 2024; and

Approved by City of White Plains Common Council on the \_\_ day of \_\_\_\_ 2025.

Approved as to form and manner of execution:

---

Associate County Attorney  
County of Westchester

**COUNTY ACKNOWLEDGMENT**

STATE OF NEW YORK                     )  
  )ss.:  
COUNTY OF WESTCHESTER        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared Blanca P. Lopez, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment



**MUNICIPALITY ACKNOWLEDGMENT**

STATE OF NEW YORK                     )  
  )ss.:  
COUNTY OF WESTCHESTER        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

## MUNICIPAL CERTIFICATE OF AUTHORITY

I, \_\_\_\_\_,  
*Officer other than officer signing contract)*

certify that I am the \_\_\_\_\_ of  
(Title)  
the \_\_\_\_\_  
(the “Municipality”)

a municipal corporation duly organized and in good standing under the \_\_\_\_\_  
(Law under which organized, e.g., the  
New York Business Corporate Law)

named in the foregoing agreement;  
that \_\_\_\_\_  
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution

*(Title of such person)*

of the Municipality and that said agreement was duly signed for and on behalf of said Municipality by authority of the Common Council of the City of White Plains, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

(Signature)

STATE OF NEW YORK )  
 )ss.:  
COUNTY OF WESTCHESTER )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally came \_\_\_\_\_, whose signature appears above, to me

known, and known to me to be the \_\_\_\_\_ of  
(Title)

\_\_\_\_\_, the Municipality described in and which executed the above certificate, who being by me duly sworn did depose and say that he/she, the said \_\_\_\_\_ of said Municipality resides at \_\_\_\_\_, and that he/she signed his/her name hereto by order of the Board of \_\_\_\_\_ of said Municipality.

*Notary Public*                      *County*

**HOUSING AUTHORITY ACKNOWLEDGMENT**

STATE OF NEW YORK                    )  
  )ss.:  
COUNTY OF WESTCHESTER        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared Denise Brooks-Jones, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**HOUSING AUTHORITY CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_,  
*Officer other than officer signing contract)*

certify that I am the \_\_\_\_\_ of  
*(Title)*

the White Plains Housing Authority, a public housing authority established under

the laws of the State of New York, named in the foregoing agreement;

that Denise Brooks-Jones who signed said agreement on behalf of the Authority was, at the time of execution Executive Director and Chief Executive Officer of the Authority and that said agreement was duly signed for and on behalf of said Authority by authority of the White Plains Housing Authority, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

*(Signature)*

STATE OF NEW YORK                    )  
  )ss.:  
COUNTY OF WESTCHESTER        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me personally came \_\_\_\_\_, whose signature appears above, to me known, and known to me to be the \_\_\_\_\_ of  
*(Title)*

White Plains Housing Authority, the Housing Authority described in and which executed the above certificate, who being by me duly sworn did depose and say that he/she has an office at 223 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York 10601, that he/she is duly authorized to execute said certificate on behalf of said Authority, and that he/she signed his/her name thereto pursuant to such authority.

Notary Public \_\_\_\_\_

Date: \_\_\_\_\_

## **HDFC ACKNOWLEDGMENT**

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2025 before me, the undersigned, a Notary Public in and for said State, personally appeared Denise Brooks-Jones, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**HDFC CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_  
*Manager or officer other than officer signing contract)*

certify that I am a \_\_\_\_\_ of WP Three Housing Development Fund Corporation, a not-for-profit corporation (the "HDFC") duly organized under the laws of the State of New York; that Denise Brooks-Jones who signed said Agreement on behalf of the HDFC was, at the time of execution, the Chief Executive Officer of the HDFC; that said Agreement was duly signed for and on behalf of said HDFC and as the act of said HDFC for the purposes therein mentioned.

\_\_\_\_\_  
*(Signature)*

STATE OF NEW YORK                     )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2025 before me, the undersigned, a Notary Public in and for said State, \_\_\_\_\_ personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be person described in and who executed the above certificate, who being by me duly sworn did depose and say that he/she has an office at 223 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York 10601, and he/she is a \_\_\_\_\_ of said HDFC; that he/she is duly authorized to execute said certificate on behalf of said HDFC, and that he/she signed his/her name thereto pursuant to such authority.

Notary Public \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT

**DEVELOPER ACKNOWLEDGMENT**

STATE OF NEW YORK                     )  
  )ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment



**DEVELOPER CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_  
*Manager or officer other than officer signing contract)*

certify that I am a \_\_\_\_\_ of \_\_\_\_\_, the Managing Member of  
\_\_\_\_\_ LP

(the "LP") duly organized under the Laws of the State of New York; that

\_\_\_\_\_ who signed said Agreement on behalf of the LP  
was, at the time of execution, an Authorized Agent of the General Partner of the LP; that said  
Agreement was duly signed for and on behalf of said LP and as the act of said LP for the purposes  
therein mentioned.

\_\_\_\_\_  
*(Signature)*

STATE OF NEW YORK)

ss.:

COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2024 before me, the undersigned, a Notary  
Public in and for said State, \_\_\_\_\_ personally appeared,  
personally known to me or proved to me on the basis of satisfactory evidence to be person  
described in and who executed the above certificate, who being by me duly sworn did depose and  
say that he has on office at \_\_\_\_\_, and he/she is a Manager of the  
Managing Member of said LP; that he is duly authorized to execute said certificate on behalf of  
said LP, and that he signed his name thereto pursuant to such authority.

Notary Public \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE “A”**  
**Affordable Housing Property Description**

DRAFT

**SCHEDULE “B”**  
**Form of Declaration of Restrictive Covenants**

DRAFT

**SCHEDULE “C”**  
Intentionally Omitted

DRAFT

**SCHEDULE “D”**  
**INFRASTRUCTURE IMPROVEMENTS PROJECT**

**A. SCOPE OF SERVICES**

The infrastructure improvements include, but are not limited to, on-site and street paving, curbing, sidewalks, retaining walls, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping, construction management and County administrative costs (the “Infrastructure Improvements”). The Infrastructure Improvements shall be constructed in accordance with the following plans: Infrastructure Improvements 161 South Lexington Avenue (161 South Lexington Avenue HIF Contract) as prepared by [REDACTED], dated and last revised, [REDACTED], 202\_ (the “Plans”).

**Project Manager**

The Municipality will retain and/or utilize a consultant to perform the construction management associated with the HIF funded infrastructure improvements, or in the alternative act as construction manager. The construction management will include:

- the review and approvals of shop drawings,
- review and approval request for payments,
- perform inspections and provide certifications associated with any County Health department requirements (if applicable),
- conduct site inspection to confirm compliance with the approved construction drawings.

The professional retained to perform the said inspection shall report directly to the municipal engineer and County staff on all services performed relating to the construction of the municipal infrastructure project.

**B. PAYMENT**

The County of Westchester will make progress payments to the Municipality for expenses incurred in constructing the Infrastructure Improvements associated with the construction of up to 168 units of affordable AFFH housing in the Municipality, in an amount not to exceed \$8,134,000, as set forth pursuant to the below Budget. All quantities are approximate, and the total amount shall not be exceeded.

Any and all requests for payments to be made, including any partial payment made in proportion to the work completed, shall be submitted on properly executed payment vouchers of the County and paid within 30 days after approval by the Commissioner of Planning of the County of Westchester or his or her duly authorized designee (hereinafter the “Commissioner”), which approval shall not be unreasonably withheld and subject to the terms of the IMDA. The

Municipality acknowledges and agrees that the New York State prevailing wage shall be paid. In the event prevailing wage is not paid the County's Department of Planning shall recalculate and reduce the below Budget. All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize sequential numbering and be non-repeating.

Payment shall substantially follow the following procedures, but the County reserves the right to require additional documentation and approval:

1. Documentation for the payment of work completed shall include verification from the Architect or Engineer responsible for the work to a) verify that the work was done, and b) that it was done properly;
2. If approved, a signed AIA form approving the work, materials and workmanship and the amount to be invoiced by the contractor shall be included along with a County voucher and lien release from the Contractor.
3. The Municipality submits the invoice, AIA form, lien release, and a county voucher to the County for payment;
4. The County reviews the request, if approved submits it for payment & prepares a check to the municipality provided however that the County shall retain not more than five per centum of each payment which amount shall be held until final payment upon the issuance of a Certificate of Completion for the Infrastructure Improvements.

It is also understood that the County's Planning Department staff may visit the site during construction and will inspect and approve the project for substantial completion and that the County shall be permitted such access.

**C. BUDGET (County HIF Funds):**

All quantities are approximate and the total amount shall not be exceeded

The Developer is responsible for funding the costs of construction of the Other Infrastructure Improvements not funded through the County HIF Funds.

#### SCHEDULE OF VALUES

SITework ITEM	GRAND TOTAL
REMOVALS	
EARTHWORK	
PAVEMENT	
STRUCTURES	
DRAINAGE	
INCIDENTAL SITEWORK	
LANDSCAPING	
MISCELLANEOUS	
UTILITIES	
BONDS INSURANCE MOBILIZATION	
CONTINGENCY	
STAFF AND LEGAL FEES	
ENGINEERING, CONST. MGMT	\$
	\$ 8,134,000.00

#### **D. CONSTRUCTION SCHEDULE FOR INFRASTRUCTURE IMPROVEMENTS**

Commencement Date for Construction of Infrastructure Improvements: No later than December 31, 2025.

Completion Date for Infrastructure Improvements: 365 days from the date of commencement of construction of the Infrastructure Improvements.

## **SCHEDULE "E(i)"**

### **STANDARD INSURANCE PROVISIONS** **(Municipality)**

1. Prior to commencing work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

The Municipality may provide evidence of self-insurance.

2. The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."



Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.l) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
  - i. Premises - Operations.
  - ii. Broad Form Contractual.
  - iii. Independent Contractor and Sub-Contractor.
  - iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:
  - (i) Owned automobiles.
  - (ii) Hired automobiles.
  - (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

## **SCHEDULE "E(ii)"**

### **STANDARD INSURANCE PROVISIONS**

#### **(Developer)**

1. Prior to commencing work, and throughout the term of the Agreement, the Developer shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Developer shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Developer and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Developer shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Developer to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Developer to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Developer from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Developer concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Developer's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Developer until such time as the Developer shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Developer maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Developer. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Developer shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- e) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- f) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- v. Premises - Operations.
- vi. Broad Form Contractual.
- vii. Independent Contractor and Sub-Contractor.
- viii. Products and Completed Operations.

- g) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

All Contracts involving the use of explosives, demolition and/or underground work shall provide proof that XCU is covered.

- h) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

As per the attached written agreement, and where indicated with a check mark below, the following insurance(s) will also be required:

X	<i><b>(e) Environmental Liability with a minimum limit of liability per occurrence of \$1,000,000.00. Policy shall be kept in full force and effect for three (3) years from the date of Closing and the County shall be provided with the endorsement naming the County of Westchester as an additional insured.</b></i>
X	<i><b>At acquisition of Property: (f) Property Insurance – Replacement Cost basis with County of Westchester named as loss payee as its interest may appear</b></i>
X	<i><b>At or before execution of a rehabilitation construction agreement: Builder's Risk -- Developer at their own cost and expense shall provide and maintain a Builder's Risk Form, All Risk Insurance Contract. The coverage shall be written for 100%</b></i>

	<i>of the completed value of the rehabilitation construction work, with the County of Westchester named as loss payee as its interest may appear.</i>
--	---

3. All policies of the Developer shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Developer.

**SCHEDULE “F”  
ENVIRONMENTAL REPORTS**

DRAFT

**SCHEDULE “G”**

**Required Easement from the Housing Authority to County and Municipality  
(form of attached hereto)**

DRAFT

## INFRASTRUCTURE IMPROVEMENTS EASEMENT

**THIS EASEMENT**, made by:

**WHITE PLAINS HOUSING AUTHORITY**, a public housing authority established under the laws of the State of New York and having an office and place of business at 223 Dr. Martin Luther King Blvd., White Plains, NY, 10601, (the “Grantor”)

### W I T N E S S E T H:

**WHEREAS**, Grantor is the fee owner of that certain parcel of real property located at 161 South Lexington Avenue, City of White Plains, County of Westchester, State of New York, as more particularly described in Exhibit “A” attached hereto and made a part hereof (the “Property”) and wishes to grant an easement in, on, over, under and through a portion of said property to the **COUNTY OF WESTCHESTER**, a municipal corporation of the State of New York having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (the “County”), and the **CITY OF WHITE PLAINS**, a municipal corporation of the State of New York, having an office and place of business at City Hall, 255 Main Street, White Plains, New York 10601 (the “Municipality” and, together with the County, collectively referred to as the “Grantees”); and

**NOW, THEREFORE**, the Grantor agrees as follows:

The Grantor in consideration of the sum of One (\$1.00) Dollar lawful money of the United States, paid by the Grantees, receipt of which is hereby acknowledged, does hereby grant and release unto the Grantees, its successors and assigns, a non-exclusive easement (the “Easement”) in, on, over, under and through the area depicted on the map annexed hereto as Exhibit “B” (the “Easement Area”) for the purpose of operating and accessing certain County owned public improvements, including, but not be limited to on-site and street paving, curbing, sidewalks, storm water detention, drainage systems, sanitary sewer system, water lines, lighting, signage, landscaping and construction management costs (the “Infrastructure Improvements”).

It is acknowledged that the foregoing shall not diminish the terms and conditions of that certain Declaration of Restrictive Covenants entered into with respect to the Property dated the date hereof. The Grantor has received any approval necessary in connection herewith and the grant of the Easement will not result in any breach of or constitute a default under other instruments or documents to which the Grantor is a party or by which it may be bound or affected.

The Easement granted herein is subject to the following restrictions:

The Grantor further Covenants that neither it, nor its successors or assigns shall do anything, or allow anything to be done, which in the reasonable opinion of the Grantees would injure, endanger or impair the Infrastructure Improvements contained within the Easement or the operation thereof.

This non-exclusive Easement is granted on the following terms and conditions:

The Grantees, its employees, agents and contractors, shall have the right at any time of access, ingress, egress and regress into and from the Easement at any time upon reasonable notice during normal business hours (except in the case of an emergency) for the purpose of excavating, grading, constructing, reconstructing, enlarging, repairing, monitoring and maintaining the Infrastructure Improvements without becoming or being held liable for trespass.

Upon final completion of construction with respect to the Infrastructure Improvements and issuance of a Certificate of Occupancy with respect to such Infrastructure Improvements, the Municipality's rights under this Easement shall terminate.

The Grantor acknowledges that the Infrastructure Improvements constructed in, on, over, under or through the Easement shall be owned by the County for so long as the bonds of the County (the "Bonds"), which made funds available for said Infrastructure Improvements, are outstanding, pursuant to the terms of the certain Inter-Municipal/Developer Agreement of even date herewith by and between the Grantor, the Developer, the Municipality and the County. Upon maturity or full redemption of the aforesaid Bonds, title to the Infrastructure Improvements will vest in the Grantor, and this Indenture and the Easement granted herein to the Grantees shall terminate. Upon such termination, the County and the Municipality agree to execute a termination of this Easement to be recorded against the Property upon request of the Grantor.

The exercise of any rights hereunder shall be done in compliance with all applicable laws, ordinances, rules, regulation, orders and requirements of any governmental authority having jurisdiction thereof, while undertaking such measures as may reasonably be required to protect against personal injury and/or property damage.

The Easement granted herein shall be nonexclusive, and Grantor and/or its successors or assigns, at its sole discretion, may use or permit other parties to use the Easement Area for any purpose that does not prevent the exercise of the rights granted to Grantee herein and the Grantee's use of the Easement Area shall not interfere with the Grantor's quiet enjoyment of the Property.

This Indenture may not be modified or amended unless by written instrument signed by the Grantor and Grantees hereto.



The non-exclusive Easement shall run with the land and the provisions contained herein shall be binding upon and inure to the benefit of and be enforceable by the Grantees, their successors and assigns.

This Indenture contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or other written understandings, agreements and negotiations between the parties shall be of no force and effect.

No waiver by either party of any failure or refusal by the other party to comply with its respective obligations under this Indenture shall be valid unless in writing and signed by the party to be charged and no such waiver shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

**TO HAVE AND TO HOLD** the Easement granted herein unto the Grantees, their successors and assigns until such time as the Bonds have matured or have been fully redeemed.

**IN WITNESS WHEREOF**, the Grantor has executed this instrument the day and year first above written.

**WHITE PLAINS HOUSING AUTHORITY**

By: \_\_\_\_\_  
Name:  
Title:

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
County Attorney  
148 Martine Avenue, Room 600  
White Plains, New York 10601  
Attn: David Vutera

## UNIFORM ACKNOWLEDGMENT

STATE OF NEW YORK                     )  
  )ss.:  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2024, before me the undersigned personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**EXHIBIT “A”**  
Property

All that certain tract, piece or parcel of land situate in the City of White Plains, County of Westchester, State of New York, lying, and being more particularly bounded and described as follows:

DRAFT

**EXHIBIT “B”**  
Easement Area

All that certain tract, piece or parcel of land situate in the City of White Plains, County of Westchester, State of New York, lying generally West of the Westerly terminus of, and being more particularly bounded and described as follows:

DRAFT

**SCHEDULE "H"**  
**REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY**

*A potential County contractor must complete this form as part of the proposed County contract.*

- 1.) Are any of the employees that the Contractor will use to carry out this contract also a County officer or employee, or the spouse, child, or dependent of a County officer or employee?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

- 2.) Are any of the owners of the Contractor or their spouses a County officer or employee?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

- 3.) Do any County officers or employees have an **interest**<sup>1</sup> in the Contractor or in any approved subcontractor that will be used for this contract?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

By signing below, I hereby certify that I am authorized to complete this form for the Contractor.

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_


<sup>1</sup> "Interest" means a direct or indirect pecuniary or material benefit accruing to a County officer or employee, his/her spouse, child or dependent, whether as the result of a contract with the County or otherwise. For the purpose of this form, a County officer or employee shall be deemed to have an "interest" in the contract of:

- 1.) His/her spouse, children and dependents, except a contract of employment with the County;
- 2.) A firm, partnership or association of which such officer or employee is a member or employee;
- 3.) A corporation of which such officer or employee is an officer, director or employee; and
- 4.) A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

Date: \_\_\_\_\_

DRAFT

## SCHEDULE "I"

	<b>Westchester County • Department of Finance • Treasury Division</b>  <b>Electronic Funds Transfer (EFT)</b> <b>Vendor Direct Payment Authorization Form</b>	Authorization is: <i>(check one)</i> <input type="checkbox"/> New <input type="checkbox"/> Change
<b>INSTRUCTIONS:</b> Please complete both sections of this Authorization Form and attach a voided check. See the reverse side for more information and instructions.		
<b>Mail to:</b> Westchester County, Department of Finance, Treasury Division, 148 Martine Avenue, White Plains, NY 10601 <b>Attention:</b> Vendor Direct		
<b>Section I - Vendor Information</b>		
1. Vendor Name:		
2. Taxpayer ID Number or Social Security Number:		
3. Vendor Primary Address		
4. Contact Person Name:		
Contact Person Telephone Number:		
5. Vendor E-Mail Addresses for Remittance Notification:		
6. Vendor Certification: <i>I have read and understand the Vendor Direct Payment Program and hereby authorize payments to be received by electronic funds transfer into the bank that I designate in Section II. I further understand that in the event that an erroneous electronic payment is sent, Westchester County reserves the right to reverse the electronic payment. In the event that a reversal cannot be implemented, Westchester County will utilize any other lawful means to retrieve payments to which the payee was not entitled.</i>		
Authorized Signature	Print Name/Title	Date
<b>Section II- Financial Institution Information</b>		
7. Bank Name:		
8. Bank Address:		
9. Routing Transit Number:		
10. Account Type: (check one) <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
11. Bank Account Number:		
12. Bank Account Title:		
13. Bank Contact Person Name:		
Telephone Number:		
14. FINANCIAL INSTITUTION CERTIFICATION (required <b>ONLY</b> if directing funds into a Savings Account <b>OR</b> if a voided check is not attached to this form): <i>I certify that the account number and type of account is maintained in the name of the vendor named above. As a representative of the named financial Institution, I certify that this financial Institution is ACH capable and agrees to receive and deposit payments to the account shown.</i>		
Authorized Signature	Print Name / Title	Date
(Leave Blank - to be completed by Westchester County) - Vendor number assigned		

## Electronic Funds Transfer (EFT) Vendor Direct Payment Authorization Form

### GENERAL INSTRUCTIONS

Please complete both sections of the Vendor Direct Payment Authorization Form and forward the completed form (along with a voided check for the account to which you want your payments credited) to: Westchester County Department of Finance, 148 Martine Ave, Room 720, White Plains, NY 10601, Attention: Vendor Direct. Please see item 14 below regarding attachment of a voided check.

### Section I - VENDOR INFORMATION

1. Provide the name of the vendor as it appears on the W-9 form.
2. Enter the vendor's Taxpayer ID number or Social Security Number as it appears on the W-9 form.
3. Enter the vendor's complete primary address (not a P.O. Box).
4. Provide the name and telephone number of the vendor's contact person.
5. Enter the business e-mail address for the remittance notification. **THIS IS VERY IMPORTANT.** This is the e-mail address that we will use to send you notification and remittance information two days prior to the payment being credited to your bank account. We suggest that you provide a group mailbox (if applicable) for your e-mail address. You may also designate multiple e-mail addresses.
6. Please have an authorized Payee/Company official sign and date the form and include his/her title.

### Section II - FINANCIAL INSTITUTION INFORMATION

7. Provide bank's name.
8. Provide the complete address of your bank.
9. Enter your bank's 9 digit routing transit number.
10. Indicate the type of account (check one box only).
11. Enter the vendor's bank account number.
12. Enter the title of the vendor's account.
13. Provide the name and telephone number of your bank contact person.
14. If you are directing your payments to a Savings Account OR you can not attach a voided check for your checking account, this line needs to be completed and signed by an authorized bank official. IF YOU DO ATTACH A VOIDED CHECK FOR A CHECKING ACCOUNT, YOU MAY LEAVE THIS LINE BLANK.

NEW/CHANGE VEN EFT 9/08



## SCHEDULE “J”

### **QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR**

As part of the County’s program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A “business enterprise owned and controlled by women or persons of color” means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

- 1.) meets the following requirements:
  - a. is at least 51% owned by one or more persons of color or women;
  - b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
  - c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
  - d. is an enterprise authorized to do business in this state which is independently owned and operated.
- 2.) is a business enterprise certified as a minority business enterprise (“MBE”) or women business enterprise (“WBE”) pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**
- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term “persons of color,” as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South

East Asia, the Indian subcontinent or the Pacific Islands.

1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

\_\_\_\_\_ No

\_\_\_\_\_ Yes

**Please note:** If you answered “yes” based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.

2. If you answered “Yes” above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

\_\_\_\_\_ Women

\_\_\_\_\_ Persons of Color (*please check off below all that apply*)

\_\_\_\_\_ Black persons having origins in any of the Black African racial groups

\_\_\_\_\_ Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race

\_\_\_\_\_ Native American or Alaskan native persons having origins in any of the original peoples of North America

\_\_\_\_\_ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

Name of Business Enterprise: \_\_\_\_\_

Address: \_\_\_\_\_

Name and Title of person completing questionnaire: \_\_\_\_\_

Signature: \_\_\_\_\_

---

Notary Public

---

Date

---

DRAFT

**Citizens Budget Advisory Committee  
Westchester County Board of Legislators  
800 Michaelian Office Building  
148 Martine Avenue  
White Plains NY 10601**

February 20, 2025

The Honorable Jewel Williams Johnson, Chair  
Budget and Appropriations Committee  
Westchester County Board of Legislators  
148 Martine Avenue  
White Plains, NY 10601

**Subject: Interim Report on Monitoring Capital Projects Budget**

Dear Chairwoman Williams Johnson:

In addition to reporting annually on the Westchester County (the "County") Operating, Capital and Special District Budgets (collectively, the "Budgets"), the Citizens' Budget Advisory Committee ("CBAC") also undertakes special research projects of interest to the Budget and Appropriations Committee and County Board of Legislators.

The attached report continues the CBAC's work on the Capital Budget reporting and monitoring process. This Interim Report is a summary of our findings to date.  
Summary recommendations to date are:

- Include a fiscal affairs staff member from the Board of Legislators in weekly Capital Project Meetings.
- Completed projects should be formally closed in the County's accounting software and removed from the Capital Budget. Unneeded authorized debt should also be formally de-authorized in the County's accounts in a timely manner.
- Reconcile the information gathered by the paperwork used in various County departments into a single form, or related set of forms, that can be used as the basis of a database of information about capital projects.

With B&A approval, the CBAC proposes to undertake additional research during 2025. The CBAC will work with Budget, Finance, IT, and Public Works (DPW) to assist in the development of a capital project monitoring tool.

CBAC is at the disposal of the Budget and Appropriations Committee, as well as the Board of Legislators, to provide additional support for our report, detail our recommendations, and answer questions.

Sincerely,

John McGarr – Co-Chair  
Rodman Reef  
L. William Kay III (Bill)

Julie Stern – Co-Chair  
Beth N. Smayda  
Jon Mark

## **Report on the Westchester County Capital Budget Reporting and Monitoring**

The CBAC has commented on the County's reporting and monitoring of capital projects in a number of annual reports on the County's Budgets. We also undertook specific studies on this topic in 2014 and 2023. A common theme has been to recommend improving the reporting process to provide more information for stakeholders and the public on capital projects and their status. See Appendix 6 for the CBAC's 2014 Report on this topic.

In its December 2023 report on the County Operating, Capital, and Special District Budgets (the "CBAC Annual Budget Report") to the Budget and Appropriations Committee ("B&A"), the CBAC commented that given the large amounts spent on capital projects by the County, it is important the Board of Legislators be able to monitor these projects closely. The five-year 2024 Capital Plan totals \$7.0 billion of which \$2.8 billion (40% of the total) is allocated to Special Districts.

The CBAC has observed that there is no regular reporting on the status of capital projects to the stakeholders or the public once the Capital Plan is adopted. In its Best Practices for Capital Planning Policies, the Government Finance Officers Association ("GFOA") recommends a government have, "provisions for monitoring and oversight of the Capital Improvement Plan ("CIP") program, including reporting requirements and how to handle changes and amendments to the plan."

The CBAC recognizes the County administration ("Administration") has a capital budgeting process and the status of capital projects is currently tracked by the Administration through weekly capital project meetings (held Thursday mornings). Participants include the departments of Planning, Law, Budget and the department performing the capital project provides updates on the projects being done. Most projects are managed by the Department of Public Works ("DPW").

There are no IT or accounting systems currently used by the County that can automatically produce reports for management from available financial, project status or other information, including the initial and ongoing information kept by the department in charge of the capital project. Status reports are, many times, manually produced using the ongoing contract information about the project.

In its December 2023 Report the CBAC encouraged and supported the County integrating its capital budgeting and monitoring with the County's new accounting system. The CBAC believed the new accounting system could potentially provide a more automated and timely tracking of the financial status of capital projects, which the departments of Budget and Finance have indicated they would welcome.

In our December 2023 meeting with the Budget Director and then the B&A, to discuss the CBAC Annual Budget Report, the CBAC learned of the County's work on updating its Finance, Human Resources and Budget Systems and the potential to provide improved financial information on capital projects. To follow-up on this topic the CBAC met with the Chief Information Officer, Finance Commissioner, Budget Director and staff members on June 13, 2024, for an update on the status of the upgraded information systems and application to the Capital budgeting, reporting and monitoring processes. CBAC members again met with the Department of Information Technology ("DoIT") on July 11, 2024, and with DPW on July 22, 2024.

## **Update of the County's Finance, Human Resources and Budget Systems**

Over the past two years, the DoIT has been collaborating with the Budget, Human Resources and Finance departments to update the CGI AMS (the system vendor) information technology and business software used by the County. The Finance and Budget components were last updated in 2013, and the Human Resources and Payroll system was last updated in 2012. CGI AMS software is used by many large governments, including New York City, Nassau County and the City of Los Angeles.

DoIT expects to soon begin end-to-end testing of the updated applications and also expects to go live as soon as possible, but most likely in March 2025. The updates are expected to increase employee productivity, improve processes and workflow, bolster transparency, and add new functionality for County staff and vendors doing business with the County. There will be comprehensive training for all users. Whichever approach is used, the plan to perform the transition should be clear, well understood and tested, and should be the responsibility of a single knowledgeable individual.

### **Capital Project Management System**

Originally, the CBAC understood that the CGI AMS update would include an asset management module to address reporting and monitoring issues raised in the CBAC's December 2023 recommendations on the 2024 Capital Budget, but this is apparently not the case. County staff did speak with CGI AMS about their capital management system program but found the CGI AMS system does not adequately track the status of capital projects. However, capital project vendor payments and approvals are expected to be made through the updated finance application.

Over the years, DoIT has developed its own Oracle-based Capital Project Management System (CPMS). Currently, only expenses are auto tracked. Data on percentage of project completed versus expenses drawn, funds committed, timeliness of monthly draws, etc., are not available. Finance specifically mentioned that being able to see summaries of the status of projects, such as could be presented by a software "dashboard", could be useful to better manage cash flows. Budget indicated that more information on drawdowns and project status would help in prioritizing capital projects as part of capital budgeting.

As previously mentioned, weekly meetings about the progress of capital projects do take place, but each meeting covers only a subset of all the capital projects that are active. As previously noted, the departments of Budget, Finance, DPW, Law, and the department overseeing the project, participate in these meetings. We believe that a representative of the Board of Legislators' finance staff should also attend these meetings.

DPW has been using a project management application called Smartsheets for approximately the past three years, and still uses it. This application appears to be geared towards keeping track of the (sometimes many) contracts that must be executed in the performance of a capital project.

### **Comparison of Data Forms Used for Capital Projects**

We examined several forms, used by various departments to catalog and keep track of capital costs and operating expenditures (i.e., ongoing costs) for the many capital projects undertaken by the County every year. The three (3) particular forms we studied were the:

1. 19-20 Capital Request form typically shown in the annual Capital Budget. This form presents an overview of each project, including the person overseeing the project, and adequately presents projects for summaries, such as those shown in the annual budget, but not for ongoing status reports. See Appendix 1 for an example.

2. Smartsheets is used primarily by DPW. This form presents details about projects to facilitate the overseeing department's ability to summarize them as well as track their ongoing progress. A printout of a sample project is shown in Appendix 2.
3. Capital Project Fact Sheet. This form appears to focus on the financial history related to a project, especially as it concerns bonding, appropriations, and legislation. This form is created manually from the 19-20 Capital Request form but is used to present a snapshot of the status of a capital project for periodic project update meetings. An example is shown in Appendix 3.

Although we saw differences in the three forms, there are also many similarities and points of information common to each form. Every form contained basic project information, including a description of the project, location(s), categorization of the project, project financial and budget information, and more.

The CBAC believes that, even though it may require an additional effort, reconciling the information gathered by the several forms would yield tangible benefits for the County. The County should establish a common database that includes all information about capital projects for management reporting.

Since each of several areas of County government need specific information about projects, but not all information, how the database appears to a particular user can easily be managed by the DoIT. Similarly, what information can be viewed by user can also be limited in the program design and permissions.

## **Capital Project Monitoring and Reporting**

As part of its December 2023 report, the CBAC reviewed the GFOA Best Practices for Capital Project Monitoring and Reporting. The GFOA identified numerous advantages of having effective tracking processes

One benefit to maintaining up-to-date reporting of capital projects is to avoid overstating the amount of capital expenditure needed currently and into the future. Rating agencies regularly evaluate a municipality's immediate and future borrowing needs based on projected capital plans. If projects or portions of projects are not being de-authorized when no longer needed or canceled because outside funding is no longer available, etc., a municipality is overstating its capital needs and by extension, future potential borrowing. Future borrowing is a key component in the rating agencies' assessments of a government's overall debt burden.

In establishing report content and frequency it is important to keep in mind that high profile projects often require more extensive reporting of activity compared to the County's more routine capital projects.

## **Recommendations**

1. The CBAC recommends that it continue to work with Budget, Finance, IT, and Public Works (DPW) to assist in the development of a capital project monitoring tool.
2. Include a fiscal affairs staff member of the Board of Legislators' staff in all weekly Capital Project Meetings.

3. Completed projects should be formally closed in the County's accounting software. Unneeded projects should be formally removed from the Capital Budget. Unneeded authorized debt should also be formally de-authorized in the County 's accounts in a timely manner.
4. Reconcile the information gathered by the forms and paperwork used in various County departments into a single form, or related set of forms, that can be used as the basis of a shared database of information about capital projects.



## Appendix 1: Example of 19-20 Capital Request Form

Report Date 02/06/2024 Page : 1

Project Title Generator Systems Replacement, Grasslands Campus

Proj ID B0126

### Capital Request

#### Adopted Capital Budget

<b>Submission Date</b>	07/19/2023	<b>Type of Project</b>	New
<b>Category</b>	Buildings, Land & Miscellaneous	<b>Sub Category</b>	Public Works – Buildings
<b>Department</b>	Public Works		

#### Year Amount Matrix

	Est Ult Cost	Appropriated	2024	2025	2026	2027	2028	Under Review
Gross	13,550		3,900	2,800	2,350	4,500		
Non County Share								
Total	13,550		3,900	2,800	2,350	4,500		

<b>Contact Person</b>	Robert Abbamont
<b>Department Head</b>	Greechan Jr., PE, Hugh J.

Signature

#### Project Description & Location

This project funds the replacement of existing emergency generators, fuel tanks and associated equipment at the Grasslands Campus.

2024: Phase 1 – Laboratories & Research Facility 425 kW generator, DOC F Unit 300 kW generator, DOC H Block 500 kW generator & Jail Annex 250 kW generator

2025: Phase 2 – Laboratories & Research Facility 500 kW generator & New Jail 750 kW generator

2026: Phase 3 – Central Heating Plant 100 kW generator, Central Heating Plant 400 kW generator & Public Works Operations Building 100 kW generator

2027: Phase 4 – DOC Penitentiary A 500 kW generator, DOC Penitentiary B 500 kW generator, DOC Headquarters 300 kW generator & DOC Medical Wing 500 kW generator

#### Project Justification

Existing emergency generators have reached the end of their useful life.

Infrastructure  
Life Safety  
Security

#### Municipality

Mount Pleasant

Report Date 02/06/2024

Project Title Generator Systems Replacement, Grasslands Campus

Page : 2

Proj ID B0126

#### Legislative district

District 3 - Margaret A. Cunzio

#### County Location

Grasslands

<b>Cost Estimate Prepared by (Department)</b>	Public Works
---	--------------

<b>Cost Estimate Based on Year</b>	2027
------------------------------------	------

<b>Cost Item</b>							
<b>Phase</b>	<b>Cost Item</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>Under Review</b>
1	Administrative Reviews (Planning, Legal, etc.)	20					
2	Administrative Reviews (Planning, Legal, etc.)		25				
3	Administrative Reviews (Planning, Legal, etc.)			25			
4	Administrative Reviews (Planning, Legal, etc.)				25		
1	Construction ( include 10% contingent )	3,200					
2	Construction ( include 10% contingent )		2,250				
3	Construction ( include 10% contingent )			1,900			
4	Construction ( include 10% contingent )				3,650		
1	Construction Management	320					
2	Construction Management		250				
3	Construction Management			190			
4	Construction Management				375		
1	Design, Architecture, Engineering	360					
2	Design, Architecture, Engineering		275				
3	Design, Architecture, Engineering			235			
4	Design, Architecture, Engineering				450		
<b>Total</b>		<b>3,900</b>	<b>2,800</b>	<b>2,350</b>	<b>4,500</b>		

## Appendix 2: Example of Smartsheet Form

Here's a quick update on "Smartsheet ID 0200-22 (Our Contract ID 19-528)".

# Portfolio Rollup 2022-2023

Row 97

Dashboard	<a href="#">Project Dashboard</a>
Smartsheet Project ID	0200-22
Assignment	
Stage	Construction
Department	Public Works & Transportation
Capital Subcategory	Parkways
Capital Accounts	371-46-P0027-01
Operating Accounts	
EFC #	
Contract #	19-528
Awarded Contract #	19-528
Contract Name	Replacement of Bronx River Parkway Bridge (North of Greenacres Avenue) Over the Bronx River (BIN 3348719), Village of Scarsdale, New York
Design PM	Angelo Sgobbo
Design Lead	Jennifer Sicuranzo
Design Assignment	Consultant
Section	
Design Consultant	Lockwood, Kessler, & Bartlett, Inc.
Design Agree #	19-926
Project Budget	\$8,515,000
Design Budget	\$922,000
Inspection	

Budget Construction Budget	\$6,925,000
Estimated Construction Amount	
Road Miles	
Capital Category	Parkways
Municipality	
Legislative District	5
Funding Type	Capital
Contract Type	Long Form
Procurement Type	Construction
Construction PM	Nadia Savage
Construction Lead	
CM Assignment	
CM Consultant	
CM Agree #	
PLA	No
Projected Bid Quarter	2024-1Q
Advertise Date	04/12/24
Estimated Bid Opening Date	05/08/24
Estimated Bid Opening Quarter	2Q-2024
Actual Bid Opening Date	05/22/24
Actual Bid Opening Quarter	2Q2024
Award Date	06/20/24
Award Quarter	2Q2024

Contractor	ELQ Industries, Inc.
Award Resolution End Date	07/06/27
Award Amount	\$6,958,812.50
Participation	
Ethnicity	
MAW Amount	
Total # CO	0
Total CO Amount	\$0
Total Contract Amount	\$6,958,812.50
Final Acceptance	
Final Contract Amount	
State ...	
% Complete	
Design % Complete	
Construction % Complete	
Construction Start	
Construction Finish	
Start	
Finish	
Total Tasks 15	
Not Started 15	
In Progress 0	
Complete	0
At Risk	0



### Appendix 3: Example of Capital Project Fact Sheet

#### CAPITAL PROJECT FACT SHEET

Project ID:\* RML01

Fact Sheet Date:\*

Fact Sheet Year:\*

Project Title:\*

OJ-20-2024

2024

MOUNTAIN LAKES PARK  
INFRASTRUCTURE PROJECT

Legislative District ID: 2,

Category\*

Department:\*

CP Unique ID: 2514

RECREATION FACILITIES

PARKS, RECREATION &  
CONSERVATION

#### Overall Project Description

The project scope of work consists of implementing the master plan for the park. The goal is to adapt the existing camp facilities into a series of new camp areas, reserved areas, and group picnic areas, and overnight camping sites.

☒ Best Management Practices

☒ Energy Efficiencies

☒ Infrastructure

☒ Life Safety

☐ Project Labor Agreement

☐ Revenue

☐ Security

☐ Other

#### FIVE-YEAR CAPITAL PROGRAM (thousands)

	Estimated Ultimate Total Cost	Appropriated	2024	2025	2026	2027	2028	Under Review
Gross	15,115	10,115	5,000	0	0	0	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0
Net	15,115	10,115	5,000	0	0	0	0	0

Expended/Obligated Amount (In thousands) as of: 419

**Current Bond Description:** Funding is requested for the design of the potable water system upgrades, replacement of Yurts and associated site work at Mountain Lakes Park.

#### Financing Plan for Current Request:

Non-County	\$ 0
Shares:	1,900,00
Bonds/Notes:	<u>0</u>
Cash:	\$ 1,900,000

#### **SEQR Classification:**

TYPE II

Amount Requested:

1,900,000

#### Expected Design Work Provider:

☐ County Staff

Comments: [NONE]

X

Consultant

☐ Not Applicable

Energy Efficiencies:

UPGRADING THE WATER POTABLE WATER  
SUPPLY SYSTEM WITH IMPROVED PIPES,  
FITTINGS, AND VALVES WILL SIGNIFICANTLY  
REDUCE WATER LEAKS. THIS NOT ONLY  
CONSERVES WATER BUT ALSO SAVES COSTS  
ASSOCIATED WITH REPAIRING AND REPLACING  
DAMAGED INFRASTRUCTURE



**APPROPRIATION HISTORY**

<u>YEAR</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
2002	\$ 100,000	DESIGN & CONSTRUCTION MANAGEMENT OF POTABLE WATER SYSTEM
2003	\$ 615,000	CONSTRUCTION OF POTABLE WATER SYSTEM; EMERGENCY REPAIRS TO ELECTRICAL SERVICE
2012	\$ 400,000	DESIGNS OF NEW ELECTRI, WATER, AND SANITARY SERVICE
2015	\$ 2,800,000	CONSTRUCTION OF ELECTRICAL WORK
2017	\$ 2,000,000	DESIGN AND CONSTRUCTION
2018	\$ 2,800,000	CONSTRUCTION
2019	\$ 300,000	DESIGN, CONSTRUCTION, AND CONSTRUCTION MANAGEMENT FOR ROOF REPLACEMENT AT CAMP HEMLOCK
2020	\$ 300,000	ROOF REPLACEMENT AT CAMP HEMLOCK
2023	\$ 800,000	REPAIRS OF THE DINING HALL ROOF AT CAMP HEMLOCK IN MOUNTAIN LAKES PARK
2024	\$ 5,000,000	ADDITIONAL COSTS FOR UTILITIES AND ASSOCIATES SITE WORK, AS WELL AS FACILITY UPGRADES AT CAMP MORTY

TOTAL APPROPRIATION HISTORY:

15,115,000

**FINANCING HISTORY**

<u>YEAR</u>	<u>BOND ACT #</u>	<u>AMOUNT</u>	<u>ISSUED</u>	<u>DESCRIPTION</u>
02	132	100,000	70,252	PRELIMS: IMPROVMTS TO MOUNTAIN LAKE PARK
02	E-132	- 30,000	0	
11	E-92	- 399,083	0	
11	92	700,000	300,917	EMERGENCY ELECTRIC & POOOL REHAB
23	143	1,400,000	0	IMPROVEMENTS TO MOUNTAIN LAKE PARK

Total Financing History:

1,770,917

**Recommended By:**

Department of Planning

Date

MLLL

04-01-2024

Department of Public Works

Date

RJB4

04-03-2024

Budget Development

Date

RJB4

04-04-2024

Requesting Department

Date


DEV9

04-04-2024

## Appendix 4: Example of Capital Project Information Form Used in Allegheny County, PA

BRIDGE DIVISION - DESIGN PROJECTS

January 10, 2018 - STATUS MEETING

 <b>DEPARTMENT OF PUBLIC WORKS</b> <b>DESIGN STATUS MEETING</b>	
<b>PROJECT TITLE:</b>	Armstrong Tunnels Rehabilitation
<b>PROJECT CODE:</b>	AR01-0307
<b>ROAD NAME:</b>	South 10th Street
<b>MUNICIPALITY:</b>	City of Pittsburgh
<b>SCOPE:</b>	Rehabilitation
<b>EXIST TUNNEL TYPE:</b>	Twin Reinforced Concrete Tunnels
<b>PROP TUNNEL TYPE:</b>	Same (1298')
<b>COUNCIL DISTRICT:</b>	13
<b>MAINT. REGION:</b>	07
<b>DESIGN MANAGER:</b>	Mike Burdelsky
<b>CONSULTANT/EXP:</b>	Gannett Fleming
	CONTRACT NO: 197291 3/6/2018 MPMS: 93922

DESIGN STAGE	EXPECTED DATE	ACTUAL DATE
NOTICE TO PROCEED	11/15/2016	12/5/2016
ENVIRONMENTAL	6/1/2017	
TS&L	N/A	
DESIGN FIELD VIEW (30%)	6/1/2017	
60% SUBMISSION	10/15/2017	
RIGHT-OF-WAY	9/15/2018	
UTILITY		
95% SUBMISSION	6/15/2018	
100% SUBMISSION	10/15/2018	

<b>BID OPENING/LET</b>	10/10/2019
------------------------	------------

FUNDING BREAKDOWN		80% Fed / 20% County			
REIMB. AGREEMENT	Executed 1/13/16	Exp.	6/30/2020		
(PE) DESIGN COST	\$ 621,338.01	Actual			
R/W COST	\$ -	Estimated			
UTILITY COST	\$ -	Estimated			
CONSTRUCTION INSPECTION	\$ -	Estimated			
CONSTRUCTION COST	\$ 4,500,000.00	Estimated			

DBE STATUS		
GOAL	ACTUAL	
MBE	13%	TBD
WBE	2%	TBD

REMARKS
Gannett Fleming was selected to provide engineering design services. Their price proposal was submitted on 3/18/16. The County and Gannett have negotiated the level of effort required for this work.
Price Proposal was approved by the County 5/17/16. Gannett Fleming responded to comments from PennDOT on 7/7/16.
Technical and Price Proposal has been approved by PennDOT, and the contract has been created. Contract was executed on 11/22/16. A kick off meeting was held on 12/6/16.
NTP for P.E. was issued on 12/5/16.
Indepth inspection report and L&G to be submitted soon.
Gannett Fleming to solicit for drainage cleanout and TV contract.
Meeting held to discuss Life Safety on 6/6/17.
L&G and Ventilation Report submitted to PennDOT on 8/23/17.
Safety Review Submission submitted to PennDOT on 10/4/17.
Public Meeting held on 12/6/17.
Currently compiling Design Field View Submission

**Appendix 5: Example of Capital Project Information Form Used in White Plains, NY –  
City of White Plains Capital Improvement Program Quarterly Report**

## INTRODUCTION

The purpose of this report is to provide the Mayor, the Common Council, the Capital Projects Board, City staff and the citizens of the City of White Plains, New York with an overview of the current status of the City's capital improvement efforts.

The report identifies projects that have been authorized by the Common Council and are in progress, and projects that have been approved by the Capital Projects Board and are in the review and design phase in preparation for Common Council authorization.

Financial summaries are also provided, which enable readers to gain insight into specific project financing as well as the overall mix of financing sources used to support the City's capital improvement program. The status of City indebtedness is provided as well.

**CITY OF WHITE PLAINS, NEW YORK  
SUMMARY OF DEBT AUTHORIZATION  
SEPTEMBER 30, 2023**

<b>PROJECT</b>		<b>Date of CC Auth.</b>	<b>Tax Supported</b>	<b>Self Liquidating</b>	<b>Total</b>
C5619	Rolling Stock Acquisition-Heavy Duty FY24	07/03/23	\$ 4,019,800	\$	\$ 4,019,800
C5621	PS Building Sprinkler System	07/03/23	404,000	-	404,000
C5626	Slater Center Playground Improvements	08/07/23	454,000	-	454,000
C5627	Municipal Parking Structure Rehabilitation FY24	08/07/23	-	909,000	909,000
C5629	Eagle Court Culvert Repairs	09/05/23	1,010,000		1,010,000
C5610	PS Building Chillers	09/05/23	1,212,000		1,212,000
C5630	Miscellaneous Storm Water Drains FY24	09/05/23	1,737,200	-	1,737,200
			\$ 8,837,000	\$ 909,000	\$ 9,746,000

## OVERVIEW

Thirteen new projects and two amended projects for fiscal year 2023-24 were authorized by the Common Council through September 30, 2023. These projects are presented on page 4 of this report and categorized as follows:

Description	Number of Projects		Total Cost
	New	Amended	
Rolling Stock	1	0	\$ 4,019,800
Information Technology	1	0	250,000
Buildings and Facilities	3	2	4,791,000
Streets	1	0	1,010,000
Storm Water Drains	1	0	1,737,200
Parking Facilities	1	0	909,000
Recreation and Parks Facilities	2	0	300,000
Water System	0	0	-
Sanitary Sewer System	0	0	
Traffic System	0	0	
Other Improvements	3	0	914,000
Total	13	2	\$ 13,931,000

As of September 30, 2023 there were 70 active projects with funding of \$89.7 million: \$17.7 million (19.8%) was financed from other cash sources (grants in aid and contributions); \$2.3 million (2.5%) was financed from cash to capital; and \$69.7 million (77.7%) was financed by debt.

Thirty projects are pending Common Council authorization as of September 30, 2023 in the following categories:

Information Technology	1	\$	75,000
Buildings	9		5,788,000
Streets	1		3,500,000
Storm Water Drains	1		500,000
Public Parking Facilities	6		3,275,000
Traffic	1		300,000
Water System	4		46,900,000
Sewer System	2		900,000
Other Projects	5		955,000
Total	30	\$	62,193,000

In the three months that ended September 30, 2023 the Common Council authorized the issuance of \$9,746,000 of debt. Total authorized indebtedness as of September 30, 2023 was \$193,599,695. Of this amount \$26,593,299 remains unissued.

**CITY OF WHITE PLAINS, NEW YORK**  
**SUMMARY OF COMMON COUNCIL AUTHORIZATIONS**  
**CAPITAL IMPROVEMENTS**  
**SEPTEMBER 30, 2023**

DATE		PROJECT	NEW	AMENDED
07/03/23	C5619	Rolling Stock Acquisition-Heavy Duty FY24	\$ 4,019,800	\$
07/03/23	C5620	Park Walkway Improvements FY24	200,000	
07/03/23	C5621	PS Building Sprinkler System	404,000	-
08/07/23	C5622	City-wide IT Infrastructure Replacement/Enhancements	250,000	
08/07/23	C5623	Renovations to City Facilities FY23 & FY24	275,000	-
08/07/23	C5624	PS Building Training Room	180,000	
08/07/23	C5613	Renovations to Fire Facilities FY23	-	150,000
08/07/23	C5625	Battle Hill Park Pickleball Courts	100,000	
08/07/23	C5626	Slater Center Playground Improvements	604,000	
08/07/23	C5627	Municipal Parking Structure Rehabilitation FY24	909,000	
09/05/23	C5628	EV Charging Replacement	130,000	-
09/05/23	C5629	Eagle Court Culvert Repairs	1,010,000	-
09/05/23	C5610	PS Building Chillers		1,212,000
09/05/23	C5630	Miscellaneous Storm Water Drains FY24	1,737,200	-
09/05/23	C5631	Mount Hope Plaza Improvements	2,750,000	-
			\$ 12,569,000	\$ 1,362,000
		<b>NUMBER OF PROJECTS</b>	13	2

**CITY OF WHITE PLAINS, NEW YORK**  
**SUMMARY REPORT OF ACTIVE CAPITAL PROJECTS FINANCING**  
**SEPTEMBER 30, 2023**

Source of Financing	Amount of Financing	Percent of Total
Cash to Capital		
General Fund	\$ 2,285,000	2.55%
Total Cash to Capital	2,285,000	2.55%
Other:		
Cable TV	-	0.00%
Community Development	450,000	0.50%
NYS CHIPS	3,450,949	3.85%
NYS DOT	2,064,240	2.30%
NYSERDA	110,000	0.12%
NYS Education Department		0.00%
NYS Pave NY and Extreme Weather	2,762,927	3.08%
Westchester County	7,150,000	7.97%
Library Foundation	400,000	0.45%
Contributions	1,350,000	1.51%
Total Other	17,738,116	19.78%
Debt Issued - Serial Bonds	69,641,029	77.67%
<b>TOTAL ACTIVE PROJECTS FINANCING</b>	<b>\$ 89,664,145</b>	<b>100.00%</b>

CITY OF WHITE PLAINS, NEW YORK  
SUMMARY STATUS REPORT - ACTIVE PROJECTS  
CAPITAL IMPROVEMENT PROGRAM  
SEPTEMBER 30, 2023

PROJECT NUMBER	PROJECT TITLE	Authorized Budget	Expenditures Obligated To Date	Unencumbered Funds Available	Percentage Used
<b>TRAFFIC SYSTEM:</b>					
5575	Local Controller Upgrades FY21	71,000	1,829	59,171	2.58%
5576	Central Control System Upgrade	363,000	135,120	227,880	44.59%
		374,000	136,949	237,051	31.02%
<b>WATER SYSTEM:</b>					
5568	Water Filtration Plant Design and Rehabilitation	2,572,500	2,297,291	275,209	95.50%
5448	Fluoride Tank Replacement-Central Avenue Pump Station	1,212,000	1,135,634	76,366	91.65%
5470	Species Management	480,000	238,076	241,924	58.40%
5532	1 MG Water Storage Tanks-Design/Construction	21,210,000	18,846,417	2,363,583	95.09%
5520	24" Pressure Basin Replacement	3,650,000	2,711,187	938,813	85.48%
5489	Water System Security Improvements	707,000	421,441	285,559	59.61%
5571	Replace/Reconstruct Miscellaneous Water Lines FY21	3,815,000	5,257,042	1,442,042	77.20%
5566	Hall Avenue PS Generator	101,000	33,003	67,997	37.08%
		35,657,500	31,126,126	4,531,374	86.85%
<b>SEWER SYSTEM:</b>					
5568	Miscellaneous Sanitary Sewer Reconstruction FY 21	909,000	935,715	73,285	95.42%
5578	Winward Avenue Sewer Extension	464,000	296,051	167,949	85.60%
5580	Miscellaneous Sanitary Sewer Reconstruction FY 22	909,000	931,304	77,696	95.16%
5564	Miscellaneous Sanitary Sewer Reconstruction FY 23	505,000	450,810	54,190	85.23%
		2,777,000	2,514,729	262,271	91.62%
<b>OTHER PROJECTS:</b>					
5521	Pelco and Fire Digital Scanning	40,000	26,149	13,851	56.47%
5556	Rockfield Commons Improvements	4,430,000	3,856,563	573,437	86.98%
5552	Electric Garbage Truck	456,000	440,600	15,400	96.17%
5564	Kronos to staff	96,000	89,460	6,540	90.79%
5565	Public Safety Radio Infrastructure Replacement	2,757,700	2,541,062	216,638	99.37%
5591	Comprehensive Plan	355,500	296,447	59,053	83.89%
5584	Public Safety Access Control Upgrades	227,500	209,543	17,957	91.67%
5600	Pelco and Fire Electronic Device Replacement FY23	100,000	100,000	-	100.00%
5612	Communications Room Workstation Replacement	180,000	169,207	10,793	99.55%
5615	Gall Dome Building Improvements	250,000	201,076	48,924	80.42%
5624	Renovation of Public Safety Training Room	100,000	13,684	86,316	11.10%
5626	Police Center Playground Enhancement	504,000	237,799	266,201	39.37%
5628	Electric Vehicle Charging Station Replacement	130,000	-	130,000	0.00%
		9,502,200	8,207,895	1,294,305	85.95%
<b>ROLLING STOCK:</b>					
5601	Rolling Stock Acquisition-Heavy Duty Vehicles FY22	3,567,000	3,468,005	98,995	97.75%
5602	Rolling Stock Acquisition-Heavy Duty Vehicles FY23	5,045,000	4,300,351	744,649	85.25%
5603	Rolling Stock Acquisition-Heavy Duty Vehicles (Seven) FY23	608,000	598,736	9,264	99.10%
5619	Rolling Stock Acquisition-Heavy Duty Vehicles FY24	4,219,800	1,596,524	2,623,276	58.72%
		13,439,800	10,163,321	3,276,479	75.80%
<b>TOTAL PROJECTS FINANCIAL SUMMARY</b>		<b>\$ 99,634,145</b>	<b>\$ 88,095,526</b>	<b>\$ 11,538,617</b>	<b>75.80%</b>

## **Appendix 6: Findings and Recommendations from 2014 CBAC Report on Capital Budget Documentation and Process**

In its 2014 study of capital project planning, the CBAC found that:

- Projects that were appropriated in previous Capital Budgets but did not move forward did not receive updates that would provide current cost or times-to-completion estimates for the BOL. This results in data in the Capital Budget regarding these Projects that is not current.
- A number of DPW projects were delayed due to reprioritized focus of the (DPW) professional staff along the way. The strategy elaborated by the DPW was to outsource the engineering work so the reduction in internal staffing would not affect projects. It appeared at the time that this strategy had not been implemented.
- When projects were changed, they were not deleted and replaced with an updated scope for the project, along with current estimates that would result in new (replacement) appropriations. Projects were left open in the budget, and the funds may be repurposed, which obscures the relationship between the total amount of appropriations in the Capital Budget and the total amount of bonds that needed to be authorized.
- Assets that belong in the Capital Budget are those that will see a number of years of service to the County, but we believe some items that may fit this description did not belong in the Capital Budget.

### **A. Recommendations for changes to the Capital Budget Document / File**

#### **1. Individual Projects - Appropriation History**

- a. Any Capital Budget appropriation that is "Awaiting Bond Authorization" should identify where specifically it is in the process; Examples would be: "Not requested by department", "With CE Office". "In BOL review", etc.
- b. Any appropriation that is over 3 years old should have a more detailed explanation as to the status of the project.
- c. Each department submitting projects for inclusion in the Capital Budget would also show an "Exceptions List", which would include projects previously submitted that are now three years old, or older.
- d. When projects on the Exceptions List reached their fifth anniversary they would be "closed out" and removed from the Capital Budget unless further documentation were submitted explaining why these projects should continue in the Budget.
- e. Projects that have been appropriated in prior Capital Budgets, but have not moved forward, should be updated to show current cost estimates as well as estimated action or completion dates.
- f. Projects that have been partially bonded should be deleted from the Capital Budget and resubmitted (for new appropriation) if the original project purpose is no longer needed, even if some work has already been done. This will help maintain the integrity of the relationship between the amounts of appropriations and amounts of bonding needed.

**Importantly, the legal and tax-exempt standing of issued bonds must not be affected by any action of the Board of Legislators.**

2. Present a debt runoff of the County outstanding Bonds
3. Financing for the Entire Capital Plan

The Capital Budget document should provide a theoretical debt service estimate for the entire

capital plan for the next five years. We suggest that a graphical representation of the debt service by year would be particular helpful by quickly allowing Legislators to see what the overall capital plan suggests. The graphic's components should include, by year, the aggregate:

- Debt associated with bonds authorized and issued.
- Debt associated with bonds authorized but not yet sold.
- Debt associated with the Proposed/Adopted Capital Budget.
- Debt associated with the last 2 years of the 5-year capital plan.

**B. Recommendations for changes to the Capital Budget Process**

1. The BOL should conduct a quarterly review of the Capital Budget to keep current on implementation of the capital plan, similar to reviews of the Operating Budget. The review should include the status of all projects that have been appropriated.
2. Appropriations without bond authorizations shall be reviewed and updated annually.
3. Capital assets that do not belong in the Capital Budget should be removed and, where applicable, included in the annual Operating Budget.
4. A secure database should be created to house information about all capital projects that have been created in the Capital Budget. This database would provide a single repository where information about project activity can be updated to keep the file current. The BOL and department heads could access the current information to support proposed quarterly reviews and annual Capital Budget submissions.
5. CBAC also recommends that all County capital assets be catalogued in a similar type of secure database.



In reviewing best practices, other governments' reporting and its own studies and discussions with staff, the CBAC compiled a list of items that should be included in reporting on the status of the County's capital projects, which is found below.

1. Brief description of project
2. Status of authorization, i.e., awaiting authorization from Department, County Executive, Board of Legislators; debt authorized but unissued; debt authorized and issued with date of issuance
3. Estimated cost
4. Impact of project on operating costs
5. Source of funding (debt, County sources, intergovernmental aid, etc.
6. Funding commitments
7. Available appropriation
8. Project updates with status by phase, e.g., feasibility study, encumbrance date (i.e. date approved), design, acquisition, construction, etc.
  - Percent of project completed
  - Percent of project budget expended
9. Progress on key project milestones
10. Contract status information including time remaining and percentage used
11. Revenue and expenditure activity
12. Cash flow and investment maturities
13. Comparison of results in relation to established performance measures.

Much of this information is already provided on the County's Capital Project Fact Sheet its Form 19-20 and DPW's Smart Sheets. Slight modifications of these forms could provide the inputs for an automated Capital Project Management System.

A capital projects report should also:

- Highlight significant changes to project scope, costs, schedule, or funding
- Provide an annual snapshot of key schedule, cost estimate, and available funding information to establish baseline data for performance measures and report components.

**Jewel Williams Johnson****Legislator, 8th District**

Chair, Committee on Budget &amp; Appropriations

**Committee Assignments:**

Housing &amp; Planning

Human Services

Labor &amp; Human Rights

Public Works &amp; Transportation

TO: Hon. Vedat Gashi  
Chairman of the Board

Sunday Vanderberg  
Clerk of the Board

FROM: Hon. Jewel Williams Johnson  
Chair, Budget & Appropriations

A handwritten signature in black ink, reading "Jewel Williams Johnson".

DATE: March 20, 2025

RE: CBAC Interim Report on Monitoring Capital Projects Budget

---

As Chair of the Board of Legislators Committee on Budget & Appropriations, I am requesting that item #2025-120 – CBAC Interim Report on Monitoring Capital Projects Budget be placed in the Committee on Budget & Appropriations to be received and filed.