

ACT 43 - 2024

**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 affordability requirements contained in and to ratify an Inter-Municipal Developer Agreement dated October 22, 2020.

Your Committee is advised that on June 1, 2020, 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 construction of a park, roads, curbing, retaining walls, play equipment, sidewalks, fencing, and landscaping (the “Infrastructure Improvements”) in support of the construction of two (2) buildings (the “Development”) with one hundred seventy-three (173) affordable rental units that will affirmatively further fair housing (the “Affordable AFFH Units”) at 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers (the “Property”) which is owned by the Municipal Housing Authority for the City of Yonkers (“MHACY”). Of the one hundred seventy-three (173) Affordable AFFH Units, one hundred fifty-three (153) were to be available to eligible households that earn at or below thirty percent (30%) and up to eighty percent (80%) of the Westchester County area median income (“AMI”), and the remaining twenty (20) Affordable AFFH Units would be available to households that earn up to ninety percent (90%) of AMI, all to remain affordable for a period of not less than fifty (50) years.

In particular, your Honorable Board approved Resolution No. 49-2020 which issued a Negative Declaration declaring that the construction of the Infrastructure Improvements would have no significant adverse impact on the environment; Bond Act No. 97-2020 which authorized the issuance of bonds of the County of Westchester (“County”) in an amount not-to-exceed \$5,000,000 as part of Capital Project BPL1A to finance the Infrastructure Improvements; and Act No. 98-2020 which authorized the County to enter into an Inter-Municipal Developer Agreement (the “IMDA”) with the City of Yonkers (the City”), 178 Warburton Limited Partnership and CPG Phase VI Limited Partnership, its successors or assigns (“collectively the “Developer”).

Your Committee is further advised that subsequently, the IMDA was executed by the County, City, Developer and MHACY. Act No. 98-2020, however, did not include MHACY as a specific signatory, although it was a related party to the Developer. Therefore, your Honorable Board's ratification of the IMDA to include MHACY as a signatory, is respectfully requested.

It should be noted that the Department of Planning ("Planning") has advised that this Development is a component of a multi-phased Planned Urban Redevelopment known as "Cottage Place Gardens Redevelopment" (the "Redevelopment"), which provides for the replacement of a total of two hundred fifty-six (256) units of antiquated public housing with five hundred (500) new affordable housing units. Phases I through IV have been approved and/or already constructed. This Development comprises Phases V and VI of the Redevelopment. The first building which is known as Phase V has already been constructed with eighty-one (81) Affordable AFFH Units in compliance with the IMDA.

Planning has further advised that MHACY and the Developer have requested that the affordability requirements for the second building, which is known as Phase VI, be changed to from Affordable AFFH Units available to households with incomes at or below thirty percent (30%) and up to ninety percent (90%) of AMI to affordable senior rental housing. MHACY provided information to support this request, including that seniors represent a large segment of the population and will grow to become an even larger segment of the population by 2030. In addition, low-income seniors represent the majority of this segment and the demand for affordable senior rental units in the City exceeds the supply.

Therefore, Planning has requested that your Honorable Board authorize an amendment to the IMDA so that the Phase VI building which will contain ninety-two (92) Affordable AFFH Units, be available exclusively for seniors aged sixty-two (62) and older, with incomes between thirty percent (30%) and sixty percent (60%) of AMI, instead of households with incomes at or below thirty percent (30%) of AMI and up to ninety percent (90%) of AMI. All other terms and conditions of the IMDA will remain in full force and effect.

Your Committee is further advised that Planning has noted that the Declaration of Restrictive Covenants dated October 22, 2020, and filed in the Westchester County Clerk's Office which requires that all of the Affordable AFFH Units will remain affordable for a term of not less than fifty (50) years, will also be amended to reflect the aforesaid changes in affordability.

Your Committee is also advised that on November 8, 2023, the Westchester County Planning Board (the "Planning Board") adopted Resolution No. 23-19 to recommend that the IMDA be amended to change the affordability requirements to senior rental housing. 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 ("SEQRA") have been met. Planning has advised that it classified the original action as an Unlisted action. A Short Environmental Assessment Form was prepared and a Negative Declaration was issued by Resolution No. 49-2020 of your Honorable Board. As the Act pertains to a change in tenant eligibility, resulting in less parking and traffic ramifications, the original Negative Declaration remains valid. Additionally, on June 10, 2022, the City of Yonkers Planning Board initiated a coordinated review pursuant to SEQRA in connection with the necessary amendments to the Site Plan and Special Use Permit for the Phase VI modifications. On July 13, 2022, the Yonkers Planning Board assumed the role of lead agency and issued a Negative Declaration for the revised plan. Since the County was included as an involved agency in the City's review, pursuant to section 617.6(b)(3), no further environmental review by the County is required. Your Committee concurs with this analysis.

After careful review, your Committee believes that the Act is in the best interest of the County and therefore recommends its adoption, noting that it requires no more than an affirmative vote of the majority of your Honorable Board.

Dated: March 18th, 2024
White Plains, New York

Henry Ziller Johy
Colin [Signature]
Tom [Signature]
[Signature]
Doris J Tubish
[Signature]
[Signature]
Smith

Henry Ziller Johy
Colin [Signature]
Tom [Signature]
Smith

COMMITTEE ON
c/lac/2/14/24

Budget & Appropriations

Housing & Planning

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

178 Warburton Ave Yonkers NY amend IMDA (BA 98-2020 previously authorized)

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal

PPU

Anticipated Interest Rate

Anticipated Annual Cost (Principal and Interest):

Total Debt Service (Annual Cost x Term):

\$ -

Finance Department:

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

SECTION E - EXPECTED DESIGN WORK PROVIDER

County Staff

Consultant

Not Applicable

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget


Date: 2/22/24

Reviewed By: *Chaitin Pappas*

Budget Director

Date: 2/23/24

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

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

DATE: November 15, 2023

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR
178 WARBURTON AVENUE, YONKERS
INTER-MUNICIPAL DEVELOPER AGREEMENT AMENDMENT**

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 an inter-municipal developer agreement (IMDA), executed in October 2020, between the County and the City of Yonkers supporting a multi-phased redevelopment of affordable housing, previously known as Cottage Place Gardens, located between Cottage Place and Warburton Avenue and north of Ashburton Avenue in the City of Yonkers. Through the County's Housing Implementation Fund (HIF), funding assistance was provided for phases V and VI, which provided for 173 units of new affordable housing. County funds were to be used for the construction of a park/playground and other site and infrastructure improvements, which were completed under Phase V. All of the affordable housing units were to be available to any households meeting certain income level requirements. At this time, however, it is proposed that Phase VI, which will consist of 92 units, be limited to senior citizens that meet the income level requirements. Except for a reduction in parking, there will be no substantial changes to the project as proposed to the County in 2020.

In accordance with SEQR, the County classified the original project as an Unlisted action. A Short Environmental Assessment Form was prepared and a Negative Declaration was issued by the Westchester County Board of Legislators on June 1, 2020 via Resolution 49-2020. As the agreement amendment pertains to a change in tenant eligibility, resulting in less parking and traffic ramifications, the original Negative Declaration remains valid. Additionally, on June 10, 2022, the City of Yonkers Planning Board initiated a coordinated review pursuant to SEQR in connection with the necessary amendments to the Site Plan and Special Use Permit for the Phase VI modifications. On July 13, 2022, the Yonkers Planning Board assumed the role of lead agency and issued a Negative Declaration for the revised plan. Since the County was included as an involved agency in the City's review, pursuant to section 617.6(b)(3), no further environmental review by the County is required.

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

DSK/cnm

cc: Blanca Lopez, Commissioner
Lynne Colavita, Senior Assistant County Attorney
Susan Darling, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Associate Environmental Planner

RESOLUTION 20- 08

WESTCHESTER COUNTY PLANNING BOARD

**Housing Implementation Fund II
Capital Project Funding Request
178 Warburton Avenue & 160 Cottage Gardens, City of Yonkers**

WHEREAS, the County has established Capital Project BPL1A Housing Implementation Fund II (“HIF”) to assist municipalities with the cost of construction of public infrastructure improvements associated with the development of fair and affordable housing; and

WHEREAS, The Community Builders and the Municipal Housing Authority for the City of Yonkers (collectively the “Developer”), its successors or assigns, desires to develop the real property located at 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers (the “City”), identified on the City tax maps as Section 2; Block 2095; Lot 33 and Section 2; Block 2094; Lot 1 (the “Property”) to create 173 affordable residential rental units in two buildings which will affirmatively further fair housing (“AFFH”, collectively the “Affordable AFFH Units”);

WHEREAS, the Developer desires the County to fund infrastructure improvements to support the demolition of a vacant gas station and six public housing structures on the Property and construction of 178 Warburton Avenue and 160 Cottage Gardens, an eight-story building and a seven-story building, respectively, with 173 affordable residential rental units, 35 parking spaces, an Early Head Start center and a park (the “Development”); and

WHEREAS, the 173 rental units will be available to households who earn at or below 30% and up to 90% of Westchester County’s Area Median Income (“AMI”); and

WHEREAS, the Affordable AFFH Units will be leased to eligible households pursuant to an approved Affirmative Fair Housing Marketing Plan and remain affordable for a minimum of 50 years; and

WHEREAS, a not to exceed amount of \$5,000,000 is requested from Capital Project BPL1A Housing Implementation Fund II to fund eligible expenses that include, but will not be limited to, the construction of the park, roads, curbing, retaining walls, play equipment, sidewalks, fencing, water line, and landscaping; and

WHEREAS, the Development is proposed to include green technology such as solar panels, Energy Star appliances, water conserving fixtures and lighting sensors and timers to maximize energy efficiency, reduce heating and cooling costs and conserve natural resources; and

WHEREAS, the Development is subject to approvals by the City of Yonkers; and

WHEREAS, the funding to support the development of the Affordable AFFH Units is


development of “a range of housing types” “affordable to all income levels;” and

WHEREAS, the staff of the County Department of Planning have reviewed the proposal and recommend the requested funding associated with the construction of the infrastructure improvements; and

RESOLVED, that the Westchester County Planning Board after completing a review of the physical planning aspects of the Development, supports the request to provide a not to exceed amount of \$5,000,000 for infrastructure improvements for the Development under the terms of the HIF Program which will support the creation of 173 Affordable AFFH Units which will be available to households who earn at or below 30% and up to 90% of AMI, an Early Head Start center, 35 parking spaces and a park, located at 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers; and

RESOLVED, that the Westchester County Planning Board amends its report on the 2020 Capital Project Requests to include 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers. as a new component project in Capital Project BPL1A under the heading of Buildings, Land and Miscellaneous.

Adopted this 7th day of APRIL 2020.


Richard Hyman, Chair

RESOLUTION 23- 19

WESTCHESTER COUNTY PLANNING BOARD

**Housing Implementation Fund II
Capital Project Funding Request
178 Warburton Avenue & 160 Cottage Gardens, City of Yonkers**

WHEREAS, the County has established Capital Project BPLIA Housing Implementation Fund II (“HIF”) to assist municipalities with the cost of construction of public infrastructure improvements associated with the development of fair and affordable housing; and

WHEREAS, The Community Builders and the Municipal Housing Authority for the City of Yonkers (collectively the “Developer”), its successors or assigns, desires to develop the real property located at 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers (the “City”), identified on the City tax maps as Section 2; Block 2095; Lot 33 and Section 2; Block 2094; Lot 1 (the “Property”) to create 173 residential rental units in two buildings, 153 of the units will affirmatively further fair housing (“AFFH”, collectively the “Affordable AFFH Units”);

WHEREAS, the Developer desires the County to fund infrastructure improvements to support the demolition of a vacant gas station and six public housing structures on the Property and construction of 178 Warburton Avenue and 160 Cottage Gardens, both eight-story buildings, with 173 residential rental units, 47 parking spaces, an Early Head Start center and a park (the “Development”); and

WHEREAS, the 153 rental units will be available to households who earn at or below 30% and up to 80% of Westchester County’s Area Median Income (“AMI”); and

WHEREAS, the Affordable AFFH Units will be leased to eligible households pursuant to an approved Affirmative Fair Housing Marketing Plan and remain affordable for a minimum of 50 years; and

WHEREAS, a not to exceed amount of \$5,000,000 is requested from Capital Project BPLIA Housing Implementation Fund II to fund eligible expenses that include, but will not be limited to, the construction of the park, roads, curbing, retaining walls, play equipment, sidewalks, fencing, water line, and landscaping; and

WHEREAS, the Development is proposed to include green technology such as solar panels, Energy Star appliances, water conserving fixtures and lighting sensors and timers to maximize energy efficiency, reduce heating and cooling costs and conserve natural resources; and

WHEREAS, the Development is subject to approvals by the City of Yonkers; and

WHEREAS, the funding to support the development of the Affordable AFFH Units is consistent with and reinforces *Westchester 2025 – Policies to Guide County Planning*, the County Planning Board’s adopted long-range land use and development policies, by contributing to the

development of “a range of housing types” “affordable to all income levels;” and

WHEREAS, the County Planning Board approved Resolution 2020-08 on April 7, 2020. That recommended approval of Housing Implementation Fund II (“HIF”) in the amount of \$5,000,000 to the County Board of Legislators to support the development of 173 rental units for families with 153 of these units at or below 80% of Westchester County’s Area Median Income (“AMI”). The remaining 20 units would serve households earning up to 90% of the AMI.

WHEREAS, based on market conditions, the Developer, the Municipal Housing Authority for the City of Yonkers and The Community Builders, notified the County that they wish to modify the approval by requesting that 92 of the 163 AFFH units be age restricted (was 173 AFFH units, with change to senior, the number of units over 80% of AMI has been reduced from 20 to 10).

WHEREAS, the staff of the County Department of Planning has reviewed the proposed modification of the development and recommends that 92 of the proposed 163 AFFH Units be modified to be exclusively for seniors aged 62 and over the requested funding associated with the construction of the infrastructure improvements.

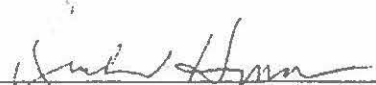
Now, therefore be it

RESOLVED, that Resolution 2020-08 adopted on April 7, 2020 is hereby rescinded; and be it further

RESOLVED, that the Westchester County Planning Board after completing a review of the physical planning aspects of the Development, supports the request to provide a not to exceed amount of \$5,000,000 for infrastructure improvements for the Development under the terms of the HIF Program which will support the creation of 173 units, of these 92 are for seniors aged 62 and over with incomes between 30% and 60% of AMI and 81 are for families with 71 of these units available to households who earn at or below 30% and up to 80% of AMI (the “Affordable AFFH Units”) and the remaining 10 units will serve households up to 90% of AMI, an Early Head Start center and a park, located at 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers; and

RESOLVED, that the Westchester County Planning Board amends its report on the 2020 Capital Project Requests to include 178 Warburton Avenue and 160 Cottage Gardens in the City of Yonkers, as a new component project in Capital Project BPL1A under the heading of Buildings, Land and Miscellaneous.

Adopted this 8th day of November 2023.


Richard Hyman, Chair

ACT NO. 43 - 2024

AN ACT authorizing the County of Westchester to enter into an amendment to an Inter-Municipal Developer Agreement with the City of Yonkers, 178 Warburton Limited Partnership and CPG Phase VI Limited Partnership, its successors or assigns, in order to amend the affordability requirements of ninety-two (92) of the Affordable AFFH Units so that these units will be available exclusively for seniors aged sixty-two (62) and older with incomes between 30% and 60% of the Westchester County area median income instead of households with incomes at or below 30% and up to 90% of AMI and to ratify the IMDA to include the Municipal Housing Authority for the City of Yonkers as a signatory.

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

Section 1. The County of Westchester (the "County") is hereby authorized to enter into an amendment to an Inter-Municipal Developer Agreement (the "IMDA") with the City of Yonkers, and 178 Warburton Limited Partnership and CPG Phase VI Limited Partnership, their successors or assigns, dated October 22, 2020, and previously authorized on June 1, 2020, by Act No. 98-2020, in order to amend the affordability requirements of ninety-two (92) of the Affordable AFFH Units so that these units will be available exclusively for seniors aged sixty-two (62) and older with incomes between thirty percent (30%) and sixty percent (60%) of the Westchester County area median income ("AMI") instead of households with incomes at or below thirty percent (30%) and up to ninety percent (90%) of AMI.

§2. The IMDA is hereby ratified so as to include the Municipal Housing Authority for the City of Yonkers as a signatory.

§3. All of the remaining terms and conditions of the IMDA, except as amended and ratified herein, shall remain in full force and effect.

§4. 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.

§5. This Act shall take effect immediately.

STATE OF NEW YORK)
)
WESTCHESTER COUNTY) ss.

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 43 - 2024, 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 March 18, 2024, and approved by the County Executive on March 20, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 21st day of March, 2024.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

