

ACT 42 - 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 ratify an Inter-Municipal Developer Agreement previously authorized by your Honorable Board.

Your Committee is advised that on April 11, 2022, 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, onsite and street 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 building with sixty (60) rental units (the “Development”) at 23 Mulberry Street, in the City of Yonkers (the “Property”) which is owned by the Municipal Housing Authority for the City of Yonkers (“MHACY”). All sixty (60) rental units were to be available to eligible senior households where all members of the household are aged sixty-two (62) and older with incomes at or below thirty percent (30%) and up to sixty percent (60%) of the Westchester County area medium income (“AMI”), all to remain affordable for a period of not less than fifty (50) years (the “Affordable AFFH Units”).

In particular, your Honorable Board approved Bond Act No. 28-2022 (“Bond Act”) which authorized the issuance of bonds of the County of Westchester (“County”) in an amount not-to-exceed \$3,500,000 as part of Capital Project BPL1A to finance the Infrastructure Improvements, and Act No. 29-2022 which authorized the County to enter into an Inter-Municipal Developer Agreement (the “IMDA”) with the City of Yonkers (the “City”) and La Mora, LLC, its successors or assigns (the “Developer”).

Your Committee is further advised that subsequently, the IMDA was executed by the County, City, Developer and MHACY. Act No. 29-2022, 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.

The Department of Planning ("Planning") has advised that construction of the Development has commenced, but the foundation for the building was constructed in the wrong location, approximately ten (10) feet both south and west of the location shown on the plans for the Development that were approved and attached to the IMDA. It was determined that it would be cost prohibitive to remove and relocate the foundation in the proper location. Therefore, the Developer, with the approval of the City, has modified the plans to reflect the current location of the foundation. It should be noted that as a result of the new location for the building, the number of parking spaces for the Development has been reduced from thirty (30) to eighteen (18).

Based upon the foregoing, it has been requested that your Honorable Board approve an amendment to the IMDA in order to amend the description in the easement, the plans and the budget for the Infrastructure Improvements. It should be noted that the budget currently is below the not-to-exceed amount of \$3,500,000 authorized by the Bond Act. All other terms and conditions of the IMDA will remain in full force and effect.

Your Committee is also advised that on March 1, 2022, the Westchester County Planning Board (the "Planning Board") adopted Resolution No. 23-19 ("Planning Board Resolution") to recommend funding to finance the Infrastructure Improvements for the Development. Because no material change to the Development is contemplated by the proposed amendment to the IMDA, the Planning Board Resolution remains in full force and effect. However, it should be noted that the Planning Board was apprised of the proposed amendment as an information item at its November 8, 2023 meeting. The Planning Board Resolution and the information item are 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 ("SEQR") Act have been met. Planning has advised that the original project was classified as an Unlisted action, coordinated review was conducted, and a Negative Declaration was issued by the Yonkers

Planning Board on January 12, 2022. SEQR was re-initiated for the additional zoning variances by the City of Yonkers Zoning Board of Appeals ("ZBA"), which re-confirmed the project as an Unlisted action it classified the original action as an Unlisted action. On April 20, 2023, the Yonkers ZBA circulated a notice of intent to serve as lead agency, along with Part I of a Short Environmental Assessment Form. On May 24, 2023, the Yonkers ZBA issued a Negative Declaration for the project. Since the City undertook coordinated review and the County was included in the coordinated review process, then, in accordance with Section 617.6(b)(3), no further environmental review is required by the County. A memorandum prepared by Planning is attached for your Honorable Board's review. Your Committee concurs with Planning's 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

James J. Zee
John Smith
John Smith
John Smith
John Smith
John Smith
John Smith

James J. Zee
John Smith
John Smith
John Smith

COMMITTEE ON
c/lac/2/21/24

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

23 Mulberry St Yonkers NY amend IMDA (BA 29-2022 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: *Christina Rayoff*

Budget Director

Date: 2/23/24

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

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

DATE: February 16, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR AMENDMENT
TO INTER-MUNICIPAL DEVELOPER AGREEMENT FOR LA MORA
SENIOR LIVING, 23 MULBERRY STREET, YONKERS (BPL1A)**

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 to the Inter-Municipal Developer Agreement (IMDA) between the County, the developer and the City of Yonkers, which provides County funding under capital project BPL1A - Housing Implementation Fund II (ID #1901), to facilitate the development of affordable senior housing at 23 Mulberry Street in Yonkers. Under the original IMDA, the County's funds were to be applied towards the cost of certain infrastructure improvements to support the creation of approximately 60 units of affordable rental housing in a new 4-story building with approximately 30 onsite parking spaces. However, due to an error in the placement of the building foundation during construction, additional zoning variances needed to be sought, including a parking variance to reduce the number of spaces from 30 to 18.

Pursuant to SEQR, the original project was classified as an Unlisted action, coordinated review was conducted and a Negative Declaration was issued by the Yonkers Planning Board on January 12, 2022. SEQR was re-initiated for the additional zoning variances by the City of Yonkers Zoning Board of Appeals (ZBA), which re-confirmed the project as an Unlisted action. On April 20, 2023, the Yonkers ZBA circulated a notice of intent to serve as lead agency, along with Part 1 of a Short Environmental Assessment Form. On May 24, 2023, the Yonkers ZBA issued a Negative Declaration for the project. Since the City undertook coordinated review and the County of Westchester was included in the coordinated review process, 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 P. Lopez, Commissioner
Lynne Colavita, Senior Assistant County Attorney
Claudia Maxwell, Principal Environmental Planner

RESOLUTION 22- 06

WESTCHESTER COUNTY PLANNING BOARD

**Housing Implementation Fund II
Capital Project Funding Request
23 Mulberry Street, 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 Mulford Corporation 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 23 Mulberry Street in the City of Yonkers (the “City”), identified on the City tax maps as Section 2; Block 2062; Lot 25 (the “Property”) to create 60 affordable residential rental units in one building 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 construction of 23 Mulberry Street, a four-story building, with 60 affordable residential rental units and 30 parking spaces (the “Development”); and

WHEREAS, the 60 rental units will be available to senior households, aged 62 or over, who earn at or below 30% and up to 60% of Westchester County’s Area Median Income (“AMI”); and

WHEREAS, the Affordable AFFH Units will be leased to eligible senior 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 \$3,500,000 is requested from Capital Project BPL1A Housing Implementation Fund II to fund eligible expenses that include, but will not be 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; 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

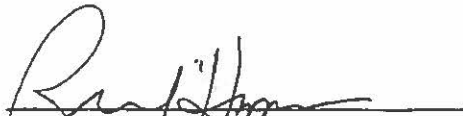
development of “a range of housing types” “affordable to all income levels;” and

WHEREAS, the 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 \$3,500,000 for infrastructure improvements for the Development under the terms of the HIF Program, which will support the creation of 60 Affordable AFFH Units which will be available to senior households, aged 62 or over, who earn at or below 30% and up to 60% of AMI and 30 parking spaces, located at 23 Mulberry Street in the City of Yonkers. Although, the Westchester County Planning Board supports the request for County Funding to develop new affordable housing opportunities, the Westchester County Planning Board also wishes to note its displeasure with the high construction costs of the Development. In addition, a review by staff of Westchester County Planning Board referral records found that the site plan may not have been properly referred to the Westchester County Planning Board to review, as is required under general municipal law. The referral would have been the appropriate time for the Westchester County Planning Board to recommend site plan revisions. The Westchester County Planning Board notes disappointment in not being able to help shape the site plan through this process; and

RESOLVED, that the Westchester County Planning Board amends its report on the 2022 Capital Project Requests to include 23 Mulberry Street in the City of Yonkers, as a new component project in Capital Project BPL1A under the heading of Buildings, Land and Miscellaneous.

Adopted this 1st day of March 2022.


Richard Hyman, Chair

To: Honorable Members of the Westchester County Planning Board

From: Blanca P. Lopez
Commissioner
Department of Planning

Leonard Gruenfeld
Program Administrator – Housing
Department of Planning

Re: Information Item
Modification of Easement for HIF work located at 23 Mulberry Street City of Yonkers

Date: November 8, 2023

23 Mulberry Street (the “Development”) in the City of Yonkers was originally presented to the Westchester County Planning Board on March 1, 2022. The Executive Summary and Resolution 22-06 are attached for your reference which at the time recommended the approval of Housing Implementation Funding (“HIF”) for this Development.

The Development has been under construction since it closed in June 2022 with the County, State and other funders. During the winter of 2023, the County was notified that the foundation was inadvertently constructed 10 feet both south and west of the location shown in plans as contained in the executed Inter-Municipal Developer Agreement (“IMDA”), dated June 16, 2022, between the County of Westchester (the “County”), La Mora, Limited Liability Company (the “Developer”) and the City of Yonkers (the “City”) to finance the construction of infrastructure improvements located at 23 Mulberry Street, Yonkers (the “Development”) to support the creation of 60 affordable senior housing units (the “Affordable Units”).

At that time, the Development was not in compliance with the IMDA as the Development lacked zoning approvals and the easement which gives the County ownership of the HIF improvements (on the privately owned portion of the site), was no longer valid given that the building location was not constructed where it was supposed to be. The County immediately notified the City of Yonkers to cease all HIF work on site. The work occurring in the right of way (“ROW”) was not affected by this error and could continue. The Development team, after assessing their options including removing and rebuilding the foundation in the correct location decided that the best course of action would be to

seek amended approvals from the City of Yonkers Planning Board and Zoning Board of Appeals. Those approvals were ascertained over the summer into the early fall.

Therefore, with these municipal approvals, the Westchester County Board of Legislators will be requested to authorize an amendment to an IMDA, in order to revise the area of the required easement and to revise the infrastructure budget and plans.

As the Planning Board is aware, the Development is part of the County's program to encourage the development of affordable housing that will affirmatively further fair housing ("AFFH") in the County and has been funded with \$3,500,000 Housing Implementation Fund II ("HIF") funds to assist in the construction of infrastructure improvements.

The IMDA authorizes improvements to the Development and surrounding ROW including, but not limited to, on-site and street 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 Affordable Units as part of the County's program to ensure the development of new affordable housing. The term of the IMDA is fifteen years (commensurate with the period of probable usefulness of the HIF bonds which are funding the Infrastructure Improvements).

Aside from the new location of the building to house the Affordable Units, the details of the Development have not changed.

The Developer is in the process of constructing the Affordable Units in one building on the approximately +/- 0.8-acre site at 23 Mulberry Street in the City of Yonkers, (the "Property"). All 60 rental units will be available to eligible senior households where all members are over the age of 62 that earn at or below 30% and up to 60% of the Westchester County area median income ("AMI") and will all remain affordable for a period of not less than 50 years (the "Affordable AFFH Units"). The Affordable AFFH Units are expected to include 57 one-bedroom, and 3 two-bedroom units. The building will also include a community room lounge with connected outdoor space, outdoor rooftop patio, management office and laundry facilities on each floor. Also included will be the construction of 18 on-grade parking spaces. A declaration of restrictive covenants approved by, and enforceable by, the County will run with the land and binds the Property requiring that the Affordable AFFH Units be maintained and marketed in accordance thereto for a period of not less than fifty years.

Planning has advised that the Property has been leased by the Municipal Housing Authority for the City of Yonkers ("MHACY") to the Developer for 99 years for \$1 per year.

As an information item, there is no action required by the Planning Board at this time.

ACT NO. 42 - 2024

AN ACT authorizing the County of Westchester to enter into an amendment to an Inter-Municipal Developer Agreement with the City of Yonkers, La Mora, LLC, its successors or assigns, and the Municipal Housing Authority for the City of Yonkers in order to amend the description in the easement, the plans, and the budget 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, La Mora, LLC, its successors or assigns, and the Municipal Housing Authority for the City of Yonkers in order to amend the description in the easement, the plans, and the budget.

§2. The IMDA is hereby ratified 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 is hereby authorized to grant and accept any property rights necessary in furtherance of the amendment to the IMDA.

§5. 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.

§6. This Act shall take effect immediately.

