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Robert P. Astorino
County Executive

Kevin J. Plunkett
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March 27, 2012

BY E-MAIL

James E. Johnson, Esq.
Debevoise & Plimpton LLP
919 Third Avenue
New York, NY 10022

Re: United States *ex rel* Anti-Discrimination Center of Metro New York, Inc. v Westchester County, New York (No.) Civ. 2860 (DLC)

Dear Mr. Johnson:

Pursuant to your letter of February 23, 2012, we enclose herewith a revised financial strategy, which is drafted to replace Section F of the County's Implementation Plan dated August 9, 2010, and to provide the information requested in your letter as follows:

F. FINANCING THE FAIR & AFFORDABLE HOUSING UNITS

(1) Overview
(2) Use of $21.6 million of FAH CDBG Account
(3) Program Income from the $21.6 million FAH CDBG Account
(4) Use of $30 million of County Resources
(5) Explanation of Alternative Financing and Development Methodologies
(6) Use of $400,000 for Outreach and Education
(7) Revolving Loan Program – Feasibility Assessment
(8) Comments on the NYS DHCR Low-Income Housing Qualified Allocation Plan
(9) Framework for achieving 750 affordable AFFH units

Included in Section (9) is Figure F-1 the Affordable AFFH BPL50 Unit Cost Strategy. With the County's first two years experience in supporting the development of eligible affordable AFFH units under the Settlement Agreement, the County is able to project a strategy whereby the County's use of funds in the County's BPL50 Account could potentially support the remainder of the units to be developed pursuant to the Settlement Agreement. The feasibility of this strategy requires a mix of sizes, types and costs of units. It also requires, among other things, that non-County sources of funds, both state and federal, remain available as a component of the financing package. It also requires that some inclusionary units become available from non-affordable development.

The County's ability to count as eligible up to 25% existing housing units through rehabilitation and deed restrictions, as provided for in the Settlement Agreement, is a component of the strategy for meeting the goals of the Settlement Agreement with $51.6 million. The County continues to request the Monitor's consideration of occupied existing housing, since new tenancy is not required by the Settlement Agreement. Finally, recognizing the higher cost of development in sections of the County that lack the infrastructure to support the AFFH development being built, or developments where land acquisition costs far exceed the norm, the County reserves the right to request that additional unit credit be considered for the County's funding of those costs.

After you have reviewed the revised financing strategy, we would be pleased to respond to any questions or comments you or your team may have.

Very truly yours,

Kevin J. Plunkett
Deputy County Executive

Encl.

Cc: Hon. Robert P. Astorino, County Executive
Hon. Kenneth Jenkins, Chairman, BOL
Robert Meehan, Esq., County Attorney
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Westchester County Fair and Affordable Housing Implementation Plan

Financing Strategy – Revised March 23, 2012

F. FINANCING THE FAIR & AFFORDABLE HOUSING UNITS

(1) Overview

The financing strategy set forth in this chapter describes the use of available sources of funds within Westchester County's control, the County's ability to identify and leverage other funds and a timetable for the potential approvals of units.

The County will employ many strategies to ensure the development of 750 units of affordable AFFH within the required time period. The County has been facilitating and financing the development and rehabilitation of fair and affordable housing units since the late 1970s and over the course of 35 years has established an extensive knowledge of available financing programs and has cultivated the financial expertise necessary to identify the least amount of public subsidy required.

The County expects that each affordable AFFH development will be different in terms of its funding needs and its eligibility for different financing programs. Generally, there are more financing programs available for larger rental developments than for small rental developments or for any size homeownership development. From experience, the County expects that the funding needed to make an existing housing unit qualify as an affordable AFFH unit will be significantly less per unit than the funding needed to make a newly constructed housing unit qualify as an affordable AFFH unit. Multiple bedroom units will cost more than one-bedroom units. Multi-storied buildings requiring steel construction and elevators will likely cost more than modular homes.

The County's financing strategy is not based on a one-size fits all approach but rather an assumption that each affordable AFFH unit will need to be designed to meet the conditions of the site and the character of the neighborhood in which it is to be located.

The County's strategy for the development of the 750 affordable AFFH units is centered on pursuing a variety of unit types to meet the needs of those interested in the units. The strategy will include both rental and homeownership units. The mix of units will be similar to the existing housing stock in Westchester, the strategy will also include an assortment of unit sizes, including single room occupancy, studio, and one-, two- and three bedroom units. The County recognizes that different households have different needs for unit sizes and the strategy should account for this variety. Shared housing (Single Room Occupancy) arrangements meet the needs of many single person households who need supportive housing services provided by non-profit housing developers. Studio apartments also meet the need of single person households. One bedroom units meet the needs of small households including a couple without children, a single parent with child, and non-traditional couples. Two and three bedroom units meet the needs of larger families, up to and including seven person households.

Non-County sources of funds – from programs established at the federal and state levels – have significantly decreased in recent years. Congress reduced its appropriation to the federal HOME Investment Partnership Program by 37% for Fiscal Year 2012. HOME is the only federal program that allows for the new construction of family units serving the income limits allowed by the Settlement Agreement. Likewise, the 10% reduction in the Community Development Block Grant program for Fiscal Year 2012 approved by Congress will limit the number of existing units that can be funded for rehabilitation as well as the financial support available to housing counseling services and the educational components of this Implementation Plan.

In New York State, the creation of Regional Economic Development Councils in 2011 has seriously impeded the ability of state housing financing agencies to process applications in the same manner as previous years. Significant delays have been incurred in the Affordable Housing Corporation approval process. As of March 2012, it is uncertain when 2012 funding applications will be due and whether there will be a permanent adjustment to the application schedule to adapt to the Regional Council process. Additionally, the Mid-Hudson Region's ability to access additional housing funding may be curtailed based on the Regional Council's lower prioritization for affordable housing in the regional strategic plan. On a positive note, the process of reviewing Low Income Housing Tax Credit applications was significantly improved in terms of timeliness in 2011.

The County expects that most AFFH developments will be able to leverage other sources of public funds that will enable the County's contribution to be reduced. The County has explored and will continue to explore the requirements of programs and foundations that support various affordable housing efforts. Most of these programs are limited to a specific type of condition or hazard needing remediation (e.g. lead-based paint, brownfields). These special conditions programs will be matched to the characteristics of individual developments as they move forward.

The County anticipates that some of the 750 affordable AFFH units will be achieved with no or little use of public subsidies to be provided through the Settlement Agreement. While market rate housing production has been practically non-existent in the 31 eligible municipalities in recent years, more municipalities have now adopted the Model Ordinance Provisions that will mandate the inclusion of affordable AFFH units within market rate developments going forward. However, unless there is a significant and unexpected turnaround in the new housing construction market, the County expects only a handful of units to be achieved through the use of incentive zoning within the timeframe of the Settlement Agreement.

The benchmark table included in the Settlement Agreement at Paragraph 23 sets forth by year and activity the County's interim obligations to meet the required 750 affordable AFFH units. The measures are units with financing in place and units with building permits. The County exceeded the first benchmarks ahead of the required date and anticipates meeting the second set of benchmarks, also ahead of the required date, and then expects to comply with each succeeding year's obligations. It must be noted that the County is not the developer that builds the units, nor the municipality that grants the land use approvals. The Settlement Agreement obligations will be contingent upon the cooperation and efforts of others.

(2) Use of $21.6 million of FAH CDBG Account Funding

Pursuant to Paragraph 2, the County shall use the funding provided in its HUD CDBG account for the development of new affordable housing units that will AFFH, in accordance with the CDBG regulations.

Summary of Actions: The County has reviewed 24 C.F.R. S 570.200 to evaluate the eligible uses of this funding. The eligible uses are limited to: acquisition of land and structures, demolition of unsuitable structures, clearance of environmental hazards, rehabilitation of structures and construction of site improvements (when the County has an ownership interest in the property). The County may also use these FAH CDBG funds for architectural and engineering work related to any of these activities.

In very limited circumstances, these funds may be used for the construction of housing, but only by eligible Community Based Development Organizations (CBDOs). Currently, there are no eligible CBDOs in Westchester County. As part of its financial strategy, the County will explore opportunities to create eligible entities through our non-profit housing agencies for these development purposes and will work with HUD to determine if some of the existing non-profit housing agencies, and/or Community Housing Development Organizations (CHDOs) in Westchester might qualify as a substantial equivalent so as to establish a broader use of the CDBG funding.

Because the permitted uses of FAH CDBG funds are very limited, many of the 750 AFFH units will need to be achieved through little or no use of these funds. It must also be noted that the use of FAH CDBG funds may be limited in some of the 31 municipalities eligible under the Settlement Agreement based on the municipality's participation in the Westchester Urban County Consortium in the affected years.

The County will continue to work with developers to identify appropriate sites for acquisition and to identify any demolition, clearance or infrastructure construction necessary to facilitate the development of affordable AFFH units with these funds.

Based on the County's extensive experience in funding acquisition and infrastructure activities on new construction, the County expects that the cost for land acquisition, with development approvals on the property, will be approximately $50,000 per unit. The cost of providing infrastructure (e.g. parking, lighting, utilities, landscaping) will be approximately $25,000 to $40,000 per unit. The range is determined by type of parking (surface or deck), the quantity of parking spaces required and the presence or lack of central sewer and water systems. The County has not regularly funded architectural work on infrastructure-only items but estimates that engineering work on infrastructure only items will be approximately 8 to 12% of the total construction budget. Inspection fees associated with construction management are expected to total approximately 8 to10% of the total construction budget.

The County has created a Revolving Loan Fund with $2.5 million of the FAH CDBG funds for the purpose of acquiring foreclosed, *in rem*, vacant and abandoned properties and other existing homes within the 24 eligible communities under Paragraph 7(a) of the Settlement Agreement. This program will operate similar to the HUD Neighborhood Stabilization Program currently being administered by the Planning Department with HUD funds. On average, it is expected that approximately $70,000 to $75,000 of the Revolving Loan Fund will be expended on acquisition and rehabilitation of each unit after the sales proceeds are collected and credited back to the fund. The Revolving Loan Fund will be leveraged with a $680,000 grant that has been awarded to Westchester County by the New York State Affordable Housing Corporation for acquisition/rehabilitation of 17 units. The County expects to identify sites through municipal referrals of *in rem* properties and through the assistance of a real estate consultant hired to review potential real estate listings, including foreclosed properties and real estate listings. The County also continues to review foreclosure judgment and lis pendens data each month on the filings in the County Clerk's office, where opportunities to purchase existing properties may be found. The targeted properties will be acquired through local non-profit housing agencies and housing development finance corporations. Units will be sold in accordance with the requirements of the approved Affirmative Fair Housing Marketing Plan.

To access the FAH CDBG funds, developers will be required to submit proformas for each proposed development property. Underwriting will be performed by Planning Department staff utilizing a software program provided by Community Preservation Corporation, which also trained the staff several years ago. Before the underwriting is complete, other staff of the Department will evaluate appropriate structure rehabilitation and site work proposals to make sure that line item budget numbers are appropriate and reasonable according to RS Means, other industry standards and comparison to recent bid results for similar improvements.

Each development to be considered for use of the FAH CDBG funds will require a subsidy layering review and Section 106 review to ensure evaluation and compliance with all federal requirements regarding funding and environmental reviews. Properties being considered for acquisition will be subject to completion of a title search, appraisal and environmental assessment prior to any purchase.

When an application is made for County funding, the County will send a Funding Advisory to the federal Monitor to advise him that a development is proposed to move forward and to identify the specific funding commitments being sought from the County. The County Executive's office will seek recommendation of a Capital Budget Amendment from the County Planning Board and then submit legislation for review and approval by the County Board of Legislators. Approval of the legislative package generally requires two meetings by the full Board, with review and recommendation by one or more committees of the Board in between.

Each property developed or rehabilitated will have a separate contract for each source of funding. Each contract will include a line item budget so that the funds are tightly managed and the opportunity is protected for the recapture of any funds not actually needed to complete the development. Funding is disbursed to developers as reimbursement for expenses already incurred. No funding is released until work is completed. Funding for the acquisition of property is processed through a contracted title company at the time of closing.

When environmental contamination is identified on a site, Environmental Indemnification Insurance is secured by the developer to indemnify the County against any future claims.

Restrictive covenants will be filed directly with the Westchester County Clerk's office to cover the full 50 year (or longer) affordability period. Restrictive covenants will also be referenced on the face of the deed for each property to ensure it is seen by future owners and title companies.

A Fact Sheet of the FAH CDBG Program's specific information and criteria has been developed, similar to the other Fact Sheets in the County's Financing Tool Box. This Fact Sheet is available on the County's website.

The County was notified by HUD in November 2009 that the FAH CDBG funding has time restrictions for spending because of the CDBG program regulations. With HUD's "First In First Out" financing system and assuming a resumption of the County spending on its regular CDBG program, the County does not anticipate at this time that the spending deadlines will be a problem. However, this aspect requires careful monitoring to ensure compliance with the deadlines imposed by the program regulations.

As of March 2012, a reasonable estimate on the use of the FAH CDBG funds is as follows:

a) 11.5% toward a revolving loan fund ($2.5 million) for the purchase and rehabilitation of foreclosed and existing properties;
b) 42% toward the purchase of property ($9 million);
c) 40% toward the cost of public infrastructure improvements ($8.7 million);

d) 6.5% toward the cost of rehabilitation of structures ($1.4 million). This will include the rehabilitation of existing structure and the adaptive reuse of structures that currently have no residential use.

These are approximate numbers for the purpose of providing guidance and should not be construed as limiting any particular component of the County's implementation.

(3) Program Income from the $21.6 Million FAH CDBG Account

The opportunity may exist for the County to collect Program Income from the $21.6 million FAH CDBG funds in accordance with 24 C.F.R. 570.500.

Summary of Action: The County has evaluated its opportunities and obligations under 24 C.F.R. 570.500 related to the collection of Program Income and has established a tracking system to collect the information associated with any income received and its subsequent reissuance. This is reported on the Financial Report component of each Quarterly Report to the Monitor. The County does anticipate that at least one approved development will return $160,000 to the County in 2012 from what was a short term loan for the acquisition of a condominium unit, as Program income. These funds will then be available for use on additional affordable AFFH units. The returned funds will most likely be used for additional acquisition of property.

(4) Use of $30 million of County Resources

Pursuant to Paragraph 5 and 6 of the Stipulation, the County shall secure resources sufficient to ensure the equitable relief is funded by $30 million through fiscal years 2009-2014.

Summary of Action: In 2009, the County reviewed with its Bond Counsel its options to secure the required resources. Acquisition of property, improvements to infrastructure and the related closing costs and legal fees has been determined to be eligible activities. Infrastructure improvements can include publicly-owned infrastructure that is necessary to support the fair and affordable housing units, including parking, water and sewer connections, landscaping and sidewalks. Infrastructure improvements must be funded through municipal entities. A County property interest is required for the use of these funds for these purposes. The determination of how to fund the construction of housing units is still under consideration. The County's Capital Budget allocates the use of this $30 million equally over the course of four years – with $7.5 million then available for approval in each year 2011-2014. If additional funds are needed in any given year, the Capital Budget process has sufficient flexibility to allow the budget changes.

The review and underwriting of the pro formas for developments that will use these funds, is the same as identified above under the use of the $21.6 million in returned CDBG funds. Approval of the bond funds starts with the Capital program, where the County has already established a new Capital project - Fair and Affordable Housing – to be funded with an allocation of $51.6 million including $21.6 of non-county resources (the FAH CDBG Account funds). Once a specific eligible development is identified with specific eligible uses of funding (acquisition and/or infrastructure improvements), the County Executive submits a package for a Capital Budget Amendment for review by the County Planning Board, which must also be approved by the County Board of Legislators. This process, including the required estoppel period following the approval of the Bond Act, will usually take between three to five months. The County will make every effort to process these Charter required actions as efficiently as possible.

The County is required to maintain a property interest in the physical infrastructure improvements for the life of the bonds. The funding is provided through a project specific contract that identifies the responsibilities of each party of the development, including the municipality and the developer. Funding is disbursed to developers as reimbursement for expenses already incurred. No funding is released until work is completed. Funding for the acquisition of property is processed through a contracted title company.

When environmental contamination is identified, Environmental Indemnification Insurance is secured by the developer to indemnify the County.

Restrictive covenants will be filed directly with the Westchester County Clerk's office to cover the full fifty (50) year (or longer) affordability period. Restrictive covenants will also be referenced on the face of the deed for each property to ensure it is seen by future owners and title companies.

It is acknowledged that some number of units will be achieved through little or no use of the $30 million since the eligible uses of these funds are limited.

The County began approval of the use of these County funds in 2011 with approval of $2,930,000 toward one development. One additional development has already received approval of the use of $1,510,000 in 2012, and the County expects to approve additional developments this year and each year through 2014 to commit these funds.

It is very difficult to estimate the appropriate allocation of the use of these funds, but a reasonable estimate based on the County's experience, might be 55% toward the purchase of land (approximately $16.5 million) and 45% toward the cost of public infrastructure improvements (approximately $13.5 million), as the County has found that the cost of land in the 31 eligible communities is much more expensive than originally expected. These are approximate numbers only for the purpose of providing guidance and should not be construed as limiting any particular component of the County's implementation.

A Fact Sheet of this Program's specific information and criteria is being developed similar to the other Fact Sheets in the County's Financing Tool Box. This Fact Sheet will also be available on the County's website.

(5) Exploration of Alternative Financing and Development Methodologies

Pursuant to Paragraphs 5, 6, 7(i) and 22(e) of the Settlement Agreement, the County is required to secure resources for the development of units and financial or other incentives to leverage the County funds.

Summary of Actions: The County has a long history of working with federal and state programs and agencies to fund fair and affordable housing endeavors. The County also assures that the County's funding commitment is the minimum amount needed to make the development successful. To do this, the County supports applications submitted by developers to state and federal programs, as well as to foundations, for financial support. In the interest of encouraging developers to seek other sources, the County exempts developers from filing any formal application with the County for funding and accepts any application used to request other funding. The County also requests developers to include the County in all e-mail or correspondence between the developer and other funding agencies, so that all funders see the same proformas, particularly as any changes in costs, or funding commitments are made.

The County conducted a review of alternatives to identify other means of financing the construction of units, providing financial incentives, identifying other funds for leveraging and opportunities and mechanisms associated with establishing a revolving loan fund and meeting the overall objectives of the Settlement Agreement. Through its previous experience, the County has demonstrated its ability to leverage other funding sources, including federal and state. A summary table of the federal and state funding sources that would expect to be tapped into in attached as Appendix F-1. The table lists financing programs available for both rental and homeownership developments, though the majority of programs is available for rental developments. Many of these programs are subject to their own funding allocation and application cycles and are dependent on funding from either Congress or the NYS budget. This listing is shared with developers and non-profit agencies interested in participating in the County's AFFH program so they can get familiar with programs and understand program requirements and deadlines for applications.

The County has a regular dialogue with the staff at NYHomes and Community Renewal (previously two independent agencies known as NYHomes and the New York State Division of Housing and Community Renewal) on projects that are looking for mutual funding.

The County, recognizing how important the other funding opportunities are, has funded (from its own annual Operating Budget) the Housing Action Council for over ten years to assist non-profit entities to prepare financial feasibility analysis and application submissions for developments. This enables the applications for non-profit sponsored developments to have a more equal consideration as a for-profit developer that can afford to hire quality consultants to prepare application submissions.

The County has funded other non-profit agencies to provide technical services and other consultants to achieve its affordable housing goals and help municipalities to consider the feasibility of sites for affordable housing. This includes long term funding to Westchester Housing Fund (d/b/a Community Capital Resources) to administer a revolving loan fund for feasibility and development funding for affordable housing developers. The County is currently funding a contract with a Real Estate consultant who is exploring potential foreclosure purchases, more specifically directed toward the County's implementation of its Neighborhood Stabilization Program (NSP) grant from NYS. Prior long term assistance was also provided through a housing planning consultant with many years of experience as a Commissioner of Planning and Development for several Westchester municipalities, who assisted with site feasibility and the work of the Housing Opportunity Commission.

The County has already demonstrated through its first two years of Quarterly Reports, its commitment to spend other funds to leverage the resources required by the Settlement Agreement to achieve its overall requirements. Through December 31, 2011, the County had approved developments that will provide a total of 182 affordable AFFH units where a total of $24,884,667 has leveraged the County's contributions of $15,865,300 on those same units.

This includes use of the County's federal CDBG and HOME grants and use of the County's own New Homes Land Acquisition Fund and Housing Implementation Fund. The County expects to expend its full HOME allocation, as approved by HUD, for years 2011-2016 toward affordable AFFH units that meet the 750 goal. Additionally, the County is exploring use of a portion of the annual regular CDBG entitlement grant on activities and the County's own funds on services determined to help further the program. Past financial assistance from the County's affordable housing financing programs does not create any expectation that additional County funds will be provided beyond the County's commitment under the Settlement Agreement. The County's review assures the minimum amount of County subsidy required is provided to assist with each unit.

As also evidenced through the first two years of Quarterly Reports, the County has also leveraged over $1,695,000 in other funds to provide AFFH services through non-profit agencies, feasibility funding for units that may qualify as AFFH, and funding to stabilize a building with seven units, with the intention that these units may qualify upon the turnover of the current tenants.

Under the County's proposal to meet the obligations of Paragraph 25 (b), the County is also using ten percent of its annual CDBG allocation beginning in FY 2012 to assist with services and activities that will help meet the unit requirement and assist interest persons qualify for units.

The County has already allocated $150,000 in additional resources to be added to the Revolving Loan Fund for affordable housing projects feasibility administered by the non-profit housing agency Westchester Housing Fund (d/b/a Community Capital Resources (CCR)). These funds were allocated through the regular FY 2009 and FY 2010 annual

CDBG program allocation and were drawn down by the agency in 2010 for initial use on potential affordable AFFH units. These additional funds, were be added to the CCR pool of approximately $1.5 million to expand the resources available to affordable housing developers. CCR has operated this revolving loan fund for over twenty years, and has a housing committee and Board of Directors that includes representatives from banking and financial institutions that review the financial feasibility of the affordable housing developments that come to them for financial support. Most of the developments in Westchester County that apply to CCR also usually request funding from the County, but this is not always the case.

The County expects that it will continue the relationship with Community Preservation Corporation (CPC) that it has maintained for a number of years. In previous years, CPC staff has trained new additions to the County's housing staff on how to underwrite the financial feasibility of a proposed housing development, and has provided software resources. CPC has also stepped in and assisted several non-profit agencies, at the request of the County, where the agency's administrative issues appeared to overwhelm the agency's ability to move forward with rehabilitation and new development of its properties.

In 2002, the County initiated an Employer Assisted Housing initiative with the County's then Chamber of Commerce and Heineken Corporation. While the program did not meet the original expectations because the income thresholds for qualifying were too low for Westchester corporate employees, the best success and interest was found by working with the County's many non-profit organization and institutions, such as hospitals. In these organizations, the staff salaries were more in line with the program eligibility and the program offerings. While a number of employees were assisted with down payment assistance, it generally came from government sources, rather than being employer generated. The current economic climate may not be conducive to a revisit of this program during the first years of the Settlement Agreement. However, the County will pursue discussions with the business community, particularly the non-profit agencies and institutions, to discern their interest in participating in a future effort.

Based on the County's experience, the County's funding is expected to be leveraged with other funds by at least a one dollar for one dollar match.

Appendix F-4: Letter to Monitor on Leveraging of Funds in First Two Years

(6) Use of $400,000 for Outreach and Education

Pursuant to Paragraphs 33(b), (c), (d), (e) and (h) of the Stipulation, the County is required to pay for consultants and public education, outreach and advertising to AFFH out of County Resources and CDBG funds over five years.

Summary of Action: The County has issued bonds to cover these required expenses. The County expects it will be able to leverage the $400,000 with additional resources and the

County's electronic resources and advertising in Bee-Line buses, including buses that run between Westchester County and the Bronx. Specific advertising and educational campaigns and media are being evaluated for maximum coverage.

The elements being considered for the outreach and education campaigns are included in Sections E and F.

While it is difficult to estimate the appropriate allocation of the use of these funds, based on the work that has been able to be done using in-house County staff, and the County's commitment of funding from its Operating Budget to fund services through non-profit agencies, it is expected that the entire $400,000 will be spent on the implementation of an outreach and education campaign, aimed at welcoming households to Westchester and education citizens on their rights to seek redress if they have been discriminated against. This is an approximation only for the purpose of providing guidance and should not be construed as limiting any particular component of the County's implementation.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the Stipulation Implementation.

Appendix F-1: Federal and State Housing Funding Sources

(7) Revolving Loan Program – Feasibility Assessment

Pursuant to Paragraph 22(e) of the Stipulation, the County is required to explore and implement mechanisms by which monies dedicated to Stipulation compliance can be placed into a revolving loan fund.

Summary of Action: The County has operated a Revolving Loan Fund with CDBG funds since the mid-1980s, with a significant portfolio of current loans. Loans issued during the last twenty-five years have been mostly for the rehabilitation of single-family residences, particularly to address health and safety in units owned and occupied by senior citizens. Loans have also been issued for much larger developments. Repayment terms have been established based on the cash flow of the specific project and the ability of the property owner to repay the debt. When there is not sufficient cash flow to support monthly repayment, the County has placed deferred loan mortgages on the property, where the County will collect its principal and interest for usually a fifteen year period only upon the sale or transfer of the property. This type of loan is especially popular with the County's senior residents, who need some repairs done on their homes to address health and safety issues.

The County has also actively supported the Revolving Loan Fund for feasibility that has been offered by Westchester Housing Fund (d/b/a Community Capital Resources (CCR)) since 1989. This fund, managed by a Housing Committee composed of representatives of banking and financial institutions, and a representative from the County, has provided feasibility funding to help for-profit and non-profit developers determine if a site is feasible for the development of affordable AFFH units, and will continue to be available for the duration of the Stipulation implementation.

The County conducted an evaluation of its ability to create and utilize a Revolving Loan Fund with the available resources identified in the Stipulation and Order. The evaluation is included in this Plan as Appendix F-1. The County may employ the use of revolving loan funding mechanisms only with those funds generated through those federal or state programs which specifically allow for such mechanisms or for which there is no express prohibition on the use of revolving loan fund mechanisms.

Thus, County has now approved a $2.5 million Revolving Loan Fund for the purpose of acquiring and rehabilitating foreclosed and existing housing units within the eligible municipalities. The County has expanded the contract of its real estate consultant to search out and facilitate the acquisition of appropriate foreclosed properties. The County is also working with municipalities under the Discretionary Funding Policy to review their *in rem* properties for appropriate inclusion in this program. Funds will be advanced through non-profit agencies to acquire properties, carry them through the rehabilitation and affirmative marketing periods, and resell them to income eligible households. Upon the resale of the property, a portion of the funds will be returned to the County's Revolving Loan Fund for potential use in acquiring additional properties.

Focus of appropriate properties will be on 2-4 family units in municipalities and blocks eligible under Paragraph 7(a) of the Settlement Agreement. Properties will be secured with the County's standard CDBG mortgage agreements.

The decision to utilize additional revolving fund mechanisms, including but not limited to, a short term loan, which may be feasible on a project-by-project basis, shall be made as appropriate. When used, such use will maximize the leveraging of such housing funds.

The County's evaluation of the use of a Revolving Loan Fund related to the construction of units under the Stipulation found that to provide developments with the ability to pay short term debt service in the early years of a building's operation would require higher subsidies up front – higher than the County might find necessary if no debt service to the County was required. In addition, based on the County's experience, the developments that can generally support debt service for County loan repayment, usually cannot fund it in the first ten years of a building's operation. As stated previously, the County believes the best use of a Revolving Loan Fund would be through the allocation of some FAH CDBG funds to support the purchase and rehabilitation of foreclosures, where the funds could revolve with each resale of units purchased and rehabilitated.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the Stipulation Implementation.

Appendix F-2: Report on Revolving Loan Fund Feasibility Assessment.

(8) Comments on the NYS DHCR Low-Income Housing Qualified Allocation Plan

A letter was issued to NYS DHCR on November 4, 2009 as part of the official comment process for DHCR's Low-Income Housing Qualified Allocation Plan (QAP), pursuant to which DHCR makes annual funding decisions. The letter outlined recommendations for review of Westchester County Stipulation-specific projects to better enable these projects to qualify for DHCR funding. A follow-up meeting with the Commissioner and Assistant Commissioner of DHCR, at which these comments were discussed on a point-by-point basis, was held on November 6, 2009. A meeting with the new administration and the new Commissioner at DHCR was held to communicate our continued interest in working with the State and getting their understanding that this Implementation Plan should qualify as a Community Housing Plan under the State's QAP. Staff level communications are on-going.

Appendix F-3: (i) November 4, 2009 letter from then-Commissioner Mulligan to NYS DHCR; and (ii) May 14, 2010 letter from Deputy County Executive Plunkett to NYS DHCR Commissioner Lawlor.

(9) Framework for achieving 750 affordable AFFH units

As has been previously expressed, each development of affordable AFFH units is unique, in terms of the number of units, number of bedrooms, cost of land, availability or lack thereof of central sewer and water systems, parking needs, building materials and available financing to leverage. There is even a significant difference in financing opportunities for homeownership versus rental properties and in which other subsidy programs are available to leverage the County's contribution. The recent weak housing market has severely limited the County's ability to achieve units through inclusionary zoning, even though several municipalities have adopted the Model Ordinance Provisions and now require affordable units in new residential developments. This wide range of variables makes it extremely difficult to predict with precision how the total $51.6 million will need to be allocated toward the total development of 750 affordable AFFH units.

The strategy that has been set forth in this report is simply that, a strategy. The County reserves the right to vary from this strategy as opportunities arise so as to be in the best position to achieve the requirements of the Settlement Agreement. The strategy is included as Figure F-1 at the conclusion of this report.

The appraised value of some sites in the 31 eligible communities far exceeds land values the County has encountered and considered previously. However, the County will not rule out a site simply because of the land costs. Negotiations with property owners and developers can often lead to a site's development at a cost lower than originally anticipated. The County will continue this practice. The County also expects to continue to implement its policy on land purchases from municipalities whereby the County will reimburse a municipality for its costs associated with an *in rem* taking, including legal and maintenance costs, rather than paying the appraised value of the property, which could be significantly higher. The County is already reviewing *in rem* property holdings from some eligible municipalities. The County has also undertaken a review of all County-owned properties within the 31 eligible municipalities and anticipates pursuing the approval and development of affordable AFFH units on sites found suitable. Most of these sites are small residual parcels from past roadway construction projects.

Paragraphs 7(a), (b) and (c): the County anticipates meeting the numbers of units in these three paragraphs as allowed. As of December 31, 2011, all sixty units allowed under Paragraph 7(b) were already identified and financed. In compliance with Paragraph 7(c) (ii), funding for the first 26 units under Paragraph 7(c) was provided with non-Settlement funds.

Paragraphs 7(d) and (e): the County anticipates meeting the number of units in these two paragraphs as allowed. The County continues to encourage developers to consider rental units because of the greater availability of external subsidies. Factors like proximity to public transportation and balancing the existing housing mix will also assist in the determination of whether a unit will be rental or homeownership. While it is difficult to estimate how many units will ultimately end up as homeownership versus rental, based on the current pattern of development under the Settlement Agreement, it would seem that two thirds may be rental and one-third will be homeownership.

Paragraph 7(f): the County anticipates meeting the number of units in this paragraph as allowed. While the County will continue to work with developers and municipalities to encourage the creation of units that do not have age restrictions, it is recognized that some locations are better suited for older, senior populations.

Paragraph 7(g): The County is cognizant of how amenities such as proximity to public transportation are essential to lower income households in selecting a residence location and in their ability to afford housing. Sites that are potentially far from public transportation and those that are adjacent to transit lines are equally reviewed to ensure appropriate mitigation or alternative measures whenever possible.

Paragraph 7(h): The County anticipates working with existing housing as allowed by this paragraph. While the maximum number of units in this allowance are not anticipated to be reached, the use of existing units, especially through foreclosures, may be an affordable alternative in many communities. The County continues to investigate developments of existing units that are fully occupied (in particular, developments that are reaching the end of a previously established required affordability period) in the hopes that the Monitor will consider these units for inclusion, or that some of the units will become vacant and re-tenanted before the end of the County's obligation in December, 2016.

Figure F-1: Affordable AFFH BPL50 Unit Cost Strategy

Developments	Units	BPL50 Cost	BPL50 Cost per unit
APPROVED RENTAL			
1 and 2 bedroom units	86	$ 5,474,000	$ 63,651
APPROVED HOMEOWNERSHIP			
1, 1+ den, 2 and 3 bedroom units	105	$ 11,521,500	$ 109,729
APPROVED 2-4 FAMILY			
1, 2 and 3 bedroom units	5	220,000	44,000
UNITS APPROVED TO DATE:	196	$ 17,215,500	$ 87,835
PENDING 2012			
1, 2 and 3 bedroom units	239	$ 20,820,000	$ 87,113
COMBINED TO DATE/PENDING:	435	$ 38,035,500	$ 87,438
AT NO BPL50 COST			
SROs, 1, 2, 3 and 4 bedroom units	45	$ -	$ -
AT NO COST - INCLUSIONARY			
SROs, 1, 2 and 3 bedroom units	32	$ -	$ -
COMBINED AT NO COST:	77	$ -	$ -
TOTAL OF ALL ABOVE	512	$38,035,500	$ 74,288
AT NO LAND COST			
1, 2 and 3 bedroom units	64	$ 1,600,000	$ 25,000
TOTAL OF ALL ABOVE:	576	$ 39,635,500	$ 68,812
BALANCES NEEDED/AVAILABLE : 2013-2016	174	$ 11,964,500	$ 68,782
Source: WCDP 3/23/2012			

It should also be noted that this analysis does not include the potential for "bonus" credit for units due to extraordinary infrastructure and land costs, as was discussed at a public discussion between the Monitor and the Board of Legislators. The County reserves the right to seek bonus credit at a later date.

As stated previously on page 13, the strategy that has been set forth in this report is simply that, a strategy. The County reserves the right to vary from this strategy as opportunities arise so as to be in the best position to achieve the requirements of the Settlement Agreement.

Perhaps the greatest variable in the County's ability to meet this strategy is in the continued availability of other public funds to leverage the County dollars. The availability of these other public funds will play a strong role in the County's ability to fund developments by filling the gap between what assures a unit's affordability. Without these other public funds, the County's cost per unit will be substantially increased, allowing for the support of fewer units.