

**WESTCHESTER COUNTY FAIR AND AFFORDABLE HOUSING
IMPLEMENTATION PLAN
August 9, 2010**

A. INTRODUCTION

(1) Overview/Deadlines:

Pursuant to the Stipulation and Settlement and Dismissal entered in *U.S. ex rel. Anti-Discrimination Center v. Westchester* (“Stipulation”), the County of Westchester is required to produce a series of deliverables which will enhance the County’s fair and affordable housing programs and policies, and will serve as a tool to assist the County in affirmatively furthering fair housing (“AFFH”) throughout the County of Westchester. In addition, the County is required to produce an Implementation Plan which outlines the County’s proposed plan and process for the development of 750 units of fair and affordable housing as required by the Stipulation.

Noting that the Stipulation originally provided for certain deliverables to be transmitted to the Federal Monitor and the Government on the 90th day after the entry of the Stipulation (“Day 90”) and others to be produced and submitted on or before the 120th day after entry of the Stipulation (“Day 120”), on October 8, 2008, then-Deputy County Executive Susan Tolchin, issued a letter to the Federal Monitor seeking an extension of the preliminary planning deadlines set forth in the Stipulation as follows:

(a) for the Day 90 obligations, the County requested an extension which would adjust the Day 90 deadline from November 8, 2009 to November 23, 2009 solely for the purpose of the County’s delivery of an amended policy statement as required by Paragraph (31) of the Stipulation. In consultation with the United State Department of Housing and Urban Development (“HUD”), the Federal Monitor has granted the requested extension by a letter dated October 20, 2009; and

(b) for the Day 120 obligations, the County requested an extension which would extend the Day 120 deadline from December 8, 2009 to January 30, 2010 for all Day 120 obligations and deliverables. In consultation with the United State Department of Housing and Urban Development (“HUD”), the Federal Monitor has granted the requested extension by a letter dated October 20, 2009. Note, however, that a second, limited extension was subsequently granted by HUD on December 18, 2009 with regard to the delivery of an updated Analysis of Impediments (“AI”). Specifically, that December 18th extension requires the County to select a contractor and execute a contract for the AI revisions by January 31, 2010 and produce an updated AI by June 30, 2010.

After the County’s submission of the Implementation Plan on January 29, 2010, the Federal Monitor issued a report on February 10, 2010 wherein the Federal Monitor provided comments and directed the County to make significant revisions to the Implementation Plan. After the County’s submission of a revised Implementation Plan on March 12, 2010, the Federal Monitor issued a report on July 7, 2010 with additional comments and directions for further revisions to the Implementation Plan. This Implementation Plan, dated August 9, 2010, has been revised to address the comments of the Federal Monitor.

Westchester County has prepared this Implementation Plan as a reasonable and appropriate plan to accomplish the requirements of the Stipulation. The County is prepared to proceed with the actions set forth within this document and the requirements of the Stipulation. The County further recognizes that the benefits of some of the actions set forth within this document will extend beyond the years contemplated by the Stipulation and will continue to inform and improve the path to diversity within Westchester.

Appendix A-1: (i) A copy of the County’s October 8, 2009 extension request letter; (ii) A copy of the Monitor’s letter approving said request, dated October 21, 2009; (iii) A copy of HUD’s letter approving extension of AI deadlines, dated December 18, 2009; and (iv) A copy of “Monitor’s Report Regarding Implementation of the Stipulation and Order of Settlement and Dismissal For the Period of August 10, 2009 through February 10, 2010.”

(2) Implementation Plan Organization: This Implementation Plan has been organized according to subject matter, as follows:

- A. Introduction (Pages 1-5)
- B. Financial Obligations (Page 6)
- C. Legislative Requirements (Pages 7-8)
- D. Policy & Planning Tools (Pages 9-17)
- E. Plan for the Development of Required Fair & Affordable Housing Units (Pages 18-27)
- F. Financing the Required Fair & Affordable Housing Units (Pages 28-35)
- G. Affirmative Marketing & Outreach (Page 36-38)
- H. General Outreach & Education Efforts (Pages 39-40)
- I. Analysis of Impediments (Pages 41-42)
- J. Status of Sites Presently under Active Consideration for Development of Fair & Affordable Housing (Page 43)
- K. Long-Range Timetables and Benchmarks (Pages 44-46).

Further, as noted above, the Stipulation requires that a series of efforts be accomplished by two specific deadlines, namely on Day 90 and Day 120, as those dates have been extended as reflected above. This Implementation Plan shall reference the deadline for delivery only for those items which are due on a date other than January 30, 2010. In addition, where it is intended certain outreach efforts outlined herein be undertaken on a continual or recurring basis, the Implementation Plan shall so specify.

A series of appendices are included in this Implementation Plan as documentation of efforts and/or to clarify the extent of efforts, as indicated below.

(3) Implementation Plan Preparation: Pursuant to Paragraph (22) of the Stipulation, significant outreach and various investigative efforts were to be completed to enable the County to prepare this Implementation Plan, in furtherance of its obligations to identify both potential developments and development strategies to achieve the housing development obligations of the Stipulation. Specifically, the County is required to:

Meet with developers and property owners;
Meet with key local officials; and
Meet with the New York State Division of Housing and Community
Renewal and the New York State Housing Finance Agency.

Summary of Action: The County has conducted numerous forms of outreach in furtherance of and in compliance with the obligations of the County in connection with the preparation of the Implementation Plan, and is scheduling new meetings on a continuous basis with community leaders, elected officials, housing experts, property owners and others with an interest in promoting the development of the housing which is required by the Stipulation. Specific detail on meetings/outreach conducted to date can be found in Appendix A-3 (i) and (ii), referenced below.

There were three (3) additional required investigative efforts, namely

- (i) Assess the availability of suitable vacant land;
- (ii) Explore and implement mechanisms for a revolving fund; and
- (iii) Maximize the development of AFFH units in blocks of lowest concentration of African Americans and Hispanics

These requirements are more appropriately addressed in other Sections of the Plan. Please see Sections E(4)(i)(e), F(4)(a), and E(7) respectively.

Appendix A-3: (i) Meeting Matrix, summary of meetings conducted internally and externally in furtherance of the Implementation Plan obligations in 2009; (ii) Master List of Housing Meetings for 2010.

(4) County Capacity to address Stipulation Requirements: Pursuant to the Federal Monitor's letter and filing of July 7, 2010, the County was encouraged to consult outside experts in the fields of housing finance, zoning and marketing; and to look for guidance from previous examples of affordable housing that affirmatively furthers fair housing throughout the nation.

Summary of Action: The County has conducted an assessment of its internal and hired consultants' capacity and expertise to identify any gaps that might be needed to fully pursue all the actions included in this Implementation Plan. Meetings and interviews have been conducted of outside agencies and individuals with expertise in the relevant fields. Additionally the County, through its memberships and contacts with national organizations, will continue to seek "best practice" examples across the country of affordable housing that affirmatively furthers fair housing.

The County Executive's Office and the Board of Legislators has among its membership, expertise in real estate, real estate management, financial planning management, urban planning, law, housing finance, municipal land use regulations, advertising and communications, and a past president of the Yonkers NAACP.

The County Planning Department also has extensive expertise in real estate, underwriting, housing finance, rehabilitation, planning, zoning, environmental reviews, site development, rental assistance and reporting requirements for both New York State and federal programs. Professional expertise at this level includes: numerous staff with masters degrees in Public Administration and Urban Planning; Real Estate Brokers licenses; certifications in Housing Management (National Center for Housing Management), Lead Risk Assessment, Lead Paint Inspections and Lead Paint Contracting, XRF Spectrum Analysis, Architectural Drawing and HUD's HOME Investment Partnership Program; 25 years of experience in construction and rehabilitation; and individually between 17 and 33 years of administering state and federal housing and community development programs. Staff of the County Planning Department has produced numerous technical reports, comprehensive plans, planning advisories and guidance primers on land use, zoning and housing issues. A list of the publications that are available on the County website for municipal officials, developers and the public at large has been included as Appendix A-4.

The County's Human Rights Commission (HRC) has extensive experience in the investigation, analysis and review of discrimination complaints; the Commission is skilled in conciliation, mediation and conflict resolution, negotiation of settlements, training, education and outreach initiatives. The HRC enforces the County's Human Rights Law and the County's Fair Housing Law. The Fair Housing Law, which was determined to be substantially equivalent to the Federal Fair Housing Act, operates to ensure that discrimination does not occur in the sale, rental or financing of housing, including predatory and sub-prime lending practices. Among the Commission's membership are volunteers with housing and real estate experience. The Commission has held several Fair Housing seminars and workshops throughout Westchester as well as ensuring that those working on housing issues continue their individual education and training in this area.

Outside consultants already under contract with the County include: three HUD-certified housing counseling agencies, including one with many years of experience as a Fair Housing agency; a housing planner with extensive previous experience in several Westchester municipalities; and a real estate consultant whose previous experience was as a Vice President at NYS Housing Finance Agency.

Additionally, Westchester County has benefitted from the volunteer experience of members on its various boards. Recently appointed to Chair the County's Industrial Development Agency, Stephen Hunt was the past President of the NYS Housing Finance Agency. Since its inception, the Housing Opportunity Commission has been chaired by George Raymond, who has more than 60 years of professional planning expertise. Other members of the Commission have professional experience with the Community Preservation Corporation; JP Morgan Chase; Human Development Services of Westchester; municipalities such as Sleepy Hollow, New Rochelle and Peekskill; Greyston; and the League of Women Voters. Members of the County Planning Board also have a wide range of community development and housing experience, particularly at the municipal government level. The County believes it will benefit greatly from the collective experience and expertise of all the staff, board members and volunteers as we work collectively toward the goals of the Stipulation.

The County anticipates that it will spend the \$51.6 million in funding on the construction of units, but recognizes that there is a minimum \$400,000 that must be spent on other outreach and education initiatives. The County has not ruled out the possibility that additional expertise may be needed for certain aspects of the implementation of the program outlined in this Plan, particularly for the implementation of an outreach and advertising campaign. As it explores this initiative, the County has already held several meetings with architects, educators, non-profit housing agencies, and an energy efficiency agency.

The County has been very active through its membership in state and national affordable housing and community development organizations. Membership in these organizations has provided ready access to practitioners across the country who may have encountered issues that Westchester may come across; the County will seek “best practices” from such contacts. On the national level, County staff has served in the leadership of the National Association for County Community and Economic Development (NACCED), and continues to serve on the National Association of Counties (NACo) subcommittee for Community and Economic Development. The County has access to additional national organizations including the National Community Development Association (NCDA), Council on State Development Agencies (COSDA), National Association of Home Builders (NAHB), the National Fair Housing Alliance, the Urban Land Institute and the American Planning Association. Recognizing that some of the best examples may be closer to home, the County will also seek best practices through its state affiliations, including leadership of the NYS Rural Housing Coalition and contacts with officials of county governments in adjacent counties.

The County Planning Department and its staff have been recipients of forty-eight (48) local and national awards and recognitions since 1988 for its affordable housing and community development programs, including some for the use of technology to show how well affordable housing fits within the community. The County expects that the use of technology, including the County’s website and Westchester 2025 program, will be expanded in the future and will significantly enhance implementation of the Stipulation.

Appendix A-4: Listing of Planning Publications Available on the Westchestergov.com Website

B. FINANCIAL OBLIGATIONS

(1) Payment of \$30 Million to the U.S. Government: Pursuant to Paragraph (3) of the Stipulation, the County is required to pay to the United States the sum of \$30 million dollars, of which \$21.6 million will be returned to the County as a credit under its Community Development Block Grant account to be utilized for the purpose of developing the housing required under the Stipulation.

Delivery Deadline: Day 90/no extension

Summary of Action: This payment was made on October 28, 2009.

Appendix B-1: Finance Department documentation of \$30M wire transfer.

(2) Payment of \$2.5 Million to the Relator's Counsel: Pursuant to Paragraph (4) of the Stipulation, the County is required to pay to the Relator's Counsel the sum of \$2.5 million dollars.

Delivery Deadline: Day 90/no extension

Summary of Action: This payment was made on October 28, 2009.

Appendix B-2: Finance Department documentation of check issued to Relator's counsel.

(3) Securing funding necessary to ensure equitable relief in the amount of \$30 Million: Pursuant to Paragraph (5) of the Stipulation, the County is required to secure resources sufficient to ensure that the equitable relief is funded by \$30 million dollars for County fiscal years 2009-2014. In accordance with the Laws of Westchester County and long-standing fiscal policy of the County of Westchester, the required funding shall be approved and authorized by the Westchester County Board of Legislators ("BOL") through the issuance of capital budget amendments and possible bonding approvals on a project-specific basis as each development project is formally proposed.

Summary of Action: \$51.6 million, which includes this \$30 million, is in 5-year Westchester County Capital Program.

Appendix B-3: (i) A copy of 19-20 Capital Request Form; and (ii) 5-year Capital Program.

(4) Identification of Unallowable Costs: Pursuant to Paragraph 44(c) of the Stipulation, the County is required to identify any "Unallowable Costs" (as that term is defined in Paragraph 44(a) of the Stipulation) and as further outlined in a supplemental communication from HUD to the County Attorney and outside counsel, dated August 17, 2009, included in payments previously sought by the County from the United States.

Delivery Deadline: 90 Days/no extension

Status: Transmitted to HUD and the Monitor on November 4, 2009.

Appendix B-4: Letter in response to its obligations under Paragraph 44(c), along with supplemental communication from HUD, and an itemized accounting of the Unallowable Costs.

C. LEGISLATIVE REQUIREMENTS

(1) AFFH Policy Statement: Pursuant to Paragraph 31 of the Stipulation, the County is required to adopt a policy statement providing that:

- (a) “the elimination of discrimination, including the present effects of past discrimination, and the elimination of de facto residential segregation are official goals of the County’s housing policies and programs;
- (b) AFFH significantly advances the public interest of the County and the municipalities therein; and
- (c) the location of affordable housing is central to fulfilling the commitment to AFFH because it determines whether such housing will reduce or perpetuate residential segregation.”

Delivery Deadline: As noted above, this Day 90 Obligation was subject to an extension approved by the Federal Monitor, and the due date for the adoption of this policy was adjusted to November 23, 2009.

Summary of Action: In conformance with long-standing legal guidance issued by the NYS Attorney General, the County of Westchester’s fair and affordable housing policy was authorized by the BOL, through the adoption of a Statement of Need in 1979, which Statement of Need was amended by the BOL in 1992 and again in 2001. In order to adopt the requisite policy specified in the Stipulation, as outlined above, the BOL was required to adopt, by local law, an amended policy statement in support or in furtherance of such Statement of Need. That legislation was adopted by the BOL on November 23, 2009.

Appendix C-1: A copy AFFH Policy legislation adopted by the BOL on November 23, 2009.

(2) Confirmation of Exemption to County First Right of Refusal Legislation for Fair & Affordable Housing Transactions: Pursuant to Paragraph 25(c) of the Stipulation, the County has committed to amend Westchester County Law to clarify that land transactions which affirmatively further fair housing are exempt from the County’s First Right of Refusal Law, which allows local municipalities a right of first refusal to purchase County-owned land which is deemed to have no further County purpose.

Summary of Action: The required legislation was filed with the BOL in January 2010, was the subject of a public hearing on February 22, 2010, and was adopted by the BOL at the meeting of March 22, 2010.

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

Appendix C-2: A copy of the First Right of Refusal law approved by the BOL.

(3) Promotion of legislation to ban “Source of Income” discrimination in housing: Pursuant to Paragraph 33(g) of the Stipulation, the County Executive’s Office is required to promote legislation currently before the BOL to ban “source of income” discrimination in housing.

Summary of Action: The Source of Income legislation package was prepared and submitted to the BOL in 2008, and was subject to various amendments over the course of the 2008-2009 legislative session. No action was taken on this legislation by the close of the session, necessitating resubmission in 2010. In fact, this legislation was resubmitted to the BOL in January 2010 and is now currently pending with the BOL following the County Executive’s veto.

The County Executive’s Office has made several efforts to promote the adoption of the legislation. Specifically, in October 2009, then-County Executive Spano issued a letter to the leadership of the BOL urging the BOL’s adoption of the legislation. In November 2009, then-County Executive Spano issued letters to several housing advocacy organizations urging their continued support and advocacy for the proposed legislation, including: (1) Legal Services of the Hudson Valley/Westchester Residents Against Income Discrimination (WRAID); (2) Westchester Residential Opportunities, Inc.; (3) Mount Vernon United Tenants; (4) Human Development Services of Westchester (HDSW); and (5) Housing Action Council.

In addition, County staff from both the Westchester County Human Rights Commission and Planning Department was present for discussions to facilitate the discussion with the Board of Legislators and provide information as needed.

Additionally, staff from the Planning Department arranged a meeting for the Board of Legislators staff to meet with all the Local Section 8 Housing Choice Voucher Program administrators (there were 17 in 2009) to address questions and issues related to a potential implementation of the legislation. The Local Section 8 Housing Choice Voucher Program administrators all agreed they would look to the County to develop an appropriate website to provide more comprehensive information on Section 8 program rules and requirements for landlords, and these Local Section 8 Housing Choice Voucher Program administrators would link their local websites to the County’s page for the benefit of all local landlords. This new website has been drafted, but not yet compiled and implemented. Planning Department staff is responsible for this component.

It should be noted that both houses of the New York State Legislature have passed a Source of Income Discrimination Law; the bill is currently before the Governor for approval.

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

Appendix C-3: (i) letter from then-County Executive Spano to BOL members advocating for the adoption of this legislation, dated October 23, 2009; and (ii) letters from then-County Executive Spano to fair housing advocates urging continued support and advocacy for the legislation on November 18, 2009.

D. POLICY & PLANNING TOOLS

(1) Model Ordinance: Pursuant to Paragraph 25(a) of the Stipulation, the County is required to develop a model ordinance to advance fair housing in the local municipalities of Westchester, and to promote that model ordinance to the local municipalities. The Stipulation provides that such model ordinance shall include:

- (i) a model inclusionary housing ordinance that requires new development projects to include a certain percentage of affordable units, including criteria and standards for affordable housing units and definitions of who is eligible for the affordable housing;
- (ii) standards for affirmative marketing of new housing developments to ensure outreach to racially and ethnically diverse households;
- (iii) standards for expedited review of proposals for affordable housing that AFFH including procedures for streamlining the approval process for the design, permitting, and development of these units; and
- (iv) standards for legal mechanisms to ensure continued affordability of new affordable units.

Summary of Action: In order to inform the County's process for developing the required Model Ordinance instrument, the Administration conducted extensive research and developed an inventory of local Westchester County inclusionary zoning protocols and practices, as well as a sampling of ordinance provisions in effect in Connecticut and Maryland jurisdictions (copies of same were previously submitted to the Monitor). The County also spoke with Planning Department staff from Dutchess County, New York, to review that county's recent efforts to draft a model ordinance and to be cognizant of the issues that they found to be of concern. In addition, the County engaged in various forms of outreach to local municipal officials and local zoning attorneys, including a series of meetings with the Housing Committee of the Westchester Municipal Officials' Association.

All 43 municipalities in the County with land use control authority have comprehensive zoning codes in place; they are of varying length, complexity and content and cover a wide variety of zoning issues which are unrelated to inclusionary zoning for fair and affordable housing. However, County research found that many Westchester municipalities have in place specific and unique regulations that address affordable housing. (This inventory of local regulations is available as part of the County's "Analysis of Impediments to Fair Housing Choice," dated July 2010 and available on the County web site.) Recognizing this context, the materials produced by the County in compliance with the Stipulation are not intended to operate as a fully-integrated zoning code or to otherwise act as a substitute for those long-standing codes. Rather, what has been produced are a series of zoning provisions which are intended, collectively, to serve as a supplement to existing municipal zoning codes in Westchester County municipalities for the purposes of ensuring the provision and promotion of fair and affordable housing development throughout the County of Westchester. By proceeding in this manner, the County believes that local municipalities will be better able to assess the appropriate manner for inclusion of these provisions and/or principles of inclusionary zoning into their individual codes, while maintaining the underlying integrity of those existing codes.

The Model Ordinance provisions originally transmitted in January were developed in consultation with the Westchester Municipal Officials' Association, and were also transmitted, together with the County's proposed Discretionary Funding Policy (see also Item D(2) below) by the County Executive's Office to each municipality within the County on January 29, 2010. Subsequent amendments to the Model Ordinance have been made to expand the subjects and details covered and to offer municipalities additional and more comprehensive guidance on amending local regulations to promote fair and affordable housing. The new Model Ordinance provisions are included here as Appendix D-1(i).

The model ordinance now sets the standard that in any residential development of 10 or more units approved through a subdivision or site plan review process, a minimum of 10% of the units must be designated as affordable AFFH units. Developments of five to nine units must set aside a minimum of one unit as an affordable AFFH unit.

The minimum mandatory inclusionary threshold of 10% was established based on a review of the economics of several developments and proposed developments. Based on this review, it was determined that a developer could develop the affordable AFFH unit(s) within a development without any government subsidy at the 10% level, but a higher percentage in most cases could only be achieved with government subsidies.

However, in certain situations, a higher percentage of affordable AFFH units could be achieved without government subsidy. A higher percentage could be achieved if the development was restricted to a single structure, but that is not typical of a residential development in the eligible municipalities in Westchester. In areas where higher density is allowed or when there is no additional land cost or where infrastructure is in place, a developer should be able to set aside 15% of the units to meet affordable guidelines. The model ordinance provisions encourage municipalities to consider such situations and to adjust the minimum requirement for affordable units as appropriate.

Working against setting a higher minimum percentage of affordable units in a development are the costs associated with establishing infrastructure, such as sewage disposal on a site in the northern part of the county, or where land costs are especially high, as it is in most of the eligible communities, and especially sites in lower Westchester. Additionally, parking requirements and fees-in-lieu of-recreation have the potential to undo much of the economic benefit of charging higher market-based sale or rent prices. The model zoning provisions recommend that municipalities provide incentives that can lower such development costs.

An extensive review of residential development costs was conducted by the County Planning Department in 2007 when the real estate market was stable. In this review, the County based its assumptions on information provided from multiple sources, including developers' submissions of construction costs of about \$400,000 per unit and \$9,000 per unit in annual operating expenses, debt service coverage, and contributions to reserve accounts for capital replacement. The specific assumptions were:

- All units at market rate rents of \$2,200 and \$2,700 for the one and two bedroom units.

- Verified costs using the highest of the three RS Means cost estimates, assuming prevailing wages would be paid.
- The RS Means costs include contractor overhead & profit.
- Unit size of 1,000 SF per unit as a basis for total SF to include common space.
- Soft costs of 20% were added in.
- Initial and additional land costs were not included.
- Per unit operating costs were approximately \$7,500 per year.
- The per-unit construction costs were in the \$280,000 range.
- The net income was capitalized at a 75% cap rate in order to estimate how much debt the property can carry.
- The mortgage interest rate was estimated at 8% with 1.2 Debt Service Coverage Ratio.

The projection with these assumptions showed that a nearly 30% equity investment was required and produced very little cash flow. Requiring that 15% of the units be restricted to affordable rents would make the financing (in 2007) more marginal. In current financial markets, the developer would be much more unlikely to be able to secure conventional financing sources. As the housing market recovers, financing should become easier, but achieving more than 15% of the units as affordable cannot be expected to be financially viable unless several of the conditions noted above are adjusted (i.e. lower interest rate, smaller unit sizes, lower operating costs achieved through energy efficient units, etc.)

As noted above, the Model Ordinance provisions include advisory comments that more than 10% of the units in a residential development could be required to be affordable on sites where there is no or marginal land cost and significant infrastructure is in place. One type of such potential site is an existing office park which can meet specific criteria (e.g. has routinely vacant parking spaces during business hours). A study prepared by the County Department of Planning (“Office Park Housing” March 2008) recommends an inclusionary requirement of 15% in such situations. The Office Park Housing report is attached as Appendix D-1(iii).

The model ordinance provisions do not address establishment of stand-alone accessory apartments or the individual construction of two- or three-family homes. The County has had extensive discussions with municipal officials on the role that such housing units play, or could play, in increasing the diversity and cost range of housing opportunities. On the fact that such housing is very desirable, there is no disagreement. However, a practical means has not yet been identified to bring such units into a regulatory system that will guarantee enforcement of affordability limits over a minimum of fifty years. (It must be noted that the County has participated in the financing of larger residential developments where each affordable ownership unit includes an accessory apartment that is also subject to affordability guidelines; in such situations a single developer is able to agree to requirements through the local land use development approval process.)

The model ordinance provisions include specific recommendations for expediting the project review process for development proposals that include affordable AFFH units. Just as zoning ordinances are shaped to each municipality’s own policies and comprehensive planning, the local land use review process is also shaped by local factors and government organization. As desirable as it may be from a development perspective, the one-size fits all approach to land use approval is unlikely to

be realized in a county with 43 jurisdictions regulating land use, often with multiple boards and agencies playing a role within each municipality. However, the County will use its resources to track and help move along the local review and approval of affordable AFFH units. The County will encourage developers of affordable AFFH units to report to the County on local obstacles or issues; as the developers have a financial stake, they should be a reliable source of reporting. The County will follow-up on such reports with municipal or other agency officials as may be found necessary.

It is also recognized that not all development proposals require extensive approvals by the municipality. The processing of an application will vary with development size, location and zoning compliance. For example, renovation of existing housing may require no or minimal local approvals; however, steps must be taken to ensure that required deed restrictions are filed. Charts are provided in Appendix D-1 (iv) that lay out the general process per New York State law required for approval of site plans and subdivisions at the municipal level,

The County will continue to promote the adoption of the appropriate components of the Model Ordinance to the municipalities. The County will have the opportunity to comment on the actual components being adopted by each community through the “referrals” process, whereby municipalities are required under the provisions of Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the Westchester County Administrative Code to refer any zoning text or map amendment and certain residential subdivision and site plan applications to the County Planning Board for review and comment. Through this process, the County Planning Board and its staff in the Planning Department will have the ability to ensure that the ordinance provisions are highlighted, appropriately interpreted and recommended for incorporation into a municipality’s local regulations. In addition, all County response letters to referrals that include a component of housing or office park will include a reminder to the municipality to adopt the ordinance provisions until such time that the municipality has adopted the appropriate provisions of the Model Ordinance. Through this process, the County will have routine opportunities to remind the municipality to adopt the provisions of the Model Ordinance.

Following the Federal Monitor’s approval and acceptance of the Implementation Plan, the Model Ordinance provisions will be referred to the County Planning Board for adoption as policy and then the Model Ordinance provisions will be forwarded to all municipalities for consideration and adoption. Public forums will be identified by the County at which presentations can be made on the key points of the Model Ordinance; such forums will include the Westchester Municipal Officials Association and the Westchester Council of Governments. In addition, the Planning Department, together with the Westchester Municipal Planning Federation, will sponsor several training sessions annually for members of the local elected and appointed boards that review development projects. These sessions will highlight the importance of the provisions and opportunities of the Model Ordinance.

As municipalities meet with the County to discuss sites that may be eligible for affordable AFFH units, the municipalities that have not already adopted the provisions of the Model Ordinance will be reminded that such action should be taken.

To date, the County's meetings with the municipalities have been productive discussions about potential sites, the overall context of the fair housing issues, and the potential for development overall. The County has found that an approach that emphasizes a spirit of cooperation has been met with a broad willingness to support good developments. Municipalities have brought forth sites or indicated their willingness to undertake a review of potential sites for both development and redevelopment. There has been discussion of county-owned sites, when applicable. And there has been significant discussion and dialogue on the status of local comprehensive plans and identification of redevelopment opportunities.

During these discussions with municipalities, the County has explored potential assistance that could be offered to municipalities that demonstrate active support and progress in the development of affordable AFFH units. While financial incentives are limited, technical assistance through the County Planning Board's Westchester 2025 initiative has proven to be an attractive inducement to municipal officials. The County will continue to both coordinate and integrate planning technical assistance to municipalities with the work program of the Implementation Plan. The financial incentives possible through the 10% bonus CDBG funding and through County Legacy open space awards for passive and active recreation will be included in discussions with municipalities.

As the County's CDBG program is a multi-year competitive process, great emphasis is placed on the information session that is offered once every three years to kick off the application cycle. The information session, technical assistance tours and discussions with municipalities will include discussions on the importance of adopting the Model Ordinance. As CDBG funds are not distributed to the municipalities by formula, and a number of municipalities do not apply for grants in each round of funding, there is little opportunity to withhold these funds as leverage if the municipality does not adopt the Model Ordinance.

Full time employees: Associate Planner. Job responsibility: this person has the responsibility to oversee the municipal referrals process.

Appendix D-1: (i) Model Ordinance provisions; (ii) documentation of outreach to local Westchester County municipalities re: Model Ordinance and proposed Discretionary Funding Policy; (iii) Office Park Housing Report; (iv) Development approval process charts

(2) Policy to condition the use of Public Funds & Resources on efforts to AFFH: Pursuant to Paragraph 25(d) of the Stipulation, the County is required to establish a policy which will condition, as appropriate, the use of public funds and resources including, but not limited to, CDBG funds and the County Open Space funds on commitments from municipalities to: (a) ban certain housing selection preferences that do not AFFH; (b) offer the County a right of first refusal to retain and/or purchase land acquired in rem to be used to AFFH; and (c) provide active assistance in implementation of Stipulation through land use regulations and other affirmative measures.

Summary of Action: The County has prepared and submitted to the Monitor, by letter dated July 30, 2010, a listing of funding that the County passes on to municipalities. The letter is attached as Appendix D-2(i). The funding is broken out into four categories: mandatory, discretionary, some

discretion subject to conditions and requirements established other than by the County of Westchester, and other.

The County has prepared a Discretionary Funding Allocation Policy, attached as Appendix D-2(ii) that incorporates the affirmative commitments outlined in the Stipulation. Also, appropriate amendments to the standard funding agreements for its CDBG and County Open Space funds will be prepared. Noting that the historic development of certain municipalities has encouraged their diversity and these communities already have ample stock of fair and affordable housing developments, the Discretionary Funding Allocation Policy recognizes that it is not appropriate to hold all municipalities to this standard. Therefore, the policy is limited to the thirty-one (31) Eligible Communities under Paragraph 7. The remaining twelve (12) communities with African American populations exceeding 14% and Hispanic populations exceeding 16% would not be obligated to adopt these provisions.

Noting that the approval process for the adoption of code provisions relating to providing active assistance through land use regulations and first right of refusal obligations, which are requirements of the Discretionary Funding Allocation Policy, cannot be achieved immediately at the municipal level, the Discretionary Funding Allocation Policy provides for an effective date of January 30, 2011, in order to allow municipalities to review and consider whether to adopt necessary code provisions over the course of 2010.

In response to Act #11 - 2010 by the Board of Legislators, attached as Appendix D-2(iii), the County began requiring that contracts seeking approval for CDBG funds using FY 2010 funding through the County's Board of Acquisition and Contracts be conditioned on their adopting policies, as appropriate. These conditions now require municipalities to report the actions they have taken to affirmatively further fair housing, with at least one report required to be submitted prior to the final payment of CDBG funds. With the language in the new CDBG contracts, this now allows for the withholding of funds, or pursuit of repayment of funds for a municipality's failure to AFFH.

Encouraging municipalities to comply with the terms of the Stipulation may also involve legal action, if appropriate. Paragraph 7(j) of the Stipulation specifically contemplates that the County will use "all available means as appropriate" to address the potential eventuality that "a municipality does not take actions needed to promote" or "undertakes actions that hinder" the objectives of Paragraph 7 of the Stipulation. Such means shall include, but not be limited to, "pursuing legal action."

In the event that legal action becomes appropriate or necessary involving any municipality which is not cooperating or is actively hindering the objectives of paragraph 7 of the Stipulation, such proceeding shall be authorized by the County Board of Legislators as required by Section 158.11(3) of the Laws of Westchester County.

What form such legal action might take will depend upon an evaluation of a number of facts and circumstances including the inaction or the obstructive actions of the municipality involved in the context of the particular zoning and other land use regulations and approvals applicable in that particular jurisdiction.

All municipalities in the Urban County Consortium have signed cooperation agreements which include among the terms of the agreements the requirement, among other things, to cooperate “to undertake or assist in undertaking, community renewal and lower income housing assistance activities.” In addition, the agreements expressly provide that the municipality will indemnify the County against “all losses, damages, penalties, settlements, costs, charges, fees, and other expenses or liabilities relating to or arising out of the failure of the Cooperating Municipality to comply with the Acts, rules and regulations there under, and the undertakings and assurances in (the) application form.”

Thus, one option in pursuing legal action would be an action for breach of the terms of the Urban County Consortium Cooperation Agreement. Of particular note is that such a cause of action could seek monetary damages which could be significant.

Beyond the cooperation agreements, there may be a basis for other causes of action for injunctive relief based upon other theories of law. Relief in an Article 78 proceeding might also be a consideration, again, depending upon the facts and circumstances.

In accordance with the Discretionary Funding Allocation Policy, the County will advise municipalities that their cooperation in development affordable AFFH units could provide new access to county funding opportunities. At a minimum, the County is proposing to set aside 10% of its annual CDBG allocation to fund projects in communities that get affordable AFFH units constructed. This could amount to approximately \$650,000 each year for additional CDBG-eligible projects in the communities. Those communities that complete units in the earlier years, will have access to more of this annual funding pot that could fund projects that might not have scored as well in the competitive review used for the County’s CDBG program.

Full time employee: Director of Program Development II (Housing & Planning). Job responsibility: this person has the responsibility to oversee the fair and affordable housing components of the Inter-Municipal Agreements for County Open Space funds.

Full time employee: Program Administrator (Housing & Planning). Job responsibility: this person has the responsibility to oversee the CDBG funds compliance.

Appendix D-2: (i) Letter of July 30, 2010 to James E. Johnson re: Discretionary Funding; (ii) Discretionary Funding Allocation Policy; (iii) Act #11-2010 by the County Board of Legislators re: Approval of FY 2010 Application to HUD.

(2)(b) CDBG allocation process to promote activities that AFFH: Pursuant to Paragraph 25(b) of the Stipulation, the County is required to establish a CDBG allocation process/plan designed to promote activities that AFFH including such steps as providing priority to projects that further development of AFFH affordable housing units as set forth in Paragraph (7) of the Stipulation. Note that Paragraph (7) relates specifically to the units mandated under the Stipulation and therefore requires some priority to be given to those projects in the County’s general annual CDBG program, as all Stipulation-specific CDBG funding must already be dedicated to Paragraph (7) units.

Summary of Action: There is significant outreach and public comment involved in accepting and reviewing applications from 40 municipalities and numerous non-profit agencies to determine their eligibility under the CDBG regulations. Recognizing this and at the request of the participating municipalities, since 1979 the County's general annual CDBG program has been oriented toward a three year application process. The current cycle includes Fiscal Years 2009, 2010 and 2011. Therefore, to meet the requirement of Paragraph 25(b), the County is proposing that with the next funding cycle, covering FY 2012, 2013 and 2014 of CDBG funding, ten (10%) percent of the County's annual CDBG appropriation would be set aside as funding for projects which will further the development of affordable AFFH units required pursuant to Paragraph (7) of the Stipulation, provided that such CDBG monies can be spent on such projects according to HUD guidelines, including HUD-designated timetables for expenditure.

In anticipation of the FY 2012-2014 funding cycle, Planning Department staff will meet with participating jurisdictions in the Westchester Urban County Consortium during the summer and fall of 2010 to conduct local tours of these communities, to help the staff and elected officials within each community identify appropriate projects for CDBG funding, particularly projects that may AFFH. The County will also encourage these municipalities to reach out to non-profit agencies within their communities to involve them in the process of developing appropriate CDBG applications. With better education and training prior to the application deadline in June 2011, the County should create a better pool of applications to consider for funding with the proposed 10% set-aside.

To the extent that any portion of the ten (10%) percent set aside has not been awarded to applications that further the development of affordable AFFH units in that annual cycle, those monies shall be made available for the rehabilitation of affordable AFFH units that will meet the criteria set forth in 7(a), (b) or (c). This funding shall be set aside in a separate account, if legally permissible, for activities subject to the legal authority of the CDBG regulations.

Full time employee: Accountant III. Job responsibility: this person has the responsibility to oversee the accounting of all accounts in the Planning Department.

(3) Amend the County's Long Range Land Use Policies as contained in Westchester 2025:

Pursuant to Paragraph 27, the County is required to amend its Long Range Land Use Policies as contained in Westchester 2025 to embody the goals of the Stipulation; the substantive provisions of the Model Ordinance required by Paragraph 25(a) of the Stipulation; and the policy statement adopted pursuant to Paragraph 31 of the Stipulation.

Summary of Action: The Westchester County Planning Board adopted amendments to the County's Long Range Land Use Policies on January 5, 2010 which embody the overarching goals of the Stipulation and required policy statements. Because the County was engaged in the process of developing the Model Ordinance provisions with the Westchester Municipal Officials' Association through the month of January 2010, the County Planning Board adopted the "substantive provisions of the Model Ordinance" at its February 2, 2010 meeting. To the extent that modifications have been made to the Model Ordinance, the revised Model Ordinance will be before the Westchester

County Planning Board following the Federal Monitor's approval and acceptance of the Implementation Plan.

Appendix D-3: (i) Amendments to Westchester 2025 & Resolution of the Westchester County Planning Board, adopting the overarching goals of the Stipulation and required policy statement, adopted on January 5, 2010; and (ii) Resolution of the Westchester County Planning Board endorsing the substantive provisions of the Model Ordinance, approved on February 2, 2010. The amended version will be considered by the Westchester County Planning Board following the Federal Monitor's approval and acceptance of the Implementation Plan.

E. PLAN FOR DEVELOPMENT OF FAIR & AFFORDABLE HOUSING UNITS

(1) Methodology for the identification of Eligible Municipalities/Areas under the Stipulation: As per Paragraph 22(f) of the Stipulation, this includes an assessment of means to maximize development of fair and affordable housing in municipalities and census blocks with lowest concentrations of African American and Hispanic residents.

Summary of Action: The methodology and maps, referenced herein, have been forwarded to HUD for review and approval as a threshold measure. Based on subsequent conversations with HUD officials, it is the County's intent to verify as "eligible" all proposed housing sites to ensure Stipulation compliance as an initial step for each proposed housing development project.

The County notes that by letter dated July 13, 2010 the Federal Monitor approved Census Tract 146.043, Block 9000 for development under the criteria set forth in Paragraph 7(b) of the Stipulation, because the County was able to provide Census 2000 data that demonstrated that when all group quarters in the Census Tract were removed, the Tract and Block had no population. As the Block is located in the Town of Cortlandt, a community that meets the criteria of Paragraph 7(b) of the Stipulation, the Block now becomes eligible for development under Paragraph 7(b) of the Stipulation.

Appendix E-1: (i) Methodology for the identification of Eligible Municipalities/areas (narrative); (ii) Chart outlining Eligible Municipalities/area by tiers of eligibility under Paragraph (7) of the Stipulation; and (iii) Map of Eligible Areas.

(2) Westchester County Fair and Affordable Housing Program: The County is committed to administering a Plan and program that provides for the development of fair and affordable housing in eligible areas over a seven year period in accordance with the terms of the Stipulation using the following guiding principles and objectives:

- i) Establish guidelines for the development of housing that is visually attractive, environmentally sensitive and compatible with the character of the community in which it is located;
- ii) Identify sites suitable for residential development in a timely, cost effective and efficient manner consistent with the terms of the Stipulation; and
- iii) Establish an implementation schedule in accordance with the timelines set forth in the proposed Stipulation.

It is important to note that many factors and differentials are considered and thoroughly analyzed to achieve the completion of fair and affordable housing developments. There is no one-size-fits-all process or review criteria, as the conditions and physical restrictions of a site will vary widely from one site to the next. If the site falls within an Historic District, if the site has environmentally sensitive conditions, if the site is municipally owned versus privately owned, if the site requires a rezoning, if the site went through repeated financing cycles, or if a site requires the use of septic systems rather than public sewers, are all variables that will affect the timing required to complete

the approval process, and subsequent construction. The County will assist, in any feasible way, to expedite the process.

The County expects to achieve units in a variety of formats and settings. The County expects that a number of developments will not exceed five (5) units and expects that a number of developments will be achieved in complexes of twenty (20) units and larger. No site will be ruled out because it is too small or too large. Likewise, the County expects that the types of units that will be included through this Implementation Plan will be of various types and sizes. It expected that most of the units will include one (1), two (2) or three (3) bedrooms, though a much smaller portion of the units may only be studio apartments. It is also expected that some of the units will be single family homes, while others will be attached townhouses, small scale apartment buildings, garden style buildings, two to four family homes and condominiums.

It is very difficult to estimate the appropriate allocation of the types of units, but a reasonable estimate would be that 25% of the total 750 units will be existing housing units made affordable; approximately 65% will be built through new construction and 10% of the units will be garnered through the adaptive reuse of currently non-residential structures. The County's previous experience with the adaptive reuse of non-residential structures has included an abandoned middle school that became 120 units of senior housing, a church that became six (6) condominium units, and a historic bank building that became twelve (12) condominium units. Additionally, the County has on multiple occasions, readapted large single family residences into multiple units. 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.

Again, while it is very difficult to estimate the appropriate unit-type parameters anticipated in the Stipulation, the County projects that a reasonable estimate of the unit types to be created will be approximately 25% of the total 750 units will be senior housing, 5% will be affordable AFFH units created through inclusionary zoning requirements, 10% of the affordable AFFH units will be part of mixed use developments, and a further 10% will be created through low-scale housing typologies including two to four family units, single family units, single-family looking units with multiple residences, and accessory apartments. The balance of the units will be regular family units.

Proposed developments are subject to numerous reviews, including:

- (i) Local government planning and building approvals;
- (ii) Other governmental or state reviews such as County Department of Health, NYC Department of Environmental Protection and/or NYS Department of Environmental Conservation; and
- (iii) Financing reviews by agencies administering public funding for affordable housing, private investors and lenders.

The flow chart, attached herein as Appendix E-2, provides a comprehensive overview of the entire multi-agency and financing review and approval process. (See Section D-1 for a discussion of the municipal land use approval process alone.) Variations to the process are more common than not. No housing development approval and process are identical to any one approved before it or after it.

Among housing developments financed by Westchester County, a few received approvals and were under construction in a relatively short timeframe of 4-5 years. But there were also those which, for various reasons, took considerably longer.

The most crucial of the reviews are those conducted by local government. To start the process a developer looks at current zoning for a site, a potential market for the development, and whether the site is suitable for the development. Proposals may undergo multiple local reviews and approval by various boards for different aspects of the proposed development. Each municipality has a unique process for conducting its planning, zoning and other reviews, allocating responsibilities pursuant to their local ordinances. Beyond the planning approval required (subdivision, site plan approval, etc.), there may also be Architectural Review Boards, Historic Review Boards, Conservation Advisory Committees and other public boards which could have input to the final approvals given for a development. These boards, of local resident volunteers, can place constraints on a proposal, which could have an impact on the viability of the proposal.

Among the requirements that government agencies must comply with are the regulations of the New York State Environmental Quality Review (SEQR) act (6 NYCRR Part 617). This state mandated process requires that a lead agency conduct a review based on the potential impacts of a development and the ability of that development to mitigate those impacts. In practice, developers are often required to prepare a Draft Environmental Impact Statement (DEIS). The draft EIS may be a lengthy complicated document, or may be a brief document, depending on specifics related to the site. In some cases, approval of an EIS can take years and multiple studies, including traffic studies and other extensive and expensive research.

While the local process is unfolding, the developer must also pursue financing approvals to complete the project. Due to a tight credit market, and intense competition for subsidies, fair and affordable housing developments typically must secure funding from five (5) to ten (10) sources in order to be viable. Coordination among this many funders is complicated, costly and time consuming. Few, if any, of these sources are willing to advance funds unless and until local building approvals are in place. Most developers put up their own pre-development costs to get to this stage. These costs can amount to hundreds of thousands of dollars. These funds are at risk, and in some cases have been lost where a potential development did not move forward.

Only once both the local approvals have been provided and all needed financing committed will all the funders move forward towards the land acquisition and construction closing. Each entity providing funds monitors construction progress, including the County.

The County's process for reviewing an application is comprehensive and assures that only the financial resources required for the projects are expended. The process begins with a meeting with a developer and County Planning Department staff to discuss a potential project. The discussion includes site elements and limitations, number and sizes of units, available or expected financing resources, county resources needed, local approvals needed and timing.

Developers are directed to submit the same materials to the Planning Department as they submit to other funding agencies, at the same time, to ensure all financing agencies are considering the same

documents and information. Application materials, program facts sheets and development manual are available on the County's website. Fact Sheets for the County's Housing Programs are attached as Appendix E-2(iv).

The County Housing Specialists undertake a review of the costs, sources and uses, and the various approvals already in place and identify any missing application items. Housing Specialists then work with the applicants every step of the way to ensure the County collects all the required documentation as it becomes available to keep the project moving toward approval.

If land acquisition funding is being requested, the County orders an appraisal usually timing the request so the appraisal is not more than six (6) months old when the financing request is reviewed by the County Board of Legislators.

When all land use approvals and environmental reviews are in place and other required financing applications submitted and confirmed as being under review, the County Planning Department will submit the project to the County Planning Board, for review and recommendation on the use of County funds. After County Planning Board action, legislation is prepared, including receiving an opinion from Bond Counsel, and a Bond Act is submitted for approval to the County Board of Legislators. At the first County Board of Legislators meeting when the legislation is submitted, the Board will assign the legislative package to committee(s) for review. The committee review is generally conducted before the next full Board meeting, to allow for the full Board's consideration at that meeting. Once the Board has approved the Bond Act, the Board Clerk publishes the required notices. After the expiration of the estoppel period, the County's Board of Acquisition and Contract considers the authorization to enter into contracts to provide the funding. If approved, a closing is scheduled to include all parties. Funding is released as reimbursement in accordance with the budget included in the contract for specific eligible activities.

As the County is currently looking at properties with no development approvals in place, and is exploring the development potential of its own sites, factors were developed that will help in the review of each site, identifying the relationship of each potential development site to various planning criteria, including access to sewer and water service, proximity to public transit, the relationship of housing to its surroundings, the proximity to retail services and employment opportunities, and the proximity to community services and schools. No site will be ruled out based only on its proximity to services and infrastructure. These factors will allow the County to better identify timing issues and potential funding and marketing concerns. This "Site Factor Assessment Form" tool is attached as Appendix E-2(v).

Appendix E-2: (i) Flow chart of traditional fair and affordable housing development process; (ii) Summary & Outline of historical funding sources, affordability terms (sale price, rental price, taxes), and timelines for completion of projects; (iii) Summary & Outline of Green Technology in fair & affordable projects; (iv) Westchester County Affordable Housing Program Fact Sheets; (v) Site Factor Assessment Form.

(3) Consideration of Senior Units: Pursuant to Paragraph 7(f) of the Stipulation, no more than 25% of the affordable AFFH units shall be senior units. No funds governed by the Stipulation can be

used for such senior units until 175 non-senior units have received building permits, at which point no more than ninety (90) senior units can receive funding. Additionally, no funding governed by the Stipulation can be used for the balance of allowed senior units until 350 non-senior units have received building permits.

Summary of Action: The County is making the limitations on senior units very clear to all developers and municipalities and actively encouraging municipalities to not place any age restrictions on developments through their approval process.

(4) Criteria for Site Evaluation and Development Feasibility: Pursuant to Paragraph 7(g) of the Stipulation, in the County's facilitation of the development of Affordable AFFH units, priority shall be given to sites within qualifying municipalities and census tracts that are located in close proximity to public transportation.

Summary of Action: The County has begun to identify eligible sites in several ways, but under two general premises:

- (i) County efforts to identify sites
- (ii) other efforts to identify sites

(4)(i) The County's efforts to identify sites to fulfill the required development of 750 Affordable AFFH units is a continuing process: Actions to identify land and/or units may include:

- a) Approaching banking and financial institutions, particularly those that the County has a banking relationship with, to identify vacant or underdeveloped properties that have been actively in default or subject to a foreclosure judgment with ownership transferred to a bank or other entity, with a focus on multi-unit development projects, of both small and large scale, that have stalled or have been abandoned due to economics or local approval process.
- b) Approaching banking and financial institutions, particularly those that the County has a banking relationship with, to identify existing residential units or buildings and non-residential buildings that have been actively in default or subject to a foreclosure judgment with ownership transferred to a bank or other entity, with a focus on multi-unit development projects, both small and large scale, that have stalled or have been abandoned due to economics or local approval process.
- c) Meeting with the owners of privately owned properties that have been or are currently proposed for development that may meet the objectives of the fair and affordable housing. This may be a wide array of projects including projects which are underway (with or without an affordable component) and where the County can facilitate or incentivize the creation of more fair and affordable units.
- d) Identifying and evaluating improved properties identified by the County based on an analysis of existing land use, zoning, infrastructure, physical conditions and related criteria that appear to be suitable for fair and affordable housing.
- e) Identifying vacant properties pursuant to Paragraph 22(a) of the Stipulation, at the parcel level, based on an analysis of existing land use, zoning, infrastructure,

physical conditions, access to public transportation, and related criteria that appear to be suitable for fair and affordable housing. The County has begun this assessment by mapping parcels in the eligible communities that are vacant; within a one mile radius of a Metro-North Railroad train station; within one mile of a county bus route (recognizing that existing bus stops can be changed or additional stops added); and parcels within a multi-family zone. Maps are provided in Appendix E-3.

- f) Meeting with municipalities to demonstrate, through the existing Westchester 2025 program, the ability to enhance existing town centers in the Eligible Municipalities and redevelop mixed use (residential & commercial) properties through the incorporation of affordable AFFH units. This will lead to the examination of the eligible communities with an eye to expanding and enhancing pedestrian and bicycle friendly environments, minimizing reliance on cars for access to services, recreation, and transit.
- g) An evaluation of County-owned property classified as general municipal (non-park) for its suitability for residential development.
- h) Identifying sites which may be suitable for transit oriented development (TOD).
- i) Meeting with the owners of office parks to demonstrate development potential within office park sites.
- j) Identifying improved properties currently for sale at which the market price is at or near the “affordability” standard which may be acquired for use as fair and affordable housing.
- k) Identifying and assessing existing housing and other development opportunities which could be adapted to fair and affordable housing.
- l) Promoting the adoption of the Model Ordinance by municipalities to provide inclusionary zoning, mixed use or “living over the store” and office park housing opportunities.
- m) Extending invitations to meet with developers to provide guidance on eligible areas and criteria for units to meet eligibility requirements as affordable AFFH units.
- n) Identifying and evaluating publicly owned properties that may be residual parcels from the development of some New York State or local municipal infrastructure.

Appendix E-3: (i) Memo from B. Connolly to E. Buroughs identifying data layers for maps; (ii) Map of Current Use of Land in Eligible Communities; (iii) Map of Transportation Features in Eligible Communities; (iv) Map of Areas within one mile radius of Metro North train stations and a Bee-Line bus route in Eligible Communities; (v) Map of County Sewer Districts and Private Sewage Treatment Facilities in Eligible Communities; (vi) Map of Major Water Suppliers in Eligible Communities; (vii) Map of Environmental Features in Eligible Communities; and (viii) Map of FEMA Flood Zones in Eligible Communities

(4)(ii) Other efforts to identify sites for the development of 750 Affordable AFFH units have been initiated and will also be on-going: These efforts include:

- a) Identifying and evaluating publicly-owned sites by the municipality and/or as identified in a comprehensive plan as suitable for multi-family housing.

- b) Identifying and evaluating publicly owned properties that have been or are currently proposed for development that may meet the objectives of the fair and affordable housing. This may be a wide array of projects including projects which are underway (with or without an affordable component) and which the county can facilitate or incentivize the creation of more fair and affordable units.
- c) Responding to requests from realtors, municipalities and developers to evaluate sites that they have available or make known to us.

(5) Criteria for Consideration of Existing Units: Pursuant to Paragraph 7(h) of the Stipulation, no more than 25% of the Affordable AFFH units may be achieved through the acquisition of existing housing units, under the provisions set forth in the Stipulation and Order.

Summary of Action: The County is exploring the opportunity to acquire units under this provision. For the purposes of this Implementation Plan and the Stipulation, an existing unit means a residential unit with a current Certificate of Occupancy as a residential unit. For the purposes of this Implementation Plan and the Stipulation, an existing building that was constructed and obtained a certificate of occupancy for a non-residential use and that is adaptively re-used to create residential units would not have such units counted as existing units.

In evaluating the potential of acquiring existing housing units as Affordable AFFH units, the county will research and obtain a title report that documents that the units, before acquisition, will not have any deed restriction or legal measure that limits the occupancy of the households to incomes at or below 80% AMI. The County will also determine and require that if the units are already affordable to households with incomes at or below 80% AMI, they shall be made affordable through deed restrictions for households at or below 65% AMI for a period of no less than fifty (50) years.

The County recognizes that in acquiring these existing units, there may already be tenants in occupancy, but upon the termination of their lease, the units will be marketed in accordance with the County's Affirmative Fair Marketing Plan.

(6) Criteria for Reconsideration of Previously Excluded Units: Pursuant to Paragraph 8, the County provided HUD with a list of Disallowed Projects effective with the signing of the Settlement Agreement. In accordance with Paragraph 13(h) the County has the opportunity to resuscitate developments on the Disallowed Projects list with compelling evidence that the development is no longer viable and can be developed in the future in a manner that complies with Paragraph 7 by providing financing or other specified means.

Summary of Actions: With respect to the Disallowed Projects List, one project (37 Wildwood Road/Katonah) was previously listed as excluded pursuant to Paragraph 8 of the Stipulation from counting toward the required housing goals identified in Paragraph 7 of the Stipulation because the County had expected NYS DHCR to fund this proposal at the time the list was created. By letter dated December 10, 2009, NYS DHCR advised that the project was not selected for funding. This project is no longer financially viable without the referenced DHCR funding. But with the additional County funding, and renewed funding requests to NYS DHCR, this development can be resuscitated. It is the County's position that this exclusion should be reversed. The nonprofit

developer of this property indicates that they will work with the County and NYS to resuscitate the development in the future. A pro forma of the new financing proposal is included in the Appendix.

The County is also evaluating all the individual census blocks that are excluded through Paragraphs 7(a) and (b) to determine if development in any of these blocks would further the intent of the Stipulation to the extent that a block may contain group quarters that are allowed to be excluded (per Paragraphs 7(a) and (b), but cannot be shown through census data.

Appendix E-4: (i) List of Disallowed Projects; (ii) December 10, 2009 letter from NYS DHCR re: 37 Wildwood/Katonah project; and (iii) New 37 Wildwood Pro forma showing need for FAH funding.

(7) Maximizing the Development of Affordable AFFH Units: Pursuant to Paragraph 22(f) of the Stipulation, the County is required to assess the means by which the County can maximize Affordable AFFH Units in eligible municipalities and census blocks with the lowest concentrations of African American and Hispanic residents.

Summary of Actions: As required, the County conducted a review of all the blocks within the eligible communities to identify those blocks that had the lowest concentrations of African Americans and Hispanics, namely those blocks with 0% of the residents in both categories. These blocks were mapped to identify their location and assess their proximity to other factors for consideration and to pursue eligible parcels in these areas.

It is noted that blocks that have been identified as having African-American and Hispanic populations of 0% are subject to the same potential for undercount as any other census block. Homeless individuals and persons living in illegal or unknown housing units are often not counted, and misrepresentation of households on census forms by the householder often result in undercount. In some cases, undercount is a result of clerical errors, particularly related to group quarters facilities. In Westchester County, the 2000 Census had known issues with the count of group quarters populations. For example, the census block containing Purchase College in the Town/Village of Harrison (which has a sizable student population in residence) and the census block containing the Lincoln Hall School in the Town of Somers (where students are in residence under court orders) were reported to have no population in the 2000 count, possibly due to administrative errors at the schools (i.e. the school told parents to count their children at home as opposed to at the school). These errors are examples of the errors that may occur on a smaller scale elsewhere throughout the county. Recognizing that the blocks with the lowest concentrations of African Americans and Hispanics can be found across Westchester, the County will make every effort to meet with each municipality with such blocks to identify potential sites for development.

The County, through its Housing Opportunity Commission, has developed Fair Share Housing Allocations for every Westchester municipality, with the most recent Allocation having been published in 2005, following the release and review of the 2000 Census data. The allocations for municipalities were established using a comprehensive formula that considered nine (9) different factors including job growth, acres of open space, miles of public Bee-Line bus service, etc. These

numbers have served as guides for the municipalities since the first Allocation was published in 1995.

Discussions will also be undertaken with additional communities on the use of the County's Westchester 2025 planning tools for visualization of potential new development, which includes the ability to produce 3-D renderings of specific development sites and the promotion of sustainable, inclusive communities. In the first year of the Implementation, such discussions have been remarked as being very helpful by several eligible communities.

It is very difficult to estimate the appropriate allocation of the 750 units across the 31 eligible communities. The 31 include seven (7) communities as well as a multitude of Census Blocks that are already more diverse, and therefore only eligible for the potential sixty (60) units allowed by Paragraph 7(c) and potentially the sixty (60) units allowed by Paragraph 7(b). The County considers it to be premature to consider the use of an allocation plan and that the use of this potential tool could be considered in later years of the Stipulation implementation if the County finds that its proposed methods are not successful at identifying enough sites for the development of the required 750 affordable AFFH units.

Appendix E-5: Map of Lowest Concentrations of African Americans and Hispanics.

(8) Post Site-Identification Property Evaluation Process/Criteria: Following identification of appropriate sites, each site is to be evaluated in terms of physical and environmental feasibility including:

- (i) additional census tract & land use research/confirmation of "Eligible Area"
- (ii) local municipal master planning
- (iii) local zoning/density/set back requirements
- (iv) infrastructure/utilities (sewer, water)
- (v) environmental (watersheds/wetlands)
- (vi) geography, geology, topography
- (vii) roadway access
- (viii) land use (history/legal concerns)
- (ix) municipal & community input
- (x) where applicable, State cooperation

(9) Post Site-Identification Financial Considerations: In addition to site-specific issues, each proposed project must be evaluated for fiscal feasibility in terms of: (1) funding sources; (2) appraised value; (3) purchase price; (4) development costs; (5) affordability levels consistent with the terms of the proposed settlement; and (6) municipal concerns.

More guidance will be offered to municipalities on the opportunity to use the Westchester Housing Land Trust as a means to manage and maintain affordable housing opportunities. (The Westchester Housing Land Trust has been incorporated as a non-profit organization but is currently dormant.) The organization may prove useful as a venue in this implementation. As municipalities evaluate their existing land holdings, including residual parcels left over from previous road or other

development, or *in rem* parcels from tax foreclosures, the Westchester Housing Land Trust could accept properties for development of affordable AFFH units. There are several advantages to using the Westchester Housing Land Trust for properties. By using the land trust, the municipalities could be saved the burden of having to expand their municipal staff to include housing staff to manage applications and process resales of homeownership units and turnover in rental units. Additionally, the land trust, through its covenants could achieve affordability for extended periods, for those developments where affordability in perpetuity is desired.

(10) Presumptions for Stipulation Compliance: Included in the Appendix is a definition of 'households' approved by HUD, an explanation of the Westchester County occupancy standard, a list of Westchester County current/active fair and affordable housing projects and a list of County-owned parcels.

Appendix E-6: (i) NYS definition of 'households' approved by HUD; (ii) Westchester County occupancy standard; iii) List of Current/Active fair & affordable housing projects as of January 25, 2010; and (iv) List of County-owned parcels.

F. FINANCING THE FAIR & AFFORDABLE HOUSING UNITS

(1) 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 County recognizes that the eligible uses of this funding 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). There are currently no eligible CBDOs in Westchester County, but the County will explore opportunities to create eligible entities for these development purposes and will work with HUD to determine if some of the existing Community Housing Development Organizations (CHDOs) in the County might qualify as a substantial equivalent for a broader use of the CDBG funding.

The County has begun and will continue to work with developers to identify appropriate sites for acquisition, any needed demolition and/or clearance 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 costs for land acquisition with approvals on the property, will be approximately \$50,000 per unit, while the cost of providing infrastructure (parking, lighting, utilities, landscaping, etc.) will be approximately \$25,000 - \$30,000 per unit depending on the type of parking (surface or deck) and number of spaces required. The County has not regularly funded architectural work on infrastructure only items, but estimates that engineering work on infrastructure only items, will be approximately 8-12% of the total construction budget, with inspection fees associated with construction management being another 8-10% of the total construction budget.

Developers will submit pro formas for each property that will be underwritten by Planning Department Housing staff, based on a software program provided by Community Preservation Corporation, which also trained the Housing staff several years ago. Before that underwriting is complete, other staff of the Department, including the Rehabilitation Specialist, the Landscape Architects and Planners 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 and other industry standards, including other recent bid results for similar improvements.

Each development will include 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 have a title search, appraisal and environmental assessment completed prior to any purchase.

When County funding approvals are sought, the County will send a Funding Advisory to the Federal Monitor to advise him that a development is ready to move forward and with what funding commitments from the County. The County Executive's office will seek recommendation of a Capital Budget Amendment from the County Planning Board, then submit legislation for approval to 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.

The County may pursue with the Board of Legislators, establishing a portion of this FAH CDBG funding for the purchase and rehabilitation of foreclosed properties in each of these communities, similar to HUD's Neighborhood Stabilization Program (NSP). When County staff review the properties with foreclosure judgments each month filed in the County Clerk's office, opportunities may be identified to purchase existing properties that will require much shorter time periods to achieve the goal of providing affordable AFFH units in eligible communities. Purchase and ultimate resale of foreclosures is anticipated as a reasonable means of establishing a Revolving Loan Fund that will be replenished in a timeframe that will work well for this Stipulation's implementation.

Each property developed or rehabilitated will have a separate contract for each source of funding, including a line item budget so that the funds are tightly managed and the opportunity exists 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.

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.

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.

The County was notified by HUD in November 2009, that this CDBG funding has time restrictions for spending because of the CDBG program regulations. With HUD's First In First Out financing system, and the County spending on its regular CDBG program, the County does not anticipate at this time that the first spending deadline of September 2011, or subsequent September deadlines will be a problem, but note that we are cognizant of these deadlines imposed by the program regulations.

It is very difficult to estimate the appropriate allocation of the use of these funds, but a reasonable estimate on the use of these funds might be \$2.5 million to establish a revolving loan fund through the purchase and rehabilitation of foreclosures; \$11.1 million for land acquisition, and \$8 million for public infrastructure improvements. 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.

(1)(a) 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 Account 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.

(2) 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 if 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 review and underwriting of the pro formas for developments that will use these funds, is the same as identified above. 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 3 to 5 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 very difficult to estimate the appropriate allocation of the use of these funds, but a reasonable estimate based on the County's previous experience, on the use of these funds might be \$12 million for land acquisition and \$18 million for public infrastructure improvements, as the County has found that more development need infrastructure funds only. 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.

(3) 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 5 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 are being evaluated for maximum coverage.

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

It is very difficult to estimate the appropriate allocation of the use of these funds, but a reasonable estimate on the use of these funds might be \$250,000 for the development and implementation of a public relations campaign, and \$150,000 on the education requirements. 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.

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

(4) Exploration of Alternative Financing & Development Methodologies: Pursuant to Paragraph 5, 6, 7(i) and 22(e) of the Stipulation, the County is required to secure resources for the development of units and financial or other incentives to leverage the County funds.

Summary of Action: 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 Stipulation. 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.

The County has a regular dialogue with the staff at NYhomes and the NYS Division of Housing and Community Renewal on projects that are looking for mutual funding. The County has allowed developers to forgo using the County's application forms, and will instead accept copies of application packages prepared by developers for state financing submissions. Developers are encouraged to submit information simultaneously to both NYS and the County, so we can be sure we have the most updated information.

The County, recognizing how important the other funding opportunities are, has funded the Housing Action Council for a significant number of 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. Current consultants under contract with the County include 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, and a housing planning consultant with many years of experience as a Commissioner of Planning and Development for several Westchester municipalities, who assists with site feasibility and the work of the Housing Opportunity Commission.

The County has already demonstrated through its first two Quarterly Reports, its commitment to spend other funds to leverage the resources required by the Stipulation to achieve the overall objectives of the Stipulation. The County expects to expend its full HOME allocation for at least the next six (6) years 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.

The County has also already allocated \$150,000 in additional resources to be added to the Revolving Loan Fund for affordable housing projects feasibility already administered by the non-profit housing agency Community Capital Resources (CCR). These funds were allocated through the regular FY 2009 and FY 2010 annual CDBG program allocation and expect to be drawn down by the agency in 2010 for their initial use on potential affordable AFFH units. These additional funds, will 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 (20) years, and has a housing committee and Board of Directors that includes representatives from a number of banking and financial institutions that review the financial feasibility of the affordable housing development that come to them for financial support. Most of the developments in Westchester County that go to CCR also usually request funding from the County, but this is not always the case.

The County also expects that it will continue the relationship with Community Preservation Corporation (CPC) that it has enjoyed for a number of years now. In previous years, CPC staff has trained the County's new Housing Staff on how to underwrite the financial feasibility of a proposed housing development, and has provided software resources that the county has used for a number of years. 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 so low, 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 must 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. While the current economic climate may not be conducive to a revisit of this program during the first few years of the Stipulation Implementation, 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.

Appendix F-1: Federal and State Housing Funding Sources

(4) (a) 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, but 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 (15) 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 support the Revolving Loan Fund for feasibility that has been offered by 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 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, which funds could include the \$21.6 million in County-bonded funds which are now deemed to be a CDBG fund pursuant to Paragraph 2 of the Stipulation. The decision to utilize revolving fund mechanisms in those instances shall be made as appropriate, on a project-by-project basis, where 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 debt, usually cannot fund it in the first ten (10) 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.

(4)(b) 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 is scheduled. 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.

G. AFFIRMATIVE MARKETING & HOUSING OUTREACH

(1) Plan to affirmatively market fair and affordable housing: Pursuant to Paragraph 33(e) of the Stipulation, the County must establish a plan/process for affirmatively marketing housing within the county and in geographic areas with large non-white populations outside, but contiguous or within close proximity to the county, including a requirement that all agreements with developers must include a commitment to conduct such affirmative marketing.

Summary of Action: The County Planning Department has amended its Fair and Affordable Housing Affirmative Marketing Plan for use in all developments that include county funding or participation. The Plan outlined in this section shall become a policy of the County of Westchester, and shall be implemented continuously for all future fair and affordable housing projects to which the County is a party. Developers or other professional entities which receive funding by or through the County of Westchester for the development of fair and affordable housing units shall be required to comply with the provisions of this Plan. This Plan will be shared with the other local CDBG entitlement cities, encouraging their adoption of same, as funding is frequently provided by both the County and local CDBG entitlements.

The Affirmative Marketing Plan has been further amended to reflect that in addition to conducting marketing in counties contiguous with Westchester, all the boroughs of New York City should be included. Marketing will also be done through local businesses, particularly the non-profit and institutional entities within the County, as the staff salaries at these agencies is usually more in line with the allowable standards of the County's programs. The Plan has also been amended to better detail the County's role in marketing of the available respective units, including additional advertising to be done by the County, especially with electronic tools.

In the past few months, the County has had the ability to "test" the formatting of its proposed Affirmative Marketing Plan as two non-eligible developments have moved forward and closed on their County financing. One of these developments is in an eligible community, and the proposed 16 page Affirmative Marketing Plan developed into a 28 page real plan of action for this development of 72 units. The other development is in Mount Vernon, where the Least Likely to Apply is very different from those in the eligible communities, so the Affirmative Marketing Plan was prepared to address a very different population.

The County will monitor the use of the Fair and Affordable Housing Affirmative Marketing Plan regularly through the final stages of construction of any units, withholding funding if appropriate. Ultimately, the County will monitor compliance with the developer's review and certification of each tenant and homeowner selected for occupancy of the units and will deny occupancy to proposed tenants and homeowners if the marketing of the development was not completed in an appropriate manner.

Full time employee: Director of Program Development II (Housing & Planning). Job responsibility: this person has the responsibility to oversee the affirmative marketing activities for affordable AFFH developments

Appendix G-1: Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

(2) Plan to centralize intake of potential home buyers for housing and other outreach activities that will ensure AFFH, including housing counseling: Pursuant to Paragraph 33(f), the County is required to establish a plan to centralize intake of potential home buyers, disseminate information regarding community resources, job data by municipality, home-buyer counseling and housing under development.

Summary of Action: The County Planning Department is working with the County Information Technology Department to develop a software package that will enable interested prospective home buyers to enroll for consideration of purchasing a fair and affordable housing unit and access housing counseling through HUD-certified housing counseling agencies. The system will allow for e-mail alerts to be sent to registrants to advise them of opportunities for training, new development under construction and other appropriate community resources. When completed, the system will be available through any computer terminal with web access, including libraries and public computer rooms, but the actual data contained within the site will be limited to the specific user through password protections. Interested households without web access will be able to be assisted through public computers, friends or relatives with web access, or through the assistance of the four HUD-certified housing counseling agencies. The software package is currently in development and is expected to be available on-line by September 1, 2010. The County will explore the expanded use of this software package, or an alternative package to collect information on interested potential rental households.

The County anticipates that when completed, this software package will be able to assist developers with the contact information for interested potential homeowners that might not have previously considered a development in the community where the units are located. The tool will also provide an avenue for existing owners of affordable AFFH units to market their units for resale, providing for a much broader marketing than a private homeowner would have been able to afford previously.

A second related computer based program has also been reviewed with the County Information Technology Department. This second package, when fully developed, will allow anyone interested to be able to see fair and affordable units that are in construction, or available through resale, through the visual use of photographs, mapping and satellite imagery. Through its use, residents will be able to get real information on what assets and opportunities may await them in a community they may never have considered living in before. Data layers will be easily added to show amenities in the local area around the fair and affordable housing units, including, schools, retail centers, houses of worship, day care facilities, and public transportation routes. When operational, this software will help a family better “see” the offerings of a community – potentially in 3-D, as the mapping and dimensional work is completed by the Planning Department with the expanded use of Westchester 2025. The software package is expected to begin programming shortly. The County expects that this software will be regularly used by residents, but also by the housing counselors at the non-profit housing agencies who offer first time home buying classes, and certify the eligibility of families for homeownership opportunities. The County will work with the four (4) HUD certified Housing counseling agencies in the County to develop a housing mobility counseling protocol, so that each agency offers a consistent service.

Full time employee: Director of Program Development II (Housing & Planning). Job responsibility: this person has the responsibility to oversee the activities of the housing counseling agencies.

Appendix G-2: Centralized Intake & Housing Outreach Plan.

H. GENERAL OUTREACH & EDUCATION EFFORTS

(1) General Outreach Efforts: The County is required to undertake certain general outreach efforts including:

Stipulation reference	Outreach obligation
Paragraph 33(a)	Solicit CDBG proposals that would AFFH from community leaders and public interest groups
Paragraph 33(b)	Advertise rights of persons to redress allegations of discrimination
Paragraph 33(c)	Create and fund campaigns to broaden support for fair and affordable housing and to promote fair and equitable distribution of housing in all communities, including public outreach specifically addressing the benefits of mixed-income housing and racially and ethnically integrated communities
Paragraph 33(d)	Educate realtors, condo/coop boards and landlords with respect to fair and affordable housing activities
Paragraph 33(h)	Pay for consultants and public education, outreach and advertising to AFFH out of County resources and CDBG funds over five years, excluding the funding dedicated to the development of housing as set forth in Paragraphs 2, 3 and 5 of the Stipulation, in an amount not less than \$400,000

Summary of Action: The County has evaluated its existing contracts with HUD-certified housing counseling agencies and the existing opportunities within County resources to provide these resources. A meeting was conducted with the County’s new Communications Director to begin the process of developing a comprehensive advertising and education campaign. A Fair Housing Outreach and Education Plan is attached as Appendix H-1(i).

With regard to compliance with Paragraphs 33(b), 33(c), and 33(d), and 33(h) of the Stipulation, the County is preparing a plan of action for increased public education, outreach and advertising in the realm of fair housing, housing discrimination and housing opportunity as required by the Stipulation. The County will include in future reporting an accounting of the actions taken and amounts spent in furtherance of its Paragraph 33(h) obligations. The County will complete the implementation of the Centralized Intake Tool, referenced in Section G(2), above, simultaneously with Paragraph 33(h) efforts. The County wants to ensure that a systematic, online tool is operational and available as a resource for those persons whose interest is captured by the County’s comprehensive educational and outreach efforts and so that branding of the program materials precedes individual efforts.

Consideration is being given to hiring an advertising agency with experience in outreach to underrepresented populations to assist the County with the development of a multi-faceted outreach and education campaign to maximize the County’s financial investment. The County is hoping to attract additional financial support from banking and financial institutions with mortgage and construction lending departments who might benefit from Community Reinvestment Act

contributions. The County will report on its actions relative to the hiring of an advertising agency and the development of the advertising campaign in its future Quarterly Reports.

The County Executive, during his first few months in office, took the opportunity to meet with a number of organizations that represent the interests of the minority populations for whom the County is trying to provide new housing opportunities. Among the individuals and groups the County Executive has already met with are the African American Advisory Board, the African American Men of Westchester, a Hispanic roundtable and church leaders. The initial meetings were primarily to meet the Board members and hear their concerns. Follow-up meetings with each group and additional interest groups, such as clergy groups and non-profit housing agencies who assist families looking for help with housing, will be conducted to discuss the Implementation efforts and to solicit input on any adjustments needed and concerns that may surface.

The County has also relied on the County's Housing Opportunity Commission (HOC) as a resource. HOC is a volunteer advisory body that was convened to oversee and provide recommendations and guidance on the County's housing and homeless programs. The HOC role has included undertaking Affordable Housing Needs Assessments, an allocation plan and educational outreach to municipalities and developers. Reauthorization of the Commission was approved by the County Board of Legislators on June 7, 2010. The Commission's role was revamped to encourage the Commission to continue and expand its advisory role in aspects of the Implementation of the Settlement. Local Law No. 9-2010 amending the Laws of Westchester County is attached as Appendix H-1(ii)

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

Appendix H-1 (i) Fair Housing Outreach & Education Plan; and (ii) Local Law No. 9-2010 Amending the Laws of Westchester County.

I. ANALYSIS OF IMPEDIMENTS

Pursuant to Paragraph 32 of the Stipulation, the County is required to complete an Analysis of Impediments (“AI”) within its jurisdiction that complies with the guidance in HUD’s Fair Housing Planning Guide, in a form that is deemed acceptable by HUD. As part of the AI, the County is required to:

- (a) Commit to collecting data and undertaking other actions to facilitate the implementation of the Stipulation; and
- (b) Analyze fair housing impediments, take appropriate actions and analyze the potential need for, and provision of, mobility counseling.

Summary of Action: The County submitted a draft AI to the United States Department of Housing and Urban Development (“HUD”) in May of 2009. Due to the ensuing activities associated with the settlement of the litigation which resulted in the Stipulation, HUD did not issue comments on that draft AI until October 26, 2009, when it forwarded a 12-page summary of its required revisions to the County. Upon review of HUD’s comments, the County immediately concluded that expert assistance would be required to undertake the very complex statistical and analytical work required by HUD. To that end, the County immediately contacted HUD to request a list of AI consultants and industry experts who could assist the County in completing this task. Beginning on November 4, 2009, when HUD forwarded a list of persons and entities with an expertise in AI production and review, the County began a process of outreach to a panel of experts, including those recommended by HUD and others with which the County has direct contact. This process extended through November 18, 2009 and resulted in the receipt of preliminary proposals/responses from only three (3) out of nine (9) of the experts contacted.

Notably, each of the three responding experts submitted written comments which specified that the AI revisions and enhancements required by HUD could not be completed by January 30, 2010. In fact, the common wisdom among these experts was that a range of four (4) to nine (9) months, with an average recommendation of six (6) months, would be required for the necessary work to be undertaken and a final AI to be produced. None of these experts were willing to attempt the job with a deadline of January 30, 2010. Given the independent review and uniform conclusions of multiple industry experts, it seemed clear that the County could not produce an AI document which would satisfy HUD if the January 30, 2010 deadline remained unchanged.

In light of the above, the County issued a letter to HUD on December 8, 2009 seeking an extension of the deadline which applied to the County’s obligations pursuant to Paragraph 32 of the Stipulation. By letter dated, December 18, 2009, HUD granted the County an extension for the submission of the revised AI to June 30, 2010. Specifically, that December 18 extension required the County to select a contractor and execute a contract for the AI revisions by January 31, 2010 and produce an updated AI by June 30, 2010.

On December 23, 2009, the County issued an RFP for the revised AI which cited the revised deadline of June 30, 2010. Proposals were due on January 20, 2010, and three (3) proposals were received by the County. From those issuing proposals, the County selected W. Frank Newton, Inc.,

and submitted a resolution to the County Board of Acquisition & Contract on January 26, 2010 to authorize the County to contract with W. Frank Newton, Inc. That resolution was approved on January 28, 2010, and the contract was executed on January 29, 2010.

A completed revised Analysis of Impediments was delivered to HUD and the Federal Monitor on July 23, 2010. The document is available for review on the County's website.

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

Appendix I-1: (i) A copy of HUD's October 23, 2009 comments on County's May 2009 draft AI; (ii) the County's December 8, 2009 extension request; (iii) HUD's December 18, 2009 extension approval letter; (iv) a copy of the County's RFP, dated December 23, 2009; (v) a copy of the resolution of the Westchester County Board of Acquisition & Contract approving the AI consultant; and (vi) a copy of the County's executed contract for services with W. Frank Newton, Inc .

J. STATUS OF SITES PRESENTLY UNDER ACTIVE CONSIDERATION FOR DEVELOPMENT OF FAIR & AFFORDABLE HOUSING

The release of information regarding site-specific inquiries and preliminary transactional terms could impair the viability of potential projects. Specifically, disclosure of developing project concepts and terms could operate to influence competition for the parcels in question, impact acquisition and/or price terms, and jeopardize the County's ability to facilitate the development of fair and affordable housing on such sites totally or within the specified deadlines. Therefore, the County shall provide the Monitor with regular updates through the quarterly reports as to developing project concepts and transactions, as the Monitor deems necessary, in a manner which will not operate to jeopardize the development of the housing units required by the Stipulation.

K. LONG-RANGE TIMETABLES AND BENCHMARKS

Pursuant to Paragraphs 19, 23 and 24, the Implementation Plan must also include long-range timetables and benchmarks for compliance with the requirements of the Stipulation, including benchmarks for:

- (a) The first six months of the Stipulation (*technically as of February 10, 2010*)
- (b) Year One of the Stipulation
- (c) Each subsequent Year of the Stipulation
- (d) Annual Calendar Year end compliance (starting December 31, 2011) with benchmarks for units in process.

Throughout this Plan are summaries of actions taken since entering of the Stipulation, with respect to the specific activities required in the Stipulation. These actions to date have laid substantive groundwork for the County to meet its obligations under the Stipulation. Over the next year, the County will: finalize the Analysis of Impediments; continue meeting with developers and municipalities; continue identifying and evaluating sites for development potential; complete the design of and bring on-line the central intake system for interested homebuyers; promote the model ordinance; develop and implement the outreach and advertising campaign; formalize and implement the education campaign for realtors, cooperative boards and landlords; and secure financing for developers to begin construction on their developments that will create affordable AFFH units.

With respect to the development of Stipulation-compliant housing units, it is critical to note that the Stipulation itself provides very specific and ambitious benchmarks for the development of the required housing units, and specifically with regard to the deadlines for securing both financing and building permits for the required units, as follows:

By end of calendar year:	Sites with financing in place (#) of units	Units with building permits in place
2010		
2011	100	50
2012	200	125
2013	300	225
2014	450	350
2015	600	525
2016	750	750

The County began providing quarterly reports on March 31, 2010, to the Monitor to report on the progress made toward the benchmarks stated above related to the development of fair and affordable housing units, and all the required actions of the Stipulation not already completed. The quarterly report identifies the progress of each site (and unit) that will comply with the Stipulation, and reports on the status of other activities required by the Stipulation and on meetings the County holds with developers and municipalities. The County recognizes that tracking the actions taken toward completing the other required activities can show if an action is on target for completion. As

such, this Implementation Plan will lay out additional shorter term targets and timetables to show the actions the County will take to complete the required activities.

To assure that the County will meet the required 100 units with financing in place and 50 units with building permits in place, the County recognizes that many smaller targets need to be set. Specifically, the County will report on a quarterly basis the following:

- (a) the number of meetings held with municipalities on general planning issues and on specific sites and developments, including follow-up meetings on sites; the County anticipates it will conduct at least five (5) meetings or discussions with municipalities on such issues in each quarter for at least the first two (2) years;
- (b) the number of meetings held with developers on general guidance and on specific sites and developments, including follow-up meetings on sites; the County anticipates it will conduct at least ten (10) meetings or discussions with developers on such issues in each quarter for at least the first two (2) years;
- (c) meetings with financing agencies and lenders; the County expects it will conduct frequent progress meetings or discussions on a regular basis routine with such agencies and lenders.
- (d) submission to financing agencies and lenders, including letters of support for applications submitted by developers or other development partners; recognizing that application rounds are cyclical, and not generally open year round, the County expects it will make funding submissions and provide support letters on development proposals as appropriate;
- (e) County Planning Board reviews and action;
- (f) Submission of legislative packages by the County Executive to the Board of Legislators and their respective reviews and actions;
- (g) real estate closings;
- (h) construction financing closings (these last two may be done simultaneously if county funding is involved in both); and
- (i) the filing of 50 year restrictive covenants; which will be filed on all of the 750 units.

The County will also report on actions taken by developers. It is the County's intention to encourage developers to report on local obstacles or issues as they have a financial stake and may be a more reliable source of reporting. Items they will report on include:

- (a) developer submissions to a municipality;
- (b) municipal meetings including initial and informal reviews, various board discussions, public hearings, zoning and other site related actions;
- (c) SEQR compliance steps (submission of EAF, classification of action, lead agency determinations and EIS, if required);
- (d) Submissions to financing agencies and lenders which will meet the minimum standards established above;
- (e) Problems encountered in getting municipal approvals; and
- (f) Issuance of municipal building permits, which will meet the minimum standards established above.

On the programmatic requirements, the county will report on actions taken to complete the required activities, included in Paragraphs 25, 32, and 33 of the Stipulation. Specifically the County will report on a quarterly basis, as appropriate, actions it will undertake including:

- (a) Promotion of the Model Ordinance;
- (b) CDBG allocation process/plan designed to promote activities that AFFH;
- (c) Completion of the Analysis of Impediments;
- (d) Solicitation of CDBG proposals that would AFFH
- (e) Advertise the rights of all persons to fair housing and avenues to redress allegations of housing discrimination;
- (f) Create and fund advertising campaigns to broaden support for fair housing and to promote the fair and equitable distribution of affordable housing in all communities;
- (g) Educate realtors, condominium and cooperative boards and landlords with respect to fair and affordable housing activities;
- (h) Affirmatively market affordable housing within Westchester and in geographic areas with large non-white populations contiguous or within close proximity to the county, including requirements that the developer meet these same affirmative marketing requirements and hire consultants to carry out outreach activities, where appropriate; and
- (i) Centralize the intake of potential home buyers for affordable housing that AFFH;

The County expects to track the status of all the units and the categories under which the qualify through a reporting form that was used in both of the first two (2) Quarterly Reports and is included as Appendix K-1. This form allows for the easy tabulation of units by their categories of eligibility as allowed in Paragraph 7 of the Stipulation.

The County notes that it intends to have a continuous and open dialogue with both the Monitor and HUD throughout the course of the implementation of the Stipulation so that those parties will have ongoing familiarity with the status of the County's progress at any given point in time. As specific issues and questions of eligibility come up, the County has created a process of submitting questions to HUD and/or the Federal Monitor for clarification. The County notes the comments of the Federal Monitor in his July 7, 2010 Report to the Court, following the initial submission of the "Inquiries to Monitor" dated June 7, 2010, and will provide the additional information requested. The County may amend or adjust documentation produced in connection with this Implementation Plan from time to time due to circumstances which may trigger or warrant such adjustments, such as change of law or in consultation with the federal government. The County shall provide both the amended/adjusted document, along with an explanation of the rationale for such amendments/adjustments, as part of its regular quarterly reporting process under the Stipulation.

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

Appendix K-1: FAH Site Tracking Form