

RESOLUTION
(DETERMINATION & FINDINGS)

A meeting of the City of White Plains Urban Renewal Agency was convened on December 5, 2019 at 9:30 a.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION 06-2019

RESOLUTION AUTHORIZING THE ADOPTION AND PUBLICATION BY THE CITY OF WHITE PLAINS URBAN RENEWAL AGENCY OF THE DETERMINATION AND FINDINGS (AS DEFINED BELOW) UNDER SECTION 204 OF THE NEW YORK EMINENT DOMAIN PROCEDURE LAW CONCERNING THE PROPOSED CONDEMNATION OF CERTAIN REAL PROPERTY CONSISTING PRINCIPALLY OF APPROXIMATELY 4.18 ACRES IN CONNECTION WITH THE PROJECT (AS DEFINED IN THE DETERMINATION AND FINDINGS)

WHEREAS, pursuant to Section 583 of the General Municipal Law of the State of New York, the **CITY OF WHITE PLAINS URBAN RENEWAL AGENCY** (hereinafter the "Agency") was established for the accomplishment of any or all of the objectives or purposes specified in General Municipal Law Articles 15 and 15-a (each as may be amended from time to time and hereinafter collectively called the "Act") which authorizes the Agency "to acquire or contract to acquire from any person, firm, corporation or government, by subsidy, contribution, gift, grant, bequest, devise, purchase, pursuant to the provisions of the eminent domain procedure law, or otherwise, real or personal property or any interest therein..." necessary or convenient to carry out and effectuate the purposes and provisions of the Act; and

WHEREAS, the Agency desires to exercise its power of eminent domain, if necessary, for the "acquisition" of all or portions of certain "real property" (as such quoted terms are defined in the New York Eminent Domain Procedure Law, herein the "EDPL") located in the City of White Plains, Westchester County, State of New York (the "City") and comprising approximately 4.18 +/- acres of real property, and consisting of thirteen (13) tax parcels identifiable by the following street addresses and tax identification numbers: (1) 223-225 Dr. Martin Luther King Jr. Boulevard (being the approximate 1.52-acre southern portion identifiable by section, block and lot number ("SBL") 125.83-7-1), (2) 1-3 East Post Road (being approximately 0.12-acres identifiable by SBL 130.27-10-1), (3) 2-4 East Post Road (being approximately 0.12-acres identifiable by SBL 130.27-2-10), (4) 60 East Post Road (being approximately 0.37-acres identifiable by SBL 130.27-2-2), (5) 42 East Post Road (being approximately 0.24-acres identifiable by SBL 130.27-2-3), (6) 34 East Post Road (being approximately 0.26-acres identifiable by SBL 130.27-2-4), (7) 26-28 East Post Road (being approximately 0.20-acres identifiable by SBL 130.27-2-5), (8) 22-24 East Post Road (being approximately 0.16-acres identifiable by SBL 130.27-2-6), (9) 18-20 East Post Road (being approximately 0.15-acres identifiable by SBL 130.27-2-7), (10) 14-16 East Post Road (being approximately 0.20-acres identifiable by SBL 130.27-2-8), (11) 12 East Post Road (being

approximately 0.15-acres identifiable by SBL 130.27-2-9), (12) 184-188 South Lexington Avenue (being approximately 0.17-acres identifiable by SBL 130.27-8-2) and (13) 190-192 South Lexington Avenue (being approximately 0.52-acres identifiable by SBL 130.27-8-3) (collectively referred to as the "Parcels"), all in connection with the Project (as defined in the hereinafter defined Determination and Findings); and

WHEREAS, in accordance with the EDPL, the Agency conducted a duly noticed public hearing on September 5, 2019 at 10:00 a.m. to inform the public and to review the public use, benefit or purpose to be served by the Project, the proposed location of the Project and its general effect on the environment and the residents of the locality where the Project is proposed to be constructed and at the public hearing, the public was provided an opportunity to provide any comments and written comments were accepted by the Agency through September 16, 2019 (such comment period collectively with the aforementioned hearing record hereinafter referred to as the "Hearing"); and

WHEREAS, by resolution adopted prior hereto on December 5, 2019, the Agency, in accordance with the EDPL and pursuant to the New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617.1 et seq., as amended (collectively referred to as "SEQRA"), issued a Negative Declaration (as that term is defined under SEQRA) determining that the Project is an Unlisted Action which will not result in any significant adverse impact to the environment, thereby satisfying the applicable requirements set forth in SEQRA, as necessary; and

WHEREAS, the Agency, having considered the foregoing, now desires to adopt and publish the Determination and Findings in accordance with the EDPL and any applicable laws, rules or regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF WHITE PLAINS URBAN RENEWAL AGENCY AS FOLLOWS:

Section 1. The Agency, pursuant to Section 204 of the EDPL, hereby (i) adopts the determination and findings in the form presented at this meeting with such changes as approved by counsel to the Agency (the "Determination and Findings") as more fully set forth in Exhibit A annexed hereto and made a part hereof and (ii) authorizes its members, officers, employees and agents of the Agency (including Corporation Counsel and Special Counsel to the Agency) to: (A) publish a brief synopsis of the Determination and Findings; (B) mail notice of such brief synopsis to owner(s) of the Parcels (and/or their attorney of record); and (C) take all steps appropriate to comply with applicable provisions of the EDPL and all other applicable laws, rules or regulations to implement this Resolution.

Section 2. This Resolution shall take effect immediately.

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The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
Hon. Thomas M. Roach, Chair	[✓]	[]	[]	[]
Norman Dichiara	[✓]	[]	[]	[]
Walter Eddie	[✓]	[]	[]	[]
James Glatthaar	[✓]	[]	[]	[]
Daniel Moriarty	[]	[]	[]	[✓]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(DETERMINATION & FINDINGS)

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

The undersigned, being the acting Assistant Secretary and Executive Director of the City of White Plains Urban Renewal Agency, DOES HEREBY CERTIFY THAT:

I have compared the foregoing extract of the minutes of the meeting of the City of White Plains Urban Renewal Agency (the "Agency") including the resolution contained therein, held on December 5, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject in matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal, if any, of said Agency this 5th day of December, 2019.



Christopher N. Gomez, AICP
Executive Director & Acting
Assistant Secretary

EXHIBIT A

Form of Determination and Findings

Attached Hereto

DETERMINATION AND FINDINGS OF THE CITY OF WHITE PLAINS URBAN RENEWAL AGENCY ADOPTED PURSUANT TO SECTION 204 OF THE NEW YORK EMINENT DOMAIN PROCEDURE LAW FOR THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF WHITE PLAINS, WESTCHESTER COUNTY, STATE OF NEW YORK COMPRISING THIRTEEN (13) TAX PARCELS COMPRISING APPROXIMATELY 4.18 ACRES.

Overview and Background

By Section 583 of the General Municipal Law of the State of New York, the City of White Plains Urban Renewal Agency (hereinafter referred to as the "Agency") was established for the accomplishment of any or all of the objectives or purposes specified in General Municipal Law Articles 15 and 15-a (each as may be amended from time to time and hereinafter collectively referred to as the "Act") which authorizes the Agency "to acquire or contract to acquire from any person, firm, corporation or government, by subsidy, contribution, gift, grant, bequest, devise, purchase, pursuant to the provisions of the eminent domain procedure law, or otherwise, real or personal property or any interest therein..." necessary or convenient to carry out and effectuate the purposes and provisions of the Act. In particular, the purpose of providing the Agency with such powers is to, among other things, enable the Agency to carry out urban renewal programs which under the Act includes, but it not limited to, the following:

A program established, conducted and planned by a municipality for the redevelopment, through clearance, re-planning, reconstruction, rehabilitation, and concentrated code enforcement, or a combination of these and other methods, of substandard and insanitary areas of such municipalities, and for recreational and other facilities incidental or appurtenant thereto, pursuant to and in accordance with article eighteen of the constitution and this article. The terms "clearance, re-planning, reconstruction and rehabilitation" shall include renewal, redevelopment, conservation, restoration or improvement or any combination thereof. (Section 502 of the General Municipal Law of the State of New York)

The Agency desires to exercise its power of eminent domain, if necessary, for the "acquisition" of all or portions of certain "real property" (as such quoted terms are defined in the New York Eminent Domain Procedure Law, herein the "EDPL") located in the City of White Plains, Westchester County, State of New York (the "City") and comprising approximately 4.18 acres of real property, and consisting of thirteen (13) tax parcels identifiable by the following street addresses and tax identification numbers (collectively, the "Parcels"): (1) 223-225 Dr. Martin Luther King Jr. Boulevard (being the approximate 1.52-acre southern portion identifiable by section, block and lot number ("SBL") 125.83-7-1), (2) 1-3 East Post Road (being approximately 0.12-acres identifiable by SBL 130.27-10-1), (3) 2-4 East Post Road (being approximately 0.12-acres identifiable by SBL 130.27-2-10), (4) 60 East Post Road (being approximately 0.37-acres identifiable by SBL 130.27-2-2), (5) 42 East Post Road (being approximately 0.24-acres identifiable by SBL 130.27-2-3), (6) 34 East Post Road (being approximately 0.26-acres identifiable by SBL 130.27-2-4), (7) 26-28 East Post Road (being approximately 0.20-acres identifiable by SBL 130.27-2-5), (8) 22-24 East Post Road (being approximately 0.16-acres identifiable by SBL 130.27-2-6), (9) 18-20 East Post Road (being approximately 0.15-acres identifiable by SBL 130.27-2-7), (10) 14-16 East Post Road (being approximately 0.20-acres identifiable by SBL 130.27-2-8), (11) 12 East Post Road (being approximately 0.15-acres identifiable by SBL 130.27-2-9), (12) 184-188 South Lexington Avenue (being approximately 0.17-acres identifiable by SBL 130.27-8-2) and (13) 190-192 South Lexington Avenue (being approximately 0.52-acres identifiable by SBL 130.27-8-3), all in connection with a certain future potential project(s) (collectively, the "Project") consisting of facilitating and promoting the productive use of the Parcels, which are currently underutilized, through municipal and/or commercial economic development projects (and/or such other

projects as may be authorized under the Act and/or other applicable law) in connection with serving the public use, benefit or purpose described herein.

The Parcels are located between and/or nearby two critical City institutions, the White Plains Hospital (the largest employer in the City) and the White Plains Housing Authority's Brookfield Commons (formerly Winbrook) Campus. Currently, the areas of such institutions surrounding the Parcels are in the process of being redeveloped through economic revitalization and expansion projects, thereby promoting growth of local industry, and otherwise improving the overall prosperity of the City and the surrounding community. The Agency has proposed to acquire the Parcels for the purpose of furthering economic development in the City, including, as appropriate, complimenting any public purpose contemplated by and consistent with the goals, strategies and objectives of the City's Comprehensive Plan, adopted September 8, 1997 (last updated August 12, 2012), the Post Road/South Lexington Urban Renewal Plan for the Post Road/South Lexington Urban Renewal Project No. 12 (WPUR-12), the East Post Road Urban Renewal Project (WPUR-9) and/or any other applicable plan and/or urban renewal plan, each of which are incorporated into this record by reference (collectively, the "Plans"), thus carrying out the purpose of the Agency under the Act. The acquisition of the Parcels is within the Agency's statutory authority and will fulfill its statutory purposes.

Although the Agency reserves the right to pursue any and all public purposes, it is currently considering the potential construction of additional public parking facilities to meet the growing need for off-street parking in the area, as well as, the development of affordable/workforce housing consistent with the specific strategies identified in the City's Comprehensive Plan Section [II-I-29] regarding the Post Road Corridor from South Lexington

Avenue to Mamaroneck Avenue and outlined at the September 2019 Hearing. The acquisition of the Parcels is consistent with the Plans.

The Public Hearing and Comment Period

In accordance with the EDPL, on September 5, 2019 at 10:00 a.m., a duly noticed public hearing was held in the Common Council Chambers at 255 Main Street, White Plains, New York 10601, to inform the public and to review the public use, benefit or purpose to be served by the Project, the proposed location of the Project and its general effect on the environment and the residents of the locality where the Project is proposed to be constructed. At the public hearing, the public was provided an opportunity to provide any comments and written comments were accepted by the Agency through the close of business on September 16, 2019 (such comment period collectively with the September 5, 2019 public hearing hereinafter referred to as the "September 2019 Hearing").

The comments received during the September 2019 Hearing have been reviewed, made part of the record and accorded full consideration by the Agency.

Below is a summary of certain of the comments received during the September 2019 Hearing and thereafter:

- (i) A Commenter stated that the Agency failed to outline any specific public project and therefore is unable to demonstrate that a public purpose will be served by the proposed acquisition of the Parcels by the Agency.
- (ii) A Commenter stated that the notice of the September 2019 Hearing was defective under the EDPL for failing to identify the specific public purpose to be served by the proposed acquisition of the Parcels by the Agency.
- (iii) A Commenter stated that the September 2019 Hearing was defective under the EDPL for failing to outline the public purpose to be served by the proposed acquisition of the Parcels by the Agency.

- (iv) A Commenter stated that although no fair market value offer has been made by the Agency with respect to the Parcels and that the Parcels are worth between "tens of millions of dollars".
- (v) A Commenter indicated that the Agency violated the EDPL by failing to conduct a proper environmental review of the Project in accordance with the requirements of SEQRA (as such term is herein defined) by failing to take a "hard look" at all relevant areas of environmental concern.
- (vi) A Commenter questioned why the plan did not extend for the balance of a city block and extend to the intersection of East Post Road and Dr. Martin Luther King, Jr. Boulevard.

The EDPL does not require that the Agency address in its determination and findings every specific concern or objection raised at the September 2019 Hearing. The Agency's responses to certain of the comments that were received during the September 2019 Hearing are summarized below, and in some cases as more fully set forth in the determination and findings:

- (i) In response to comments questioning whether the proposed acquisition of the Parcels by the Agency will serve a public purpose because of how generally described and/or undefined it is, the EDPL simply requires that the determination to exercise eminent domain power be rationally related to a conceivable public purpose. As set forth herein, the Agency's proposed acquisition of the Parcels serves a public purpose because it furthers economic development in the City, improving the quality of life for residents of the area, replacement of properties and uses which do not conform to the City's current Zoning regulations, and maximizing the economic potential of such properties, thereby carrying out the purpose of the Agency under the Act and assures proper development of the Parcels, and provides maximum protection to the people and businesses of the City.
- (ii) In response to comments that the notice of the September 2019 Hearing was defective for failing to outline the public purpose to be served by the Agency's public purpose, the Agency adequately described the public purposes for the reasons previously set forth herein. Additionally, such an outline may be brief, and there is no requirement under the EDPL that every aspect of a project, or its implementation, be contained within the outline of the public purpose.
- (iii) In response to comments that the September 2019 Hearing did not sufficiently outline the public purpose to be served by the proposed acquisition of the Parcels, the Agency refers to prior responses to comments made herein regarding what constitutes a sufficient outline of the public purpose to be served.

- (iv) In response to comments pertaining to the requirement that the Agency make a fair market value offer for the Parcels and that fair market value for the Parcels is "tens of millions of dollars", the Agency, if necessary, will, in accordance with the EDPL, have the Parcels appraised and will make a written offer to acquire the Parcels in an amount equal to one hundred percent (100%) of the appraised valuation.
- (v) In response to comments that the Agency violated the EDPL by failing to conduct a proper environmental review of the Project in accordance with the requirements of SEQRA (as such term is herein defined), the Agency, prior to the approval of the Determination and Findings, has conducted an environmental review under SEQRA by identifying the relevant areas of environmental concern, taking the necessary hard look and setting forth a reasoned elaboration that the Project will result in no significant adverse impacts on the environment, as set forth more fully in the Agency SEQRA Resolution (as defined below). The environmental review required under SEQRA and the EDPL, while similar and overlapping, nonetheless impose different responsibilities, and under the EDPL, all that is required is that the Agency discuss the general effects of the acquisition on the environment, which it did at the September 2019 Hearing and within this Determination and Findings.

EDPL Section 204

At a duly noticed meeting on December 5, 2019, in addition to the above findings, the Agency makes the following specific determination and findings (collectively, the "Determination and Findings") concerning the Project pursuant to EDPL Section 204:

- I. The Public Use, Benefit or Purpose To Be Served by the Project [EDPL § 204(B)(1)].

The proposed acquisition of the Parcels in connection with the undertaking of the Project will serve a public use, benefit and/or purpose because it will advance the overall general prosperity and economic and social welfare of the residents of the City by returning the underutilized Parcels to productive use thereby advancing the purpose of the Agency under the Act by: (i) combating economic stagnation through stimulating, promoting and/or supporting new and/or existing economic revitalization and redevelopment efforts; (ii) advancing employment opportunities; (iii) increasing, broadening and strengthening the City's economy; (iv) enhancing the overall functionality and/or attractiveness of the area and surrounding area;

and/or (v) as appropriate, may include, but not limited to, complimenting and/or advancing any public purpose contemplated by the Plans.

II. Location of the Project and Reasons for Selection of that Location [EDPL § 204(B)(2)].

The location of the Project is in the City and identifiable by the following street addresses and tax identification numbers: (1) 223-225 Dr. Martin Luther King Jr. Boulevard (being the approximate 1.52-acre southern portion identifiable by section, block and lot number ("SBL") 125.83-7-1), (2) 1-3 East Post Road (being approximately 0.12-acres identifiable by SBL 130.27-10-1), (3) 2-4 East Post Road (being approximately 0.12-acres identifiable by SBL 130.27-2-10), (4) 60 East Post Road (being approximately 0.37-acres identifiable by SBL 130.27-2-2), (5) 42 East Post Road (being approximately 0.24-acres identifiable by SBL 130.27-2-3), (6) 34 East Post Road (being approximately 0.26-acres identifiable by SBL 130.27-2-4), (7) 26-28 East Post Road (being approximately 0.20-acres identifiable by SBL 130.27-2-5), (8) 22-24 East Post Road (being approximately 0.16-acres identifiable by SBL 130.27-2-6), (9) 18-20 East Post Road (being approximately 0.15-acres identifiable by SBL 130.27-2-7), (10) 14-16 East Post Road (being approximately 0.20-acres identifiable by SBL 130.27-2-8), (11) 12 East Post Road (being approximately 0.15-acres identifiable by SBL 130.27-2-9), (12) 184-188 South Lexington Avenue (being approximately 0.17-acres identifiable by SBL 130.27-8-2) and (13) 190-192 South Lexington Avenue (being approximately 0.52-acres identifiable by SBL 130.27-8-3). Such location was determined based upon the proximity of the Parcels to other existing and/or potential economic revitalization and redevelopment efforts. No alternative locations exist in the City that are being considered for the Project.

III. General Effect of the Project on the Environment and Residents of the Locality [EDPL § 204 (B)(3)].

By resolution duly adopted on December 5, 2019 (the "Agency SEQRA Resolution") and the completed Full Environmental Assessment Form ("EAF"), including Parts 1, 2 and 3 thereof for the Project, as well as, the attachments thereto, the Agency, under Article 8 of the New York Environmental Conservation Law and associated regulations promulgated thereunder (collectively known hereafter as "SEQRA"), found that the Project constituted an "Unlisted Action" (as such quoted term is defined under SEQRA) and found that: (i) the Project will not have any significant adverse environmental impacts and (ii) no environmental impact statement need be prepared for such action. Such determination of the Agency constituted the adoption of a Negative Declaration for purposes of SEQRA and no further review or action is required pursuant to SEQRA with respect to the Project. The Agency SEQRA Resolution and the EAF, together with any other documents and information on which it was based, is incorporated herein by reference and is made a part hereof.

The general effect on the environment of the Agency's proposed acquisition of the Parcels is that the acquisition will have no significant adverse effect on the environment. Any potential impacts from any future development of the Parcels will be appropriately addressed in accordance with applicable land use and zoning approvals and under SEQRA once the particulars of any such development of the Parcels are known, and such review will be no less protective of the environment. The acquisition of the Parcels and potential future development of the Parcels will positively impact the residents of the City, thereby advancing the creation of additional job opportunities, replacement of properties which are non-conforming under current Zoning regulations, provision of additional off-street parking for convenience of employees of businesses and residents within the area, and otherwise support the general prosperity and

economic welfare of the City's residents. Any specific impacts to residents of the City created by future projects on the Parcels will be appropriately addressed under the City's zoning laws and SEQRA.

IV. Other Relevant Factors [EDPL § 204 (B)(4)].

The Agency has given due consideration to the comments received during the September 2019 Hearing. In addition, the Agency has taken into account public opinion and concerns, if any, expressed through the SEQRA process associated with the Project.

Conclusion

Based on due consideration of the foregoing, the Agency hereby makes its Determination and Findings in accordance with the EDPL in connection with the acquisition of the Parcels by condemnation, if necessary, in connection with the undertaking of the Project.

Dated: December 5, 2019

* * *