

RESOLUTION 7-2021

RESOLUTION OF THE CITY OF WHITE PLAINS URBAN RENEWAL AGENCY AUTHORIZING COUNSEL TO ENTER INTO A SETTLEMENT AGREEMENT WITH THE OWNERS OF 42 EAST POST ROAD AND TO COMMENCE PROCEEDINGS UNDER EDPL ARTICLE IV SEEKING TO VEST TITLE IN PROPERTY LOCATED AT 42 EAST POST ROAD, WHITE PLAINS, NEW YORK.

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, upon information and belief I.R. 42-44 E. Post Rd., LLC holds fee interest to real property located at 42 East Post Road which is identified on the City of White Plains’ Assessment Roll as Section 130.27, Block 2, Lot 3 (hereinafter the “Property”); and

WHEREAS, after giving due notice pursuant to EDPL § 202 (A), the Agency held a public hearing in accordance with EDPL § 201 on September 5, 2019 regarding its proposed acquisition of the Property, as well as, twelve (12) other properties in the area; and

WHEREAS, on December 5, 2019 the Agency adopted Resolution 5-2019 to make a finding pursuant to the State Environmental Quality Review Act (“SEQRA”) regarding the potential acquisition of the Property and other properties; and

WHEREAS, on December 5, 2019 the Agency adopted Resolution 6-2019 making a Determination and Findings regarding the potential acquisition of the Property, as well as others to facilitate and promote the productive use of the Property, which is currently underutilized, and/or nearby lands through municipal and/or economic development projects (and/or such other projects as may be authorized under the Title I of Article 18-A of the General Municipal Law as amended), and Chapter 632 of the Laws of 1980 of the State of New York, as amended; and

WHEREAS, on or about January 2, 2020, the Owners of the Property filed a verified petition with the Supreme Court of the State of New York, Appellate Division, Second Judicial Department, under EDPL § 207 for the annulment and rejection of the Determination and Findings of the Agency which is currently pending; and

WHEREAS, the Owners of the Property have agreed to settle and withdraw their proceeding in the Supreme Court of the State of New York, Appellate Division, Second Judicial Department upon the conditions that the Agency commences an action under EDPL Article 4 in

New York State Supreme Court, Westchester County authorizing the filing of an acquisition map by the Agency to acquire title to the Property by Eminent Domain as soon as practicable and upon vesting of title to the Property with the Agency, the parties would enter into an EDPL Article 5 Settlement Agreement to settle any claims the Owners of the Property would have under EDPL Article 5 related to compensation for the condemnation of the Property in the amount of Five Million Two Hundred Thousand Dollars (\$5,200,000.00);

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF WHITE PLAINS URBAN RENEWAL AGENCY AS FOLLOWS: that the Agency authorizes its legal counsel, upon the condition that all additional necessary approvals required by law, if any, are obtained, to execute a Settlement Agreement with the Owners of the Property, in a form subject to the approval of the Agency's Counsel, that would provide for the withdrawal of the proceeding in Supreme Court of the State of New York, Appellate Division, Second Judicial Department; that the Agency commences an action under EDPL Article 4 in New York State Supreme Court, Westchester County authorizing the filing of an acquisition map by the Agency to acquire title to the Property by Eminent Domain as soon as practicable and upon vesting of title to the Property with the Agency, the parties would enter into an EDPL Article 5 Settlement Agreement to settle any claims the Owners would have under EDPL Article 5 related to compensation for the condemnation of the Property in the amount of Five Million Two Hundred Thousand Dollars (\$5,200,000.00) as well as authorizing the Agency's legal counsel, upon obtaining a fully executed settlement agreement as outlined above, to perform all the actions required by the approved, executed settlement agreement and that the Agency finds that the acquisition of this Property was included within the findings made in Resolution 5-2019 pursuant to SEQRA regarding the potential acquisition of the Property and other properties.

This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
Hon. Thomas M. Roach, Chair	[X]	[]	[]	[]
Walter Eddie	[X]	[]	[]	[]
John M. Martin	[X]	[]	[]	[]
Daniel Moriarty	[X]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(EDPL Article IV Authorization)

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 March 18, 2021, 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, pursuant to Article 7 of the Public Officers Law (Open Meetings Law). This meeting was closed to in-person attendance due to the COVID-19 public health emergency. It took place as a Zoom Video Meeting, and was aired on the White Plains Cable Access Channels (Channel 75 on Altice and Channel 47 on FIOS) and streamed on the City's website, 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 18 day of March, 2021.



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