

# County Council Of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 4

## Resolution No. 41 - 2011

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION authorizing the County Purchasing Agent to waive the formal competitive bidding requirements of Title 4, Subtitle 1 of the Howard County Code in order to enter into an agreement with Second Goodier, LLC, a Maryland limited liability company, for the design and construction of road improvements to Roxbury Road and authorizing the County Executive to execute the agreement on behalf of the County in substantially the same form as attached to this Resolution.

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Introduced and read first time \_\_\_\_\_, 2011.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Read for a second time at a public hearing on \_\_\_\_\_, 2011.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted\_\_\_, Adopted with amendments\_\_\_, Failed\_\_\_, Withdrawn\_\_\_, by the County Council on \_\_\_\_\_, 2011.

Certified By \_\_\_\_\_  
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, Section 4.106(d)(2) of the Howard County Code provides that the County  
2 Council may, by resolution, authorize the County Purchasing Agent to waive the formal  
3 competitive bidding requirements for any single purchase or sale if, in the judgment of the  
4 County Council, the waiver will best serve the interest of the County; and

5  
6           **WHEREAS**, Capital Project J-4111, FY 1991, Developer/County Shared Improvements,  
7 and Capital Project J-4134, FY1999, Developer/County Shared Improvements, authorizes the  
8 funding for the design and construction of vertical and horizontal geometric changes to County  
9 Roads for safety improvements, and a map showing the change is attached as Exhibit A; and

10           **WHEREAS**, Second Goodier, LLC, a Maryland limited liability company, its  
11 successors or permitted assigns (collectively, “Goodier”), has received approval from the County  
12 of the “Final Road Construction, Grading and Stormwater Management Plan Meriwether Farm  
13 Section One, Lots 1-12, Buildable Preservation Parcel ‘A’, Non-buildable Preservation Parcels  
14 ‘B’ thru ‘D’ and Non-buildable Parcel ‘E’ (F-08-139)” (the “Road Plan”) which Road Plan  
15 includes the realignment of Roxbury Road, and Goodier is going to construct the realignment of  
16 Roxbury Road as shown on the Road Plan between stations 28+25.67 and 37+25 in accordance  
17 with the Developer Agreement F-08-139 dated September 3, 2010; and

18  
19           **WHEREAS**, the Roxbury Road Cost Sharing Agreement (the “Agreement”), the form of  
20 which is attached hereto as Exhibit B and to be entered into by and between Developer and the  
21 County, outlines each party’s obligations under the Agreement related to the funding and  
22 construction of the Roxbury Road as a local road; and

23  
24           **WHEREAS**, Developer will provide the County with competitively bid costs for the  
25 construction of Roxbury Road in accordance with the Agreement and will, upon the County’s  
26 approval, share in such costs, as provided in the Agreement; and

27           **WHEREAS**, since the Developer has obligations for the design and construction of  
28 improvements to Roxbury Road and the Howard County Department of Public Works desires to  
29 provide additional improvements, the Howard County Department of Public Works

1 recommends that one contractor with one set of contract documents will provide the best  
2 coordination and scheduling of said project and Developer can schedule these improvements in  
3 conjunction with its work; and  
4

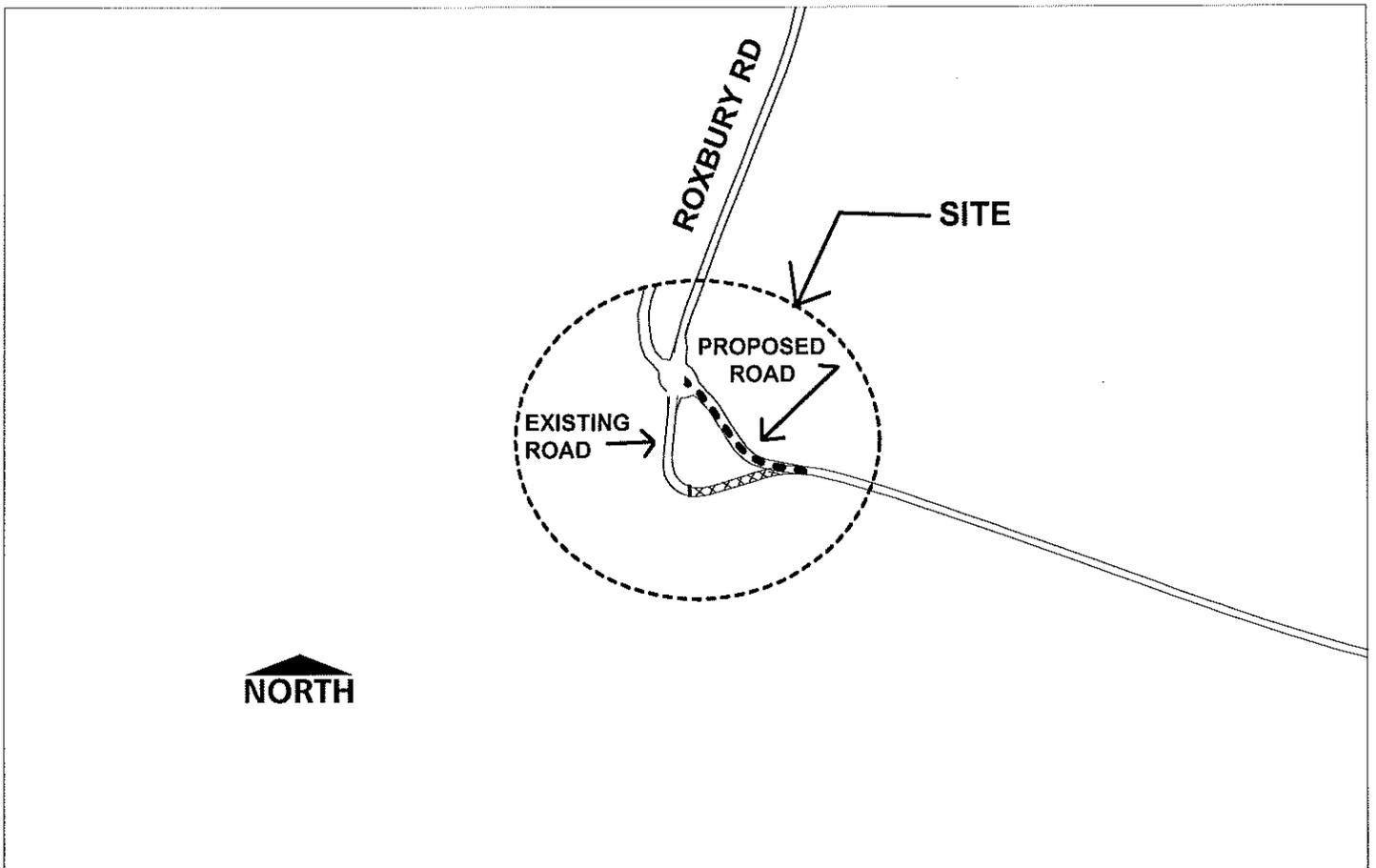
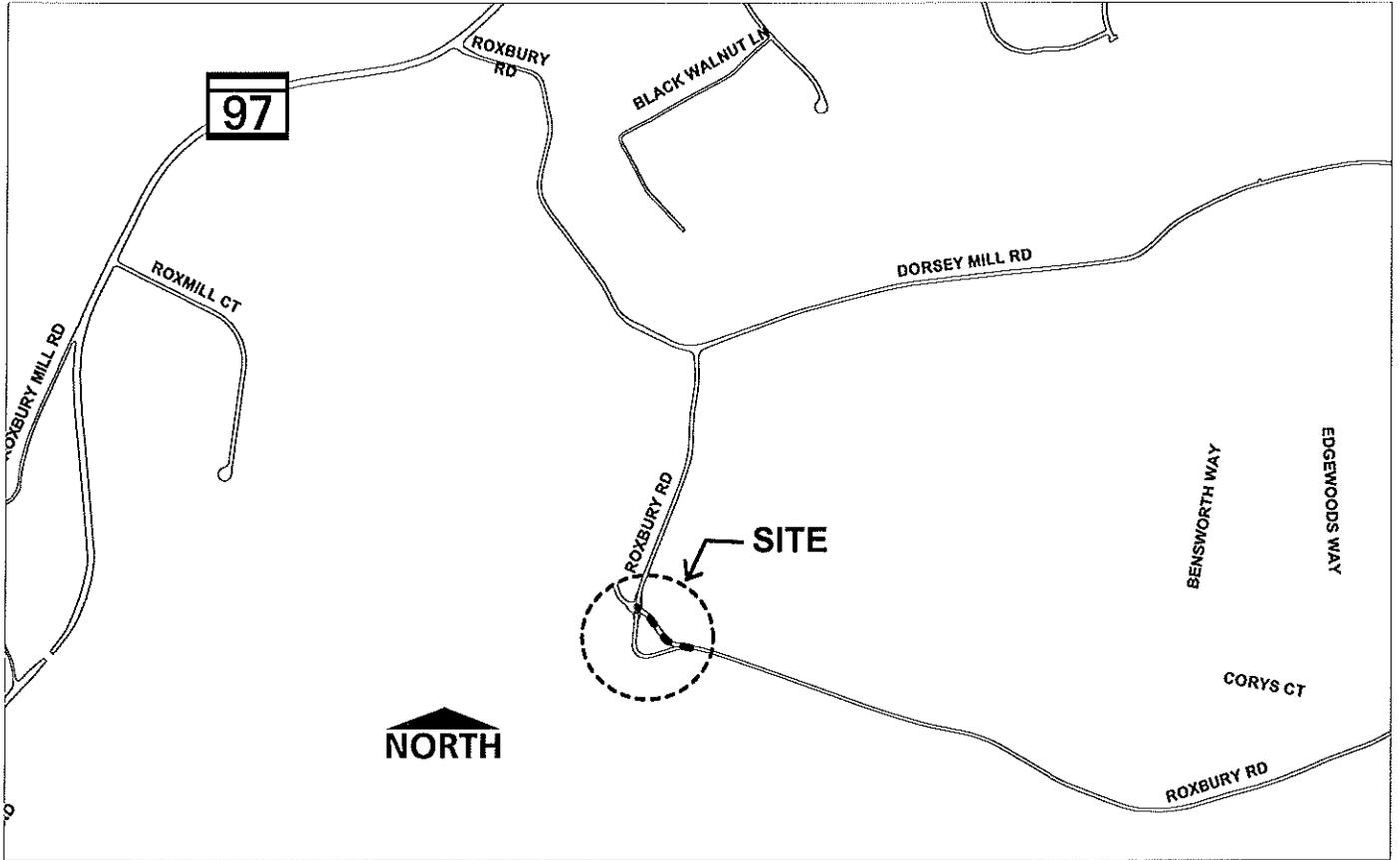
5 **WHEREAS**, the Department of Public Works submits that it is in the best interests of  
6 the County to contract with Developer for the construction of the Roxbury Road improvements  
7 as shown on the Road Plan.  
8

9 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
10 Maryland, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, pursuant to Section 4.106(d)(2) of the  
11 Howard County Code, that it declares that the best interests of the County will be served by  
12 hereby authorizing the County Purchasing Agent to waive the competitive bidding requirements  
13 of Subtitle 1, "Purchasing", of Title 4, "Contracts, Purchasing and Property", of the Howard  
14 County Code in order to allow the County to contract with Developer for the construction of the  
15 improvements to Roxbury Road in accordance with the Roxbury Road Cost Sharing Agreement.  
16

17 **AND BE IT FURTHER RESOLVED**, that the County Executive is hereby authorized  
18 to execute and deliver the Roxbury Road Cost Sharing Agreement in the name and on behalf of  
19 the County in substantially the same form of the Agreement attached hereto as Exhibit B.

# ROXBURY ROAD COST SHARING AGREEMENT

## EXHIBIT 'A'



**ROXBURY ROAD COST SHARING AGREEMENT**

**THIS ROXBURY ROAD COST SHARING AGREEMENT** (this “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between **SECOND GOODIER, LLC**, a limited liability company formed in accordance with the laws of the state of Maryland (the “Developer”), and **HOWARD COUNTY, MARYLAND**, a body corporate and politic ( the “County”).

**WHEREAS**, Meriwether Farm II, LLC is the owner of certain real property located in Glenelg, Howard County, Maryland and described in the deed dated October 29, 2009 and recorded among the land records of Howard County, Maryland at liber 12124, folio 120 (the “Property”); and

**WHEREAS**, Second Goodier, LLC is the Developer of the Property pursuant to a final plat of subdivision entitled “Meriwether Farm Section One, Lots 1-12, Buildable Preservation Parcel ‘A’, Non-buildable Preservation Parcels ‘B’ thru ‘D’ and Non-buildable Parcel ‘E’ (F-08-139)” (the “Subdivision Plat”); and

**WHEREAS**, certain public road improvements are required to be constructed within the public rights-of-way for Roxbury Road in association with the Developer’s work on the Property as shown on the “Final Road Construction, Grading and Stormwater Management Plan Meriwether Farm Section One, Lots 1-12, Buildable Preservation Parcel ‘A’, Non-buildable Preservation Parcels ‘B’ thru ‘D’ and Non-buildable Parcel ‘E’ (F-08-139)” (the “Road Plan”); and

**WHEREAS**, the County determined that improvements to Roxbury Road which exceed the requirements imposed upon the Developer pursuant to the “Howard County Subdivision and Land Development Regulations” specifically, realignment of Roxbury Road and the construction of a round-a-bout (the “Additional Improvements”) are in the public interest; and

**WHEREAS**, the Director of the Department of Public Works has determined the most cost effective and efficient way to complete the required public road improvements is for the Developer to complete the public road improvements at the same time the Developer constructs the road improvements required by his development and the Developer has agreed to construct Roxbury Road, including the Additional Improvements, as shown on the Road Plan; and

**WHEREAS**, the County established Capital Project Numbers J-4111 Developer/County Shared Improvements and J-4134 Developer/County Shared Improvements to allow the County and Developers to cooperate in the construction of public road improvements; and

**WHEREAS**, the County has agreed to fund up to One Hundred Seventy Thousand Dollars (\$170,000.00) of the cost of the Additional Improvements to Roxbury Road; and

**WHEREAS**, the County Council of Howard County, Maryland adopted Resolution Number \_\_\_\_\_-2011 that authorizes the County to waive the formal competitive bidding

requirements and to enter into this Agreement with Second Goodier, LLC for the construction of the Additional Improvements.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual promises of the Developer and the County set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer and the County agree as follows:

**SECTION 1. Specifications for Design and Construction of Roxbury Road.** The segment of Roxbury Road between stations 28+25.67 and 36+37.46 has been designed by Developer in accordance with the provisions of the Howard County Design Manuals (the “Design Manual”) as a local road, and includes the Additional Improvements, as shown on the Road Plan and shall be constructed by the Developer pursuant to the Developer Agreement F-08-139 dated September 3, 2010 (the “Developer Agreement”). The Developer shall select the contractor(s) for the construction of Roxbury Road through a solicitation of bids process, acquiring at least 3 independent bids. The County shall have the right to review and approve the bids received by the Developer. The Developer shall not accept a bid for the construction of Roxbury Road that has not been approved by the County. Upon the completion of the work required under the Developer Agreement, the Developer shall convey to the County, at no additional cost, any additional rights-of-way required for Roxbury Road.

**SECTION 2. Reimbursement by the County.** The Developer shall bear the costs of the design and construction of the Developer’s Work and may request reimbursement from the County for a portion of the construction of the Developer’s Work in accordance with the following:

- a) The Developer may only request reimbursement from the County upon the County’s acceptance of the completed Developer’s Work in accordance with the provisions of the Developer Agreement.
- b) To the extent funds are available in Capital Projects J-4111 and J-4134 pursuant to Section 3 herein, the County agrees to reimburse the Developer up to one hundred seventy thousand dollars (\$170,000.00) for the satisfactory construction of the Additional Improvements.

**SECTION 3. Notice.** All correspondence regarding this Agreement and the work to be performed hereunder shall be mailed or personally delivered in the case of the Developer to: Second Goodier, LLC., 10705 Charter Drive, Suite #350, Columbia, MD., 21044. The name and telephone number of Developer’s contact person for this Agreement and his or her telephone number is Jeremy Rutter, (410) 982-2882. All correspondence regarding this Agreement and the work to be performed hereunder shall be mailed or personally delivered in the case of the County to: Director of Public Works, George Howard Building, 3430 Court House Drive, Ellicott City, Maryland 21043. County’s contact person for this Agreement and his or her telephone number is James Irvin, 410-313-4401. Either party to this Agreement may change its address by written notice to the other party.

**SECTION 4. Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Developer and the County. References to the

Developer or the County shall be deemed to refer to each person hereinabove named and their respective designees, successors, and assigns.

**SECTION 5. Final Agreement; Amendment.** This Agreement contains the final and entire agreement between the Developer and the County, and neither they nor their agents shall be bound by any terms, conditions or representations not contained herein. Any amendment to this Agreement shall be written and signed by the County and each of the Developers.

**SECTION 6. Conflict of Interest.** Developer certifies that it has read and understands the provisions of Section 901(a) of the Howard County Charter and Section 22.204 of the Howard County Code relating to conflicts of interest.

**IN WITNESS WHEREOF,** the duly authorized officers of the Developer and the County hereto have set their hand and seals to this instrument on the day and year first above written.

**WITNESS/ATTEST:**

Second Goodier, LLC  
a Maryland limited liability company

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Robert Goodier  
Managing Member

**ATTEST:**

**HOWARD COUNTY, MARYLAND**

\_\_\_\_\_  
Lonnie R. Robbins  
Chief Administrative Officer

By: \_\_\_\_\_ (SEAL)  
Ken Ulman  
County Executive

**APPROVED: DEPARTMENT  
OF PUBLIC WORKS**

**APPROVED** for Sufficiency of Funds:

\_\_\_\_\_  
James M. Irvin, Director

\_\_\_\_\_  
Sharon F. Greisz, Director Department of Finance

**APPROVED** for Form and Legal Sufficiency:  
this \_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
Margaret Ann Nolan  
County Solicitor

[Notaries on the following page.]

**STATE OF MARYLAND, HOWARD COUNTY, TO WIT:**

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 201\_, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Robert Goodier, **Managing Member of Second Goodier, LLC**, who acknowledged to me that he executed the foregoing Agreement on behalf of said corporation for the purposes therein contained, and he further acknowledged the same to be the act of said corporation, the party to the Agreement.

**AS WITNESS** my Hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**STATE OF MARYLAND, HOWARD COUNTY, TO WIT:**

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 201\_, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **Ken Ulman, County Executive for HOWARD COUNTY, MARYLAND**, who acknowledged to me that he executed the foregoing Agreement for the purposes therein contained, and he further acknowledged the same to be the act of Howard County, Maryland.

**AS WITNESS** my Hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_