

48461

**DATE:** September 14, 2015

**TO:** Board of Acquisition and Contract

**FROM:** Jay T. Pisco, P.E.  
Commissioner of Public Works and Transportation

Mary J. Mahon  
Special Assistant to the County Executive & Director of Real Estate

**RE:** Authority to enter into a permanent easement agreement with the New York Medical College to use part of the County's property at the Grasslands Reservation for the purpose of constructing, using and thereafter maintaining and/or repairing a driveway/pedestrian pathway to provide direct and safe access for pedestrians and authorized vehicles between the NYMC's academic and office building located at 19 Skyline Drive and its facilities on the Grasslands Reservation. (Agreement No. 15-947)

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Authority is requested for the County of Westchester (the "County") to enter into an agreement with New York Medical College ("NYMC") pursuant to which the County will grant a non-exclusive permanent easement ("Easement") to the NYMC, in, upon, under and over portions of the County's property at the Grasslands Reservation in order to construct and thereafter use and maintain and/or repair a driveway, pedestrian pathway, sidewalk and crosswalks, crosswalk signals, lighting, emergency phone system, gates, street furniture and landscaping (collectively the "Improvements"). The Improvements are needed to provide direct and safe access for pedestrians and authorized vehicles between the NYMC's academic and office building located at 19 Skyline Drive and its facilities on the Grasslands Reservation.

Upon completion of the Improvements and for the duration of the Easement, the NYMC, at its sole cost and expense, shall have a continuing obligation to repair and maintain the Improvements in accordance with all applicable codes, rules and regulations. In addition, the NYMC, at its sole cost and expense, shall be responsible for snow and ice removal, any and all utility connections required for the Improvements and ongoing operation and maintenance and also for payment of all utilities consumed in connection with the Improvements for the duration of the Easement.

In connection with the grant of this Easement, the NYMC will be given a temporary license to utilize that portion of the County's land adjacent to the Easement Area, solely for the purpose of ingress and egress and construction staging necessary for the construction of the Improvements ("License Area"). The NYMC shall work diligently to complete the Improvements in the License Area and shall complete the work within eighteen (18) months of execution of the Easement Agreement. The temporary license shall automatically terminate upon completion of the Improvements and the NYMC will be required, at its sole cost and expense, to restore the License Area to substantially the same condition as existed prior to the NYMC's use thereof.

As consideration for the grant of this Easement, the NYMC will pay the sum of One (\$1.00) Dollar, fee waived, and title to the Improvements shall vest in the County upon completion of the Improvements. Unless otherwise provided herein, the County will not incur any costs in connection with the grant of this Easement or License. In addition, the NYMC will also indemnify and hold harmless the County, its officers, elected officials, employees, and agents from and against any and all liability, claims, demands, costs, judgments, fees and attorneys' fees or loss arising directly or indirectly out of the construction, maintenance, use, and/or repair of the Improvements by any person.

The Easement will exist for as long as the NYMC owns and operates an accredited medical school at the Grasslands Reservation and owns and operates the building located at 19 Skyline Drive as necessary ancillary facilities to the accredited medical school and other existing and new academic programs. Should either of these two criteria no longer exist, then the Easement Agreement and the Easement will automatically terminate. Upon such termination, the NYMC will promptly execute any and all documents required to extinguish the Easement and the rights granted to the NYMC thereunder. In the event of such termination of the Easement Agreement and Easement, the County may, without any cost to the County, require the NYMC, its successors or assigns to remove the Improvements and restore the Easement Area to its original condition, all at the sole cost and expense of the NYMC. If the NYMC fails to remove the Improvements and restore the Easement Area to its original condition, then the County shall have the right to do so. In such event, the NYMC will be required to reimburse the County out of pocket costs and expenses incurred in connection with such restoration within sixty (60) days of the date the County delivers an invoice therefore (which invoice shall be accompanied by reasonable documentation evidencing all third party costs and expenses). In the event that the County determines in its sole discretion that it requires the use of the Easement Area, the County may terminate this Easement Agreement and Easement upon at least one year's prior written notice to the NYMC. Upon such termination, the County shall after consultation and agreement with the NYMC either relocate the driveway at the County's cost, or, in the alternative, reimburse the NYMC for its documented costs of construction, such costs to be adjusted based on reasonable escalation based on cost of living increases, less depreciation, subject to appropriations.

In May 2011, the NYMC joined the Touro College and University System creating one of the largest biomedical higher education consortiums under one institutional banner in the United States. Presently the NYMC has more than 1,400 students, 1,338 residents and clinical fellows, and more than 3,000 faculty members. The NYMC seeks to continue to create a campus environment conducive to learning and has been working with the County and its neighbors to create a campus that is safe, easy to traverse and is in keeping with the setting of the Grasslands Reservation. Currently, pedestrians and vehicles must exit onto Route 9A from the 19 Skyline Drive building and then travel on Route 9A to Dana Road in order to enter the Grasslands Reservation. There are no sidewalks along Route 9A for pedestrians to use. Thus, the Improvements will provide a safer and more direct access between the 19 Skyline Drive building and Grasslands Reservation. The goals and objectives will be tracked and monitored by the Department.

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Permanent Easement Agreement No. 15-947  
New York Medical College  
Driveway/Pedestrian Pathway, Grasslands Reservation  
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The grant of an easement does not constitute a procurement of goods or services under the Westchester County Procurement Policy. On September 8, 2015 the Westchester County Board of Legislators adopted Act No. 2015-169 authorizing the County to grant the easement and enter into the proposed Easement Agreement. Based upon the foregoing, your approval of the attached Resolution is respectfully requested.

JTP/MJM/TSA

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/24/2015 J. P. MOCCIARDI, SECRETARY

# RESOLUTION

Upon a communication from the Commissioner of Public Works and Transportation and the Senior Assistant to County Executive & Director of Real Estate, be it hereby:

**RESOLVED**, that authority is granted for the County of Westchester (the "County") to enter into an agreement with New York Medical College ("NYMC") pursuant to which the County will grant a non-exclusive permanent easement ("Easement") to the NYMC, in, upon, under and over portions of the County's property at the Grasslands Reservation in order to construct and thereafter use and maintain and/or repair a driveway, pedestrian pathway, sidewalk and crosswalks, crosswalk signals, lighting, emergency phone system, gates, street furniture and landscaping (collectively the "Improvements"); and be it further

**RESOLVED** that upon completion of the Improvements and for the duration of the Easement, the NYMC, at its sole cost and expense, shall have a continuing obligation to repair and maintain the Improvements in accordance with all applicable codes, rules and regulations. In addition, the NYMC, at its sole cost and expense, shall be responsible for snow and ice removal, any and all utility connections required for the Improvements and ongoing operation and maintenance and also for payment of all utilities consumed in connection with the Improvements for the duration of the Easement; and be it further

**RESOLVED**, the NYMC will be given a temporary license to utilize that portion of the County's land adjacent to the Easement Area, solely for the purpose of ingress and egress and construction staging necessary for the construction of the Improvements ("License Area"). The NYMC shall work diligently to complete the Improvements in the License Area and shall complete the work within eighteen (18) months of execution of the Easement Agreement. The temporary license shall automatically terminate upon completion of the Improvements and the NYMC will be required, at its sole cost and expense, to restore the License Area to substantially the same condition as existed prior to the NYMC's use thereof; and be it further

**RESOLVED**, that as consideration for the grant of this Easement, the NYMC will pay the sum of One (\$1.00) Dollar, fee waived, and title to the Improvements shall vest in the County upon completion of the Improvements. Unless otherwise provided herein, the County will not incur any costs in connection with the grant of this Easement or License. In addition, the NYMC will also indemnify and hold harmless the County, its officers, elected officials, employees, and agents from and against any and all liability, claims, demands, costs, judgments, fees and attorneys' fees or loss arising directly or indirectly out of the construction, maintenance, use, and/or repair of the Improvements by any person; and be it further

# RESOLUTION

**RESOLVED**, that the Easement will exist for as long as the NYMC owns and operates an accredited medical school at the Grasslands Reservation and owns and operates the building located at 19 Skyline Drive as necessary ancillary facilities to the accredited medical school and other existing and new academic programs. Should either of these two criteria no longer exist, then the Easement Agreement and the Easement will automatically terminate. Upon such termination, the NYMC will promptly execute any and all documents required to extinguish the Easement and the rights granted to the NYMC thereunder. In the event of such termination of the Easement Agreement and Easement, the County may, without any cost to the County, require the NYMC, its successors or assigns to remove the Improvements and restore the Easement Area to its original condition, all at the sole cost and expense of the NYMC. If the NYMC fails to remove the Improvements and restore the Easement Area to its original condition, then the County shall have the right to do so. In such event, the NYMC will be required to reimburse the County out of pocket costs and expenses incurred in connection with such restoration within sixty (60) days of the date the County delivers an invoice therefore (which invoice shall be accompanied by reasonable documentation evidencing all third party costs and expenses). In the event that the County determines in its sole discretion that it requires the use of the Easement Area, the County may terminate this Easement Agreement and Easement upon at least one year's prior written notice to the NYMC. Upon such termination, the County shall after consultation and agreement with the NYMC either relocate the driveway at the County's cost, or, in the alternative, reimburse the NYMC for its documented costs of construction, such costs to be adjusted based on reasonable escalation based on cost of living increases, less depreciation, subject to appropriations; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee be, and hereby is, authorized to take such actions and execute such documents as may be necessary and appropriate to effectuate the purposes hereof.

Agreement No. 15-947

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
			N/A			N/A

Budget Funding Year(s):   N/A        Start Date:   upon execution        End Date:   indefinite    
(must match resolution)

Funding Source:    Tax Dollars    \_\_\_\_\_  
                           State Aid        \_\_\_\_\_  
  \$N/A              Federal Aid    \_\_\_\_\_  
(must match resolution)  
                           Other            \_\_\_\_\_