

60688

DATE: January 10, 2018

TO: Honorable Members
Board of Acquisition & Contract

FROM: Martin J. McGlynn
Acting Commissioner – Sheriff

RE: **Authority for the County of Westchester to enter a lease agreement with Bell Helicopter Textron Inc. to lease one Bell model 407 Helicopter for six (6) months while the Helicopter owned by the County is being repaired.**

The County of Westchester, acting by and through its Department of Public Safety, (“DPS”) owns two Bell 407 helicopters. On September 28, 2017, one of the Bell 407’s (2006--N509PD) had to make an emergency landing, due to a smoke condition in the cockpit with loss of hydraulics. The damage that resulted is currently undergoing assessment and repair at an authorized Bell Helicopter service center.

While the damaged helicopter is being repaired, the Department of Public Safety wishes to rent a replacement Bell helicopter. Accordingly, authority is hereby requested to authorize the County to enter into a lease agreement with Bell Helicopter Textron Inc. to lease one Bell Model 407 Helicopter Serial Number 53688, Registration Number: N606PC, Helicopter Agreed Insured Value: \$2,035,000.00 USD, Engine: Rolls Royce 250-C47B/8, serial 847759. The term of the lease agreement shall be for six months.

The County shall pay Bell Helicopter Textron Inc. (“Bell Helicopter”) \$20,350 per month (or pro-rata for any part thereof) for a total lease amount of \$122,100. It should be noted that the cost to lease the replacement helicopter is covered under the County’s insuring agreement with AIG and AIG will reimburse the County upon submission of appropriate documentation. In addition the County will be charged a daily usage fee in the amount of \$545 per flight hour (or pro-rata for any part thereof). Based on the estimate of 25 hours of usage per month at \$545 per flight hour, it is estimated that the County will pay \$13,625 per month for the usage fee for a total lease amount of \$81,750. As such, the total contract amount not-to-exceed shall be \$203,850 (\$81,750 estimated usage fee for 6 months plus \$122,100 lease fee for six (6) months). The direct costs of operating the helicopter (e.g. fuel and maintenance) will be the County’s responsibility.

In addition, the County will be required to defend, indemnify and hold harmless Bell Helicopter Textron Inc. against any and all liabilities, claims, demands, suits, causes of action,

losses, penalties, fines, expenses or damages, including legal fees, arising out of or in connection with (i) the County's operation or maintenance of the helicopter, (ii) the County's performance of or failure to perform any of its obligations under this Agreement, or (iii) any other breach by the County of any of its representations, warranties, covenants or agreements set forth in this Agreement. This includes any claims, suits, demands or causes of action and the liabilities which may result there-from made by any third party including the County's employees.

Please be advised that by separate resolution submitted through the Department of Law, Office of Risk Management, Bell is requiring additional insurance coverage for the rental of a replacement helicopter. As such the County needs to amend the Insurance Policy to add the rental helicopter to our policy and to increase the limit of liability to \$100 million (for the rental helicopter only) and to increase the NTE amount for the Insurance Policy by \$5,870.00 for a total new not exceed amount of \$64,275.00.

The public purpose of the agreement is to accommodate the Aviation Unit while one of the two helicopters is undergoing long term repairs which were sustained during an in-flight fire. The Unit patrols Westchester County and responds to regional requests for assistance to help ensure the safety of the residents and people who work and recreate in our County.

The goals and objectives of this program are to assure that the Westchester County Department of Public Safety's Aviation Unit can remain available during periods when the non-damaged helicopter is having routine maintenance performed.

The goals and objectives of this program will support public safety and/or welfare by allowing the Aviation Unit to continue to serve the residents of Westchester County in the most effective and efficient manner possible.

Accordingly, your favorable action on the annexed Resolution is recommended.

MJM/TSA/vva

enc.

RESOLUTION

Upon a communication from the Acting Commissioner – Sheriff, be it hereby

RESOLVED, that the County of Westchester (“County”), acting by and through its Department of Public Safety, is hereby authorized to enter into a lease agreement with Bell Helicopter Textron Inc. (“Bell Helicopter”) to lease one Bell Model 407 Helicopter Serial Number 53688, Registration Number: N606PC, Helicopter Agreed Insured Value: \$2,035,000.00 USD, Engine: Rolls Royce 250-C47B/8, serial 847759; and be it further

RESOLVED, that the term of the lease agreement shall be for six (6) months and be it further

RESOLVED, that the County shall pay Bell Helicopter \$20,350 per month (or pro-rata for any part thereof) for a total lease amount of \$122,100. It should be noted that the cost to lease the replacement helicopter is covered under the County’s insuring agreement with AIG and AIG will reimburse the County upon submission of appropriate documentation. In addition the County will be charged a daily usage fee in the amount of \$545 per flight hour (or pro-rata for any part thereof). Based on the estimate of 25 hours of usage per month at \$545 per flight hour, it is estimated that the County will pay \$13,625 per month for the usage fee for a total lease amount of \$81,750. As such, the total contract amount not-to-exceed shall be \$203,850 (\$81,750 estimated usage fee for 6 months plus \$122,100 lease fee for six (6) months). The direct costs of operating the helicopter (e.g. fuel and maintenance) will be the County’s responsibility; and be it further

RESOLVED, that the County will be required to defend, indemnify and hold harmless Bell Helicopter Textron Inc. against any and all liabilities, claims, demands, suits, causes of action, losses, penalties, fines, expenses or damages, including legal fees, arising out of or in connection with (i) the County’s operation or maintenance of the helicopter, (ii) the County’s performance of or failure to perform any of its obligations under this Agreement, or (iii) any other breach by the County of any of its representations, warranties, covenants or agreements set forth in this Agreement. This includes any claims, suits, demands or causes of action and the liabilities which may result there-from made by any third party including the County’s employees; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and, be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the “State Budget”) proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and, be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute any documents and take any actions reasonably necessary and appropriate to effectuate the purposes of this Resolution.

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/18/2018 - LISA MRIJAJ, SECRETARY

Account to be Charged/credited	Fund	Agency	Org	Object/ SubObject	Revenue	Dollars
	101	38	2000		9614	\$122,100.00
	101	38	2000	4380		\$203,850.00

Budget Funding Year(s) 2018 Start Date: upon execution End Date: 6 months from execution
(must match resolution)

Funding Source

\$203,850.00
(must match resolution)

Tax Dollars: \$203,850
State Aid _____
Federal Aid _____
Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/18/2018 - LISA MARIJAJ, SECRETARY