

68152

DATE: February 28, 2019

TO: Honorable Members  
Board of Acquisition and Contract

FROM: Rocco A. Pozzi  
Commissioner of Probation

**RE: RESOLUTION AUTHORIZING THE COUNTY, ACTING BY AND THROUGH THE DEPARTMENT OF PROBATION TO AMEND THE LEASE AGREEMENT WITH PROTEUS ON-DEMAND FACILITIES, LLC. FOR TEMPORARY STRUCTURES ON THE GROUNDS OF WOODFIELD COTTAGE IN ORDER TO ALLOW FOR SEPARATE HAND-OVER DATES THE GIRLS UNIT AND THE BOYS UNIT, TO ADD ADDITIONAL INSTALLATION SERVICES AND TO INCREASE THE AMOUNT OF THE LEASE BY AN AMOUNT NOT TO EXCEED \$46,000 FOR A NEW AMOUNT NOT TO EXCEED \$8,474,266 AND OTHER NECESSARY CONFORMING CHANGES TO THE LEASE.**

By Resolution of your Honorable Board on July 19, 2018, the County of Westchester (the "County"), acting by and through its Department of Probation ("Probation") was authorized to enter into a lease agreement (the "Lease") with Proteus On-Demand Facilities, LLC., for an amount not to exceed \$8,428,266, to lease temporary structures, related equipment and other tangible items (the "Units") in which to temporarily house adolescent Offenders who have been court-ordered to secure detention and cannot be detained in Woodfield Cottage with juvenile delinquents pursuant to the "Raise the Age" legislation. The Lease was subsequently entered into on August 6, 2018.

A resolution of Your Honorable Board is now respectfully requested authorizing the County to enter into an amendment (the "Amendment") of the Lease in order to allow for separate hand-over dates (as defined below) for the Girls and Boys Units, necessary conforming changes to several lease provisions and to increase the amount of the Lease by \$46,000.00, for a new total amount not to exceed \$8,474,266.00.

Pursuant the terms of the Lease, two Lease payments were made during the installation period during which Proteus prefabricated the Units, prepared the site, then delivered and began installation of both housing Units within the grounds of Woodfield Cottage. The Lease further provides that, on the date that the installations of both the Girls and Boys Units are complete and the Units are handed over to the County to use ("the Hand-Over Date"), the County would begin paying monthly payments of \$69,000 for a period of forty-eight months. At the conclusion of the forty-eight months (the "Hand-Back Date") there will be a final payment of \$1,177,250 if the County does not exercise the option to purchase the Units at the end of the term of the Lease upon further approval of Your Honorable Board.

Due to unforeseen circumstances, installation has taken a much longer period of time than anticipated and Probation has been incurring significant costs and logistical problems in transporting and housing the female offenders in other counties while the Units are being installed. However the Girls Unit is expected to be completed shortly and Probation would like to begin using it after final inspections and written acceptance of the Girls Unit, at which time Hand-Over of the risk of loss for said Unit passes to the County and the County is permitted to operate said Unit under the Lease. Doing so would require amending the Lease to provide for separate Hand-Over Dates for the Girls and Boys Units, since the Boys Unit is not expected to be ready for approximately one month after the completion of the Girls Unit. This would also require amending the Lease to provide for separate monthly payments for the female Unit while the male Unit is being completed and necessary conforming changes to several other provisions in the Lease.

Under the proposed Amendment the monthly payments for the Girls Unit alone, would equal one third of the monthly payment under the Lease or \$23,000 since the Boys Unit is twice as large as the Girls Unit.

Under the proposed Amendment, the Hand-Back Date and final payment would be the same date for both Units, which means there would be extra monthly payments made for the Girls Unit while the Boys Unit is completed.

The proposed Amendment is in the County's best interest in that it would allow Probation to begin to house female offenders in the Girls Unit immediately rather than waiting for the completion of the installation of the Boys Unit, thus saving the County on the costs and logistical problems associated with transportation and housing of the female offenders during the pendency of their court proceedings.

Accordingly, I recommend adoption of the annexed proposed Amendment.

RAP/JR/JRC/JMR  
Attachment

# RESOLUTION

Upon a communication from the Commissioner of Probation, be it hereby

**RESOLVED**, that the County is hereby authorized to enter into County to enter into a first amendment (the "First Amendment") of its lease with Proteus On-Demand Facilities, LLC., of temporary structures, related equipment and other tangible items ("Units") in which to temporarily house Adolescent Offenders who have been court-ordered to secure pursuant to the "Raise the Age" legislation; and be it further

**RESOLVED**, that the Amendment shall provide for separate dates by which the Units are handed over to the County to use of the Girls and Boys Units and to make any other necessary conforming changes to the Lease for this purpose; and be it further

**RESOLVED**, that the Amendment shall provide for additional monthly payments for the Girls Unit until the Hand-Over date of the Boys Unit occurs in the amount of Twenty-Three Thousand Dollars (\$23,000.00) per month; and be it further

**RESOLVED**, that the Amendment shall increase the total amount of the Lease by \$46,000.00 for a total amount not to exceed \$8,474,266.00; and be it further

**RESOLVED**, that all other terms and conditions of the Lease shall remain in full force and effect; and be it further

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

Agreement No. \_\_\_\_\_

Account to be Charged	Fund	Dept.	Major Program, Program & Phase or Unit	Object/ Sub Object	Trust Account	Dollars
	101	39	2000/2200	4320		\$46,000

Budget Funding Year(s) \_\_\_ Start Date: 03/2019 \_\_\_ End Date: 04/2019 \_\_\_  
 (must match resolution)

Funding Source                      Tax Dollars: \_\_\_\_\_  
    State Aid:        \$46,000 \_\_\_\_\_  
    Federal Aid \_\_\_\_\_  
    Other \_\_\_\_\_

(must match resolution)