

26895

May 14, 2012

TO: The Honorable Board of Acquisition and Contract

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

Mary J. Mahon  
Director of Real Estate

RE: **Resolution authorizing the County of Westchester to enter into a Lease Agreement with the State of New York, acting by and through their agent, the Dormitory Authority of the State of New York, for space located in the County building at 100 East First Street, Mount Vernon, New York, for a term of five (5) years, with a monthly rent of \$20,486.75 for the first year. (Agreement No. 12-913)**

The State of New York, acting by and through their agent, the Dormitory Authority of the State of New York (the "Tenant") is interested in leasing from the County approximately 11,049 square feet of space located on the 7<sup>th</sup> Floor at 100 East First Street, Mount Vernon, New York (the "Leased Premises"), on behalf of the New York State Office of Mental Health Rockland Psychiatric Center, for the purpose of providing mental health services to the residents of Westchester County. This space was previously occupied by Westchester County's Community Mental Health Department, but has been vacant since June, 2011. The proposed lease is for a five (5) year term at the following monthly rents, which reflect current market rates:

	<u>Yearly</u>	<u>Monthly</u>
Year 1	\$245,841.00	\$20,486.75
Year 2	\$258,133.00	\$21,511.08
Year 3	\$265,877.00	\$22,156.42
Year 4	\$273,853.00	\$22,821.08
Year 5	\$282,069.00	\$23,505.75

The County will build out the Leased Premises in accordance with approved plans, with the total cost of the build out improvements not to exceed \$49,327.62. The Tenant shall reimburse the County for the final total cost of the improvements. The term of the Lease shall commence upon completion of the build out improvements.

The Tenant shall pay the County for electric current consumed in the Leased Premises at the rate of \$3.00 per square foot (monthly cost of \$2,762.25 with annual cost of \$33,147.00). Commencing July 1, 2014, should the actual cost of electricity charged by the New York Power Authority exceed \$3.00 per square foot, the Tenant shall pay the actual electric costs based on an electrical usage survey.

The County will provide HVAC at no additional cost to the Tenant during the hours Monday through Friday, from 8:00 a.m. to 6:00 p.m. Should the Tenant require HVAC after 6:00 p.m. or before 8:00 a.m., the Tenant will be charged at \$100.00 per hour.

The Tenant shall have the right to full use of the Leased Premises from Monday through Friday between 8:00 a.m. and 9:00 p.m. When the building is closed to the public, the Tenant may elect to remain open, subject to the Tenant reimbursing the County for provision of overtime compensation for required personnel at the building at a rate of \$100.00 per hour for a minimum of four (4) hours, and thereafter \$100.00 for each additional hour.

The Tenant shall also have access to the County's building demark, but the Tenant will not rely on the County's telecommunications system. Should IT and internet services need to be provided by the County to the Tenant in the future, the Tenant will be charged a pass through of actual charges and overhead.

The County will be responsible for all repairs to the Leased Premises except for damages resulting from carelessness or neglect of the Tenant. Cleaning for the Leased Premises and janitorial services for the common areas of the building are included in the rent charges and will be provided by the County. The County will provide used furniture for use by the Tenant.

If the tax exempt status of the building changes, the Tenant agrees to pay the County any real estate taxes levied on the property occupied by the Tenant. The Tenant's obligation shall be limited to 10% of taxes, which amount represents the Tenant's proportionate share of the building area.

The County and the Tenant shall each have the right to terminate the Lease by giving the other party at least one hundred eighty (180) days prior written notice. In the event that the County terminates this Lease based on the County's best interests and not for cause based on the Tenant's breach of the terms of this Lease, the County shall be liable to the Tenant for the following sums (which sums represent a recoupment of a portion of the Tenant's expenses incurred in reimbursing the County for build out improvements) based on the date of such termination:

- |   |             |
|---|-------------|
| • Termination during the first year of the Lease  | \$40,000.00 |
| • Termination during the second year of the Lease | \$30,000.00 |
| • Termination during the third year of the Lease  | \$20,000.00 |
| • Termination during the fourth year of the Lease | \$10,000.00 |
| • Termination during the fifth year of the Lease  | \$ 0.00     |

In the event the Tenant terminates this Lease based on the Tenant's best interests or the County terminates this Lease based on the Tenant's breach of the terms of this Lease, the County shall have no liability to the Tenant for the Tenant's expenses incurred in reimbursing the County for the build out improvements.

Although the Lease does not include vehicle parking, the County shall make best efforts to secure ten (10) parking spaces in a municipal lot or equivalent for use of the Tenant, and the County will bill the Tenant for the actual cost of the spaces as "Additional Rent".

Board of Acquisition and Contract  
Lease Agreement No. 12-913  
Dormitory Authority of the State of New York  
Space at 100 East First Street, Mount Vernon, New York  
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This Lease is in the public's best interests as it provides the State with office space to offer mental health services to residents of the County while the County receives revenue from County office space that is currently vacant. There are no energy or environmental components associated with this Lease.

This Lease is exempt from the Westchester County Procurement Policy and Procedures pursuant to Section 3(b) therein. Approval of the attached Resolution is respectfully requested.

JTP/MJM/dm  
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/14/2012, DORMITARY VIEIRA, SECRETARY

# RESOLUTION

Upon a communication from the Commissioner of Public Works and Transportation and the Director of Real Estate, be it hereby:

**RESOLVED**, that the County of Westchester is hereby authorized to enter into a five (5) year Lease Agreement with the State of New York, acting by and through their agent, the Dormitory Authority of the State of New York (the "Tenant"), for approximately 11,049 square feet of County space located on the 7<sup>th</sup> Floor at 100 East First Street, Mount Vernon, New York (the "Leased Premises") at the following rental rates:

	<u>Yearly</u>	<u>Monthly</u>
Year 1	\$245,841.00	\$20,486.75
Year 2	\$258,133.00	\$21,511.08
Year 3	\$265,877.00	\$22,156.42
Year 4	\$273,853.00	\$22,821.08
Year 5	\$282,069.00	\$23,505.75

; and be it further

**RESOLVED**, that the County will build out the Leased Premises in accordance with approved plans, with the total cost of the build out improvements not to exceed \$49,327.62 and the Tenant shall reimburse the County for the final total cost of the improvements; and be it further

**RESOLVED**, that the Tenant shall pay the County for electric current consumed in the Leased Premises at the rate of \$3.00 per square foot (monthly cost of \$2,762.25 with annual cost of \$33,147.00). Commencing July 1, 2014, should the actual cost of electricity charged by the New York Power Authority exceed \$3.00 per square foot, the Tenant shall pay the actual electric costs based on an electrical usage survey; and be it further

**RESOLVED**, that the County will provide HVAC at no additional cost to the Tenant during the hours Monday through Friday, from 8:00 a.m. to 6:00 p.m. Should the Tenant require HVAC after 6:00 p.m. or before 8:00 a.m., the Tenant will be charged at \$100.00 per hour; and be it further

**RESOLVED**, that the Tenant shall have the right to full use of the Leased Premises from Monday through Friday between 8:00 a.m. and 9:00 p.m. When the building is closed to the public, the Tenant may elect to remain open, subject to the Tenant reimbursing the County for provision of overtime compensation for required personnel at the Building at a rate of \$100.00 per hour for a minimum of four (4) hours, and thereafter \$100.00 for each additional hour; and be it further

**RESOLVED**, that the Tenant shall have access to the County's building demark, but the Tenant will not rely on the County's telecommunications system. Should IT and internet services need to be provided by the County to the Tenant in the future, the Tenant will be charged a pass through of actual charges and overhead; and be it further

**RESOLVED**, that the County will be responsible for all repairs to the Leased Premises except for damages resulting from carelessness or neglect of the Tenant. Cleaning for the Leased Premises and janitorial services for the common areas of the building are included in the rent charges and will be provided by the Landlord; and be it further

**RESOLVED**, that the County will provide used furniture for use by the Tenant; and be it further

# RESOLUTION

**RESOLVED**, that if the tax exempt status of the building changes, the Tenant shall pay the County any real estate taxes levied on the previously tax-exempt property occupied by the Tenant during its tenancy. The Tenant's obligation shall be limited to 10% of taxes on the building which represents its proportionate share of the building area; and be it further

**RESOLVED**, that the County and the Tenant shall each have the right to terminate the Lease by giving the other party at least one hundred eighty (180) days prior written notice of its intention to terminate the Lease. In the event that the County terminates this Lease based on the County's best interests and not for cause based on Tenant's breach of the terms of this Lease, the County shall be liable to the Tenant for the following sums (which sums represent a recoupment of a portion of the Tenant's expenses incurred in reimbursing the County for build out improvements) based on the date of such termination:

- Termination during the first year of the Lease \$40,000.00
- Termination during the second year of the Lease \$30,000.00
- Termination during the third year of the Lease \$20,000.00
- Termination during the fourth year of the Lease \$10,000.00
- Termination during the fifth year of the Lease \$ 0.00

;and be it further

**RESOLVED**, that the Lease does not include vehicle parking; however, the County shall make best efforts to secure ten (10) parking spaces in a municipal lot or equivalent for use of the Tenant and the County will bill the Tenant for the actual cost of the spaces as "Additional Rent"; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized and empowered to execute any and all documents necessary and appropriate to effectuate the purpose hereof.

Lease Agreement No. 12-913

Account to be Charged/credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	46	3300	9274		\$278,988.00 Year 1
	101	46	3300	9274		\$291,280.00 Year 2
	101	46	3300	9274		\$299,024.00 Year 3
	101	46	3300	9274		\$307,000.00 Year 4
	101	46	3300	9274		\$315,216.00 Year 5

Budget Funding Year(s) \_\_\_\_\_ Start Date Upon Execution End Date 60 Month Agreement  
 (must match resolution)

Funding Source Tax Dollars \_\_\_\_\_  
 State Aid \_\_\_\_\_  
 Federal Aid \_\_\_\_\_  
\$1,491,508.00  
 (must match resolution) Other Revenue \_\_\_\_\_