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November 27, 2018

To: Board of Acquisition and Contract

From: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

Marguerite Beirne
Chief Information Officer

Gary A. Friedman, Esq.
Director of Real Estate

Re: Amending a Resolution authorizing the County of Westchester to enter into a lease agreement with Montefiore Hospital Housing Section II, Inc. for the installation of a radio antenna and appurtenant equipment at 3450 Wayne Avenue, Bronx, New York for a five year term commencing January 1, 2018, in order to include the County's defense and indemnification of the landlord. (Agreement No. DOTOP07-17)

On December 14, 2017, your Honorable Board approved a Resolution authorizing the County of Westchester (the "County") to enter into a lease agreement with Montefiore Hospital Housing Section II, Inc. ("Montefiore") for the installation of a radio antenna and appurtenant equipment at 3450 Wayne Avenue, Bronx, New York for a five year term commencing on January 1, 2018. This antenna equipment is vital to the operation of the Bee Line bus system. The lease has not been executed.

Montefiore has insisted that the lease contain the following defense and indemnification provision: "The County agrees to defend, indemnify and save harmless Landlord and to assume all liability for death or injury to any persons and all liability for loss, damage or injury to any property incurred or sustained by Landlord arising from, growing out of or resulting from or in connection with the County's installation, use, repair or removal of the Equipment or Tenant's use of the Premises or any other areas in the Site where Tenant's Equipment is located, including costs, attorney's fees and other expenses incurred by Landlord in defending any such claim."

For that reason, it is necessary to amend the prior Resolution to specifically authorize this provision. All other terms and conditions of the December 14, 2017 Resolution will remain in effect.

Approval of the attached Resolution by your Honorable Board is requested.

RESOLUTION

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

RESOLVED, that the Resolution approved on December 14, 2017, authorizing the County of Westchester (the "County") to enter into a lease agreement with Montefiore Hospital Housing Section II, Inc. ("Montefiore") for the installation of a radio antenna and appurtenant equipment at 3450 Wayne Avenue, Bronx, New York for a five year term commencing on January 1, 2018, is amended to specifically authorize the inclusion of the following defense and indemnification clause in the lease: "The County agrees to defend, indemnify and save harmless Landlord and to assume all liability for death or injury to any persons and all liability for loss, damage or injury to any property incurred or sustained by Landlord arising from, growing out of or resulting from or in connection with the County's installation, use, repair or removal of the Equipment or Tenant's use of the Premises or any other areas in the Site where Tenant's Equipment is located, including costs, attorney's fees and other expenses incurred by Landlord in defending any such claim"; and be it further

RESOLVED, that all other terms and conditions of the December 14, 2017 Resolution shall remain in effect; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions necessary to implement this Resolution.

Lease Agreement No. DOTOP07-17

Account to be Charged/credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	44	2100	4140		N/A

Budget Funding Year(s) N/A Start Date N/A End Date N/A
 (must match resolution)

Funding Source Tax Dollars N/A
 State Aid _____
 Federal Aid _____

\$ N/A
 (must match resolution) Other _____