

71356

DATE: August 23, 2019

TO: Board of Acquisition and Contract

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

Gary A. Friedman, Esq.
Director of Real Estate

RE: Authority for the County of Westchester to amend a lease agreement with 140 Grand Street, LLC for office space at 140 Grand Street in White Plains, New York, in order to extend the term of the lease by ten (10) years, to a new expiration date of August 31, 2029.
(Lease Agreement No. 14-934)

By a resolution approved on August 21, 2014, your Honorable Board authorized the County of Westchester (the "County") to enter into a lease agreement that the County executed with Reckson Operating Partnership, L.P. ("Reckson"), pursuant to which the County leased from Reckson approximately 17,800 square feet of space on the sixth floor (the "Leased Premises") at 140 Grand Street in White Plains, New York (the "Building"), for a term from September 1, 2014 through August 31, 2019, for certain 'Fixed Annual Rent', less an initial rent abatement; certain 'Additional Rent' related to the County's use of parking spots and the County's proportionate share of increases in Reckson's operating expenses and taxes, assessments, rents, levies, and the like concerning the property; and the calculated cost of all electricity consumed by the County in the Leased Premises (the "Lease Agreement"). The Lease Agreement was subsequently executed.

The Leased Premises are leased by the County at the behest of the Office of Court Administration of the State of New York ("OCA"), for use by appellate courts of the Second Judicial Department of the New York State Supreme Court (the "Appellate Courts"). The OCA and the Appellate Courts desire that the County continue to lease the Leased Premises for their use. OCA will reimburse the County for all of the costs the County incurs for the 'Fixed Annual Rent'; the 'Additional Rent', including parking; and electricity.

Accordingly, authority is requested from your Honorable Board for the County to enter into an amendment (the "Amendment") to the Lease Agreement, with 140 Grand Street, LLC as successor in interest to Reckson (the "Landlord"), in order to extend the term of the Lease Agreement by ten (10) years, to a new expiration date of August 31, 2029, for the following annual and monthly amounts of 'Fixed Annual Rent', less a full abatement of rent for the first eight (8) months of the extension, plus 'Additional Rent' and electricity:

Period	Fixed Annual Rent	Monthly Amount
9/1/19 through 8/31/20	\$498,400.00	\$41,533.33
9/1/20 through 8/31/21	\$516,200.00	\$43,016.67
9/1/21 through 8/31/22	\$534,000.00	\$44,500.00
9/1/22 through 8/31/23	\$542,900.00	\$45,241.67
9/1/23 through 8/31/24	\$551,800.00	\$45,983.33
9/1/24 through 8/31/25	\$560,700.00	\$46,725.00
9/1/25 through 8/31/26	\$569,600.00	\$47,466.67
9/1/26 through 8/31/27	\$578,500.00	\$48,208.33
9/1/27 through 8/31/28	\$587,400.00	\$48,950.00
9/1/28 through 8/31/29	\$596,300.00	\$49,691.67

Under the Amendment, the County will continue to pay ‘Additional Rent’ as specified in the Lease Agreement, except that the ‘Base Year Operating Costs’ will be updated to mean the 2019 actual ‘Operating Expenses’ and the ‘Base Year Taxes’ will be updated to mean the taxes actually due and payable with respect to the 2019/2020 tax year for those imposed on a fiscal year basis and the 2019 tax year for those imposed on a calendar year basis.

Under the Amendment, the County will pay, as part of the ‘Additional Rent’, a rate of \$105.00 per month per parking space for a total of fifteen (15) reserved parking spaces in the parking garage within the Building.

Under the Amendment, electrical use at the Leased Premises will, except in the case of a failure of the submeter(s), be determined by submeter(s), which will be installed by the Landlord at its cost. The Landlord will bill the County for its electrical use at-cost, plus surcharges, energy charges, fuel adjustment charges, rate adjustments and taxes paid by the Landlord, unless the County secures a lower rate for electricity from the New York Power Authority (“NYPA”), in which case the County will pay the lower, NYPA rate, and will not be responsible for surcharges and the like that are not allocable to the County due to its purchase of electricity from NYPA.

Under the Amendment, the County will have two (2) successive five (5) year renewal options. Each option term would be on the same terms, covenants and conditions as those contained in the Lease Agreement, as amended by the Amendment, except for the amount of the ‘Fixed Annual Rent’. For each option term, the ‘Fixed Annual Rent’ would be determined, in accordance with the terms of the Amendment, based upon the fair market rental value as of the commencement date of each extension for space comparable to the Leased Premises in comparable buildings in White Plains, taking into account all then-relevant factors applicable to a party renting such space on a renewal basis.

Except as described above, all terms and conditions of the Lease Agreement shall remain in full force and effect.

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First Amendment to Lease Agreement No. 14-934
140 Grand Street, LLC
Space at 140 Grand Street, New Rochelle, New York
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Authority to enter into the Amendment, pursuant to Section 104.11(5)(e) of the Laws of Westchester County, is currently being sought from the County's Board of Legislators. Accordingly, use of any authority granted by your Honorable Board regarding the Amendment is naturally contingent upon the requisite legislation being adopted by the County's Board of Legislators and approved by the County Executive.

The Amendment will serve a public purpose by continuing to provide space for the Appellate Courts.

The goal and objective of the Amendment is to continue to provide space for the Appellate Courts.

The goal and objective of the Amendment is in the best interests of the County in terms of public safety, health, and welfare, as providing space for the Appellate Courts will facilitate court operations that, in various different ways, advance public safety, health, and welfare.

The goal and objective of the Amendment will be tracked and monitored by the staff of the Department of Public Works and Transportation and the Director of Real Estate.

The Amendment is exempt from the Westchester County Procurement Policy pursuant to Section 3(b) thereof.

I respectfully recommend the adoption of the attached resolution.

HJG/GAF/bdm/nn

RESOLUTION

Lease Agreement No. 14-934 – First Amendment

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 (the “County”) is hereby authorized to amend a lease agreement that the County executed with Reckson Operating Partnership, L.P. (“Reckson”), pursuant to which the County leased from Reckson approximately 17,800 square feet of space on the sixth floor (the “Leased Premises”) at 140 Grand Street in White Plains, New York (the “Building”), for a term from September 1, 2014 through August 31, 2019, for certain ‘Fixed Annual Rent’, less an initial rent abatement; certain ‘Additional Rent’ related to the County’s use of parking spots and the County’s proportionate share of increases in Reckson’s operating expenses and taxes, assessments, rents, levies, and the like concerning the property; and the calculated cost of all electricity consumed by the County in the Leased Premises (the “Lease Agreement”), in order to extend the term of the Lease Agreement, with 140 Grand Street, LLC as successor in interest to Reckson (the “Landlord”), by ten (10) years, to a new expiration date of August 31, 2029, for the following annual and monthly amounts of ‘Fixed Annual Rent’, less a full abatement of rent for the first eight (8) months of the extension, plus ‘Additional Rent’ and electricity:

Period	Fixed Annual Rent	Monthly Amount
09/01/19 through 08/31/20	\$498,400.00	\$41,533.33
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09/01/28 through 08/31/29	\$596,300.00	\$49,691.67

(the “Amendment”); and be it further

RESOLVED, that, under the Amendment, the County will continue to pay ‘Additional Rent’ as specified in the Lease Agreement, except that the ‘Base Year Operating Costs’ will be updated to mean the 2019 actual ‘Operating Expenses’ and the ‘Base Year Taxes’ will be updated to mean the taxes actually due and payable with respect to the 2019/2020 tax year for those imposed on a fiscal year basis and the 2019 tax year for those imposed on a calendar year basis; and be it further

RESOLVED, that, under the Amendment, the County will pay, as part of the ‘Additional Rent’, a rate of \$105.00 per month per parking space for a total of fifteen (15) reserved parking spaces in the parking garage within the Building; and be it further

RESOLUTION

Lease Agreement No. 14-934 – First Amendment

RESOLVED, that, under the Amendment, electrical use at the Leased Premises will, except in the case of a failure of the submeter(s), be determined by submeter(s), which will be installed by the Landlord at its cost; and be it further

RESOLVED, that, under the Amendment, the Landlord will bill the County for its electrical use at-cost, plus surcharges, energy charges, fuel adjustment charges, rate adjustments and taxes paid by the Landlord, unless the County secures a lower rate for electricity from the New York Power Authority (“NYPA”), in which case the County will pay the lower, NYPA rate, and will not be responsible for surcharges and the like that are not allocable to the County due to its purchase of electricity from NYPA; and be it further

RESOLVED, that, under the Amendment, the County will have two (2) successive five (5) year renewal options; each option term would be on the same terms, covenants and conditions as those contained in the Lease Agreement, as amended by the Amendment, except for the amount of the ‘Fixed Annual Rent’; and for each option term, the ‘Fixed Annual Rent’ would be determined, in accordance with the terms of the Amendment, based upon the fair market rental value as of the commencement date of each extension for space comparable to the Leased Premises in comparable buildings in White Plains, taking into account all then-relevant factors applicable to a party renting such space on a renewal basis; and be it further

RESOLVED, that except as hereby authorized to be amended, all terms and conditions of the Lease Agreement shall remain in full force and effect; and be it further

RESOLVED, that the County Executive or his duly authorized designee is empowered to execute all documents and take all actions necessary to effect the purpose of this resolution.

RESOLUTION

Lease Agreement No. 14-934 – First Amendment

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	46	3300	4320		\$172,433.32 (2019)
	101	46	3300	4320		\$523,233.32 (2020)
	101	46	3300	4320		\$541,033.36 (2021)
	101	46	3300	4320		\$555,866.68 (2022)
	101	46	3300	4320		\$564,766.68 (2023)
	101	46	3300	4320		\$573,666.64 (2024)
	101	46	3300	4320		\$582,566.68 (2025)
	101	46	3300	4320		\$591,466.68 (2026)
	101	46	3300	4320		\$600,366.64 (2027)
	101	46	3300	4320		\$609,266.68 (2028)
	101	46	3300	4320		\$410,133.32 (2029)

Budget Funding Year(s): 2019-2029 Start Date: 09/01/19 End Date: 08/30/29
 (must match resolution)

Funding Source: Tax Dollars 100% County
 State Aid _____
\$5,724,800.00 Federal Aid _____
 (must match resolution) Other _____

APPROVED BOARD OF ACQUISITION & CONTRACTS - 09/19/2019 - JISA MBIAJ, SECRETARY