

71898

TO: Honorable Board of Acquisition and Contract

DATE: October 4, 2019

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

SUBJECT: Authority to (1) enter into a Ground and Facility Lease Agreement and Declaration of Easements with Mayfair Housing LLC and Mayfair Housing Development Fund Company, Inc. (collectively “Mayfair”) to lease approximately 7.7220 acres of County-owned property located off Knollwood Road in the Town of Greenburgh (the “Premises”) in order to facilitate Mayfair’s development, rehabilitation and operation on the Premises of an affordable housing project consisting of approximately seventy-four (74) residential rental units exclusively for low and moderate income senior citizens aged sixty-two (62) and older; (2) terminate a Ground and Facility Lease Agreement with the Town of Greenburgh whereby the Town would surrender its current lease with the County for a six (6) acre portion of the Premises; (3) cancel a Declaration of Restrictions against the Premises and the surrounding thirty-three (33) acre parcel of County-owned land; and (4) terminate a services agreement dated April 24, 1990 and any and all other services agreements that may have been executed between the parties (Agreement No. 19-930)

By way of background, in 1957 the County of Westchester (the “County”) acquired approximately 368 acres of land located in the Town of Greenburgh (the “Hartford Property”). At the time the County acquired the Hartford Property, the then Board of Supervisors required a study to determine what portion of the Hartford Property should be used for the Westchester Community College (“WCC”) campus. That study was finalized in 1959 and the Board of Supervisors, by Resolution No. 90-1959 adopted on May 4, 1959, approved a land use plan allocating 218.4 acres of the Hartford Property to WCC as the site of its campus (“WCC Campus Site”) and reserving the remaining 149.68 acre portion of the Hartford to the County for its use (“County Use Site”).

In 1990 the Board of Legislators, by Local Law Intro No. 2-1990, authorized the County to lease a portion of the Premises defined herein (the “Original Leased Premises”) to West-H.E.L.P. to construct and operate an emergency homeless housing facility for a period of construction, plus 10 years which lease was dated as of April 25, 1990 (the “1990 West-H.E.L.P. Lease”). On April 24, 1990, your Honorable Board authorized a services agreement between the County and West-H.E.L.P. pursuant to which West-H.E.L.P. agreed to develop, operate and provide services to 108 homeless families for a 10 year period commencing on the date of issuance of a certificate of readiness for the emergency homeless housing facility at an approximate initial cost not to exceed \$3,159,000.00, subject to annual appropriations and annual adjustments thereafter (the “Services Agreement”). The

Services Agreement, dated April 24, 1990, was subsequently executed and recorded in the County Clerk's Office on July 24, 1990. Upon expiration of the 1990 West-H.E.L.P. Lease, the County was authorized to lease the Original Leased Premises to the Town for a 30 year period which lease was dated as of April 26, 1990 (the "Town Lease"). By a certain Sublease and Homeless Housing Facility Agreement entered into among the County, the Town and West-H.E.L.P. dated September 18, 2001 (the "Sublease Agreement"), the parties agreed as follows: (i) the 1990 West-H.E.L.P. Lease was deemed to have expired on September 17, 2001; (ii) the Town Lease, as amended by the Sublease Agreement, was acknowledged as having commenced and is not set to expire until September 17, 2031; and (iii) the Town agreed to sublease the Original Leased Premises to West-H.E.L.P. for the period commencing on September 18, 2001 and continuing through September 30, 2011, which sublease has since expired.

Local Law Intro No. 2-1990 further authorized the County to execute a Declaration of Restrictions (the "Declaration") to provide that during the term of the 1990 West-H.E.L.P. Lease and the Town Lease, the County would not further develop the restricted parcel defined in the Declaration without the approval of the Town. The Declaration was subsequently executed and recorded in the Westchester County Clerk's Office. The Declaration is deemed automatically cancelled upon the termination of either the 1990 West-H.E.L.P. Lease or the Town Lease and a Cancellation of Declaration, in recordable form is required.

Mayfair has requested that the County enter into a Ground and Facility Lease Agreement and Declaration of Easements for the Premises ("Lease Agreement") in order to undertake development, rehabilitation and operation on the Premises of an affordable housing project consisting of approximately seventy-four (74) residential rental units exclusively for low and moderate income senior citizens aged sixty-two (62) and older. The proposed Lease Agreement will be for a term commencing upon the date of full execution of the Lease Agreement (the "Commencement Date") and continuing thereafter until 11:59 p.m. on the day before the 65th anniversary of the Commencement Date, unless sooner terminated as therein provided (the "Lease Term").

Mayfair has agreed to pay rent to the County in the total amount of \$1,500,000 which shall be payable in full contemporaneously with the execution of the Lease Agreement as follows: \$600,000 to the Town, on behalf of the County, in exchange for which the Town has agreed to terminate the Town Lease and relinquish all of its right, title and interest in and to the Premises thereunder; and \$900,000 to the County.

Further, the County will grant Mayfair the following non-exclusive easements on, over, through, across and under the County Use Site: (i) for a portion of the private access road known as "Westchester Community College Knollwood Road Entrance" which extends from Knollwood Road to the driveway situated on the Premises ("Access Road"); (ii) for storm water run-off; (iii) for sanitary sewer equipment; (iv) for underground water mains and other devices; and (v) for electric utility lines,

wires, conduits, and other devices necessary to provide electricity, fiber optic, cable and telephone lines, wires, conduits, and other devices necessary to provide data and communication services; pipelines for the transportation of natural gas and related equipment. Mayfair will be required to promptly restore the easement areas after any work in such areas.

Mayfair will be solely responsible for all costs, expenses, liabilities, or other charges whatsoever with respect to the Premises and the acquisition, rehabilitation, ownership, leasing, operation, maintenance, repair, rebuilding, use, occupation of, or conveyance of the Premises and or the project, including, without limitation, the taxes and assessments (or payments in lieu thereof) during the Lease Term.

The County will be solely responsible during the Lease Term for all costs and expenses of operation, maintenance and repair of the Access Road (except for the aforesaid easement area restoration), including but not limited to, surfacing, resurfacing, paving, graveling, regravelling, filling potholes, grading, reconstruction, drainage improvements, snow and ice removal (including application of traction or deicing materials (typically sand and/or salt) when snow or ice prevail). The Access Road is necessary to enter the Premises.

On October 1, 2018, the County Board of Legislators approved the Ground and Facility Lease Agreement and Declaration of Easements with Mayfair, the Termination of the Ground Lease with the Town, and the Cancellation of the Declaration by Local Laws 12-2018 and 13-2018. In addition to the foregoing, the termination of the Services Agreement and any and all other services agreements that may have been executed between the parties requires your Honorable Board's authorization.

This Lease Agreement is in the public's best interest as it will provide for the development, construction and operation of approximately seventy-four (74) new affordable housing units for low and moderate income senior citizens aged sixty-two (62) and older.

The Lease Agreement will be monitored by the Department of Public Works and Transportation.

Based on the foregoing, it is respectfully requested that your Honorable Board approve the annexed Resolution.

HJG/lac
Attachment

RESOLUTION

Agreement No. 19-930

Upon a communication from the Commissioner of Public Works and Transportation, be it hereby

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into a Ground and Facility Lease Agreement and Declaration of Easements with Mayfair Housing LLC, and Mayfair Housing Development Fund Company, Inc. (collectively "Mayfair") to lease approximately 7.7220 acres of County-owned property located off Knollwood Road in the Town of Greenburgh (the "Premises") and for various easements on County-owned property in order to facilitate Mayfair's development, rehabilitation and operation of an affordable housing project consisting of approximately seventy-four (74) residential rental units exclusively for low and moderate income senior citizens aged 62 and older (the "Lease Agreement"); and be it further

RESOLVED, that the Lease Agreement will be for a term commencing upon the date of full execution of the Lease Agreement (the "Commencement Date") and continuing until 11:59 p.m. on the day before the 65th anniversary of the Commencement Date, unless sooner terminated pursuant to the terms contained therein; and be it further

RESOLVED, that the Lease Agreement will provide that Mayfair shall pay rent to the County in the amount of \$1,500,000 contemporaneously with the execution of the Lease Agreement as follows: \$600,000 to the Town of Greenburgh (the "Town"), on behalf of the County, in exchange for which the Town will terminate its lease with the County and relinquish all of its right, title and interest in and to the Premises; and \$900,000 to the County; and be it further

RESOLVED, that pursuant to the Lease Agreement, the County shall be responsible during the Lease Term for all costs and expenses of operation, maintenance and repair of a portion of the access road known as "Westchester Community College Knollwood Road Entrance" to provide access to the Premises; and be it further

RESOLVED, pursuant to the Lease Agreement, Mayfair shall be responsible for costs, expenses, liabilities or other charges whatsoever with respect to the Premises and the acquisition, rehabilitation, ownership, leasing, operation, maintenance, repair, rebuilding, use, occupation of, or conveyance of the Premises and or the project, including, without limitation, the taxes and assessments (or payments in lieu thereof); and be it further

RESOLVED, that the County is authorized to enter into a Termination of Ground and Facility Lease Agreement with the Town of Greenburgh for the original leased premises consisting of approximately six (6) acres of the Premises; and be it further

RESOLUTION

RESOLVED, that the County is authorized to execute a Cancellation of Declaration of Restrictions with the Town of Greenburgh and West-H.E.L.P.; and be it further

RESOLVED, that the County is authorized to terminate a Services Agreement with West-H.E.L.P. and any and all other services agreements that may have been executed between the parties; and be it further

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

Agreement No. 19-930

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	46	3300	9599		\$900,000.00

Budget Funding Year(s): 2019 Start Date: upon execution End Date: day before 65th anniversary
 (must match resolution)

Funding Source: Tax Dollars 100% County
 State Aid _____
\$900,000.00 Federal Aid _____
 (must match resolution) Other _____

APPROVED BOARD OF ACQUISITIONS & CONTRACTS - 10/10/2019 LISA MALONE, SECRETARY