



George Latimer
County Executive

Department of Social Services

Kevin M. McGuire
Commissioner

76827

DATE: May 19, 2020

TO: Board of Acquisition and Contract

FROM: Kevin M. McGuire
Commissioner, Department of Social Services

Gary A. Friedman
Director of Real Estate

SUBJECT: Authority to exercise the County's second option under its lease agreement with Saw Mill Lodging LLC, pursuant to which agreement it leased one (1) building, consisting of thirty-nine (39) rooms, at the hotel known as the Days Inn by Wyndham Elmsford/White Plains, and also amend the lease agreement in order to, a.) allow the rooms to be used for more broad purposes, b.) provide the County with additional lease options for parts of July and August, and c.) remove the County's right to terminate the lease agreement for convenience.

By a resolution approved on April 2, 2020, your Honorable Board authorized the County of Westchester (the "County") to enter into a lease agreement (the "Original Agreement") with Saw Mill Lodging LLC ("Saw Mill Lodging"), pursuant to which Saw Mill Lodging was to lease to the County one (1) building, known as Building C, consisting of thirty-nine (39) rooms, at the hotel known as the Days Inn by Wyndham Elmsford/White Plains, located at 25 Valley Avenue in Elmsford, (the "Days Inn") which was to be used to house for COVID-19 patients who had been released from the hospital but were not yet able to return to their prior housing, for a monthly rental cost of \$75,000.00, for an initial term commencing on April 1, 2020 and continuing through April 30, 2020, with the County having the sole option to extend the term of the agreement for up to two (2) additional months on the same terms as the initial term. The Original Agreement was subsequently executed.

By a resolution approved on April 23, 2020, your Honorable Board authorized the

County to exercise its first option under the Original Agreement and thereby, 1.) extend the term thereof by one (1) month, through the first option term, to a new termination date of May 31, 2020; and 2.) increase the total authorized rental costs thereof by \$75,000.00, from \$75,000.00 to \$150,000.00, to provide for the rent payment for the first option term, which was to be payable as specified in the Original Agreement (the "First Option-Exercise"). The First Option-Exercise was subsequently completed.

The County continues to require the use of Building C at the Days Inn. However, the County now requires the more broad ability to use the space for the purpose of general isolation housing related to COVID-19. The County may, in fact, need to use such space for such isolation housing during additional, future months. Saw Mill Lodging is agreeable to providing the County with additional, successive lease options for portions of July and August at the same monthly rate as it charged for April, May, and June, on certain notice terms for the exercise of each option. However, in order to do that, Saw Mill Lodging requires more certainty in terms of the usage of the Days Inn. Therefore, as part of this amendment, Saw Mill Lodging requires that the County give up its right to terminate the lease for convenience. The County is agreeable to all of those terms.

Accordingly, the County respectfully requests authority from your Honorable Board to exercise its second option under the Original Agreement, as modified by the First Option-Exercise, (the "Agreement") and amend the Agreement in order to, 1.) extend the term thereof by one (1) month, through the second option term, to a new termination date of June 30, 2020; 2.) increase the total authorized rental costs thereof by \$75,000.00, from \$150,000.00 to \$225,000.00, to provide for the rent payment for the second option term, which shall be payable as specified in the Agreement; and 3.) (a) modify the purpose of the lease specified in the Agreement in order to allow for the rooms to be used for the purpose of general isolation housing related to COVID-19, (b) add the following lease options to the Agreement (the "Additional Options"), to be exercised based upon the County's sole discretion, for parts of July and August:

- Option #1: From the end of the existing term until July 18, for a rental of \$41,129.03, with notice of the option exercise due by June 22.
- Option #2: From July 18 until August 1, for a rental of \$33,870.97, with notice of the option exercise due by July 10.
- Option #3: From August 1 until August 15, for a rental of \$36,290.32, with notice of the option exercise due by July 24.
- Option #4: From August 15 until August 31, for a rental of \$38,709.68, with notice of the option exercise due by August 7.

and c.) remove the County's right to terminate the Agreement for convenience (the "Amendment").

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

The proposed Amendment will serve a public purpose by providing the County with additional access to housing for COVID-19-related isolation purposes that are intended to help the ill and prevent others from becoming ill.

The goal and objective of the proposed Amendment is to provide the County with additional access to housing for COVID-19-related isolation purposes that are intended to help the ill and prevent others from becoming ill.

The goal and objective of the proposed Amendment is in the best interests of the County in terms of health and safety, as providing the County with additional access to housing for COVID-19-related isolation purposes, which are intended to help the ill and prevent others from becoming ill, will ensure that such persons have safe housing while any possible illness issues are resolved.

The goal and objective of the proposed Amendment will be tracked and monitored by the staff of the Department of Social Services.

As part of a lease, the procurement of the Additional Options is exempt from the Westchester County Procurement Policy pursuant to Section 3(b) thereof.

Section 13 of the Westchester County Procurement Policy specifies that each procurement that is funded, in whole or in part, by federal funds shall be made in accordance with any and all applicable federal laws, regulations, rules, guidance, instructions, or grant terms. To the extent that it is applicable, the procurement of the Additional Options complies with 2 C.F.R. 200.320(f)(2), which allows for non-competitive procurement when “[t]he public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation”, based on the emergency that currently exists with regard to COVID-19 and the related urgent need for general isolation housing.

To the extent that it is applicable, the Director of Real Estate has complied with 2 CFR 200.318(d) in that he has determined that a lease, rather than a purchase of real property, is the most economical approach for the periods that would be covered by the Additional Options, given the County’s particular needs in terms of the space required and the intended duration.

Under 2 CFR 200.465, which contains the Federal ‘cost principles’ applicable to lease costs for real property where Federal funds are used, “rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.” The Director of Real Estate has determined that, based upon the pertinent factors, the rental costs for the second option term, and the for the Additional Options, are reasonable.

I respectfully recommend the adoption of the attached Resolution.

KMM/GF/bdm/nm

RESOLUTION

Upon a communication from the Commissioner of the Department of Social Services and the Director of Real Estate, be it hereby:

RESOLVED, that the County of Westchester (the "County") is hereby authorized to exercise its second option under its agreement with Saw Mill Lodging LLC ("Saw Mill Lodging"), pursuant to which Saw Mill Lodging was to lease to the County one (1) building, known as Building C, consisting of thirty-nine (39) rooms, at the hotel known as the Days Inn by Wyndham Elmsford/White Plains, located at 25 Valley Avenue in Elmsford, (the "Days Inn") which was to be used to house for COVID-19 patients who had been released from the hospital but were not yet able to return to their prior housing, for a monthly rental cost of \$75,000.00, for an initial term commencing on April 1, 2020 and continuing through May 31, 2020, with the County having the sole option to extend the term of the agreement for up to one (1) additional month on the same terms as the initial term, (the "Agreement"), and amend the Agreement in order to, 1.) extend the term thereof by one (1) month, through the second option term, to a new termination date of June 30, 2020; 2.) increase the total authorized rental costs thereof by \$75,000.00, from \$150,000.00 to \$225,000.00; and 3.) (a) modify the purpose of the lease specified in the Agreement in order to allow for the rooms to be used for the purpose of general isolation housing related to COVID-19, (b) add the following lease options to the Agreement, to be exercised based upon the County's sole discretion, for parts of July and August:

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and c.) remove the County's right to terminate the Agreement for convenience (the "Amendment"); and be it further

RESOLVED, that except as specifically hereby authorized to be modified by the Amendment, all terms and conditions of the 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.

Account to be
Charged/Credited

Fund	Dept	Unit	Object/ Sub Object	Trust Account	Activity	Dollars
101	22	0010	4998			75,000

Budget Funding Year(s): 2020 Start Date: 06/01/2020 End Date: 06/30/2020
(must match resolution)

Funding Source

\$75,000.00
(must match resolution)

Tax Dollars: _____

State Aid: _____

Federal Aid: 100% _____

Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACTS - 05/21/2020 - LISA MRJAS SECRETARY