

77602

DATE: June 25, 2020
TO: Board of Acquisition and Contract
FROM: Hugh J. Greechan, Jr., P.E.
Commissioner, Department of Public Works and Transportation

Gary A. Friedman, Esq.
Director of Real Estate

Marguerite Beirne
Chief Information Officer

RE: Resolution authorizing the County to enter into (1) a sublease agreement (Agreement No. 20-923) with Pamal Broadcasting LTD for the County to install, maintain and operate its antennas and microwave dishes and an equipment shelter and certain public safety, radio communication equipment and appurtenant equipment on the real property that Pamal leases from James J. Morrell for the operation of its radio station known as WHUD, which real property is located at 22 Sky Lane, Philipstown, New York, 10524, as well as on the WHUD tower owned by Pamal located on the real property, and (2) a lease agreement (Agreement No. 20-924) with Pamal which lease will authorize Pamal to continue to maintain and operate its transmitting and receiving apparatus and equipment on the County's communication tower and in the shared equipment room located in County Building No. 1 at the Grasslands Reservation in Valhalla, New York.

Authority is requested for the County of Westchester (the "County"), acting by and through its Department of Public Works and Transportation, to enter into the following agreements: (1) a sublease agreement (Agreement No. 20-923) with Pamal Broadcasting LTD ("Pamal"), which sublease will authorize the County to install, maintain and operate its antennas and microwave dishes and an equipment shelter and certain public safety, radio communication equipment, and appurtenant equipment on real property that Pamal leases from James J. Morrell for the operation of its radio station known as WHUD, which real property is located at 22 Sky Lane, Philipstown, New York 10524, and designated as Section Block and Lot No 83.18-1-23 on the tax maps for the Town of Philipstown (the "WHUD Site"), as well as on the WHUD tower owned by Pamal located on the WHUD Site (the "WHUD Sublease"); and (2) a lease agreement (Agreement No. 20-924) with Pamal which lease will authorize Pamal to continue to maintain and operate its transmitting and receiving apparatus and equipment on the County's communication tower and in the shared equipment room located in County Building No. 1 at the Grasslands Reservation in Valhalla, New York (the "Grasslands Site"), noting that upon execution of this lease (the "Grasslands Lease"), Pamal's current agreement with the County, dated January 9, 1995, for the same purposes, will terminate (collectively, referred to as the "Lease Agreements").

Under the Lease Agreements, no rent will be due from either party for their respective leasehold interests, unless one of the leases, either the WHUD Sublease or the Grasslands Lease, is terminated. In such event, rent will be due and payable on the lease agreement that was not terminated at the rate of \$35,000.00 per year, with a 3% annual escalator.

Both Pamal and the County will be responsible to pay for their own respective utilities at each site.

Both the WHUD Sublease and the Grasslands Lease will have a term commencing upon execution and continuing for twenty (20) years, unless sooner terminated as provided for therein.

For the proposed WHUD Sublease, the County is seeking authority to indemnify Pamal as follows:

“...the County agrees that, except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of Pamal, the County shall indemnify, defend and hold harmless Pamal, and its respective officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys’ fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the County, its employees, agents, contractors and subcontractors.”

As your Honorable Board is aware, the County uses various radio towers throughout Westchester in order to provide radio communication systems that are relied upon by the Department of Emergency Services, the Department of Public Safety, and local fire, EMS and police agencies, and for operation of the Bee-Line Bus System. The County seeks to improve such radio communication systems in County communities near the WHUD Site by entering into the WHUD Sublease.

The WHUD Sublease will benefit the public as it will improve the coverage and reliability of the radio systems used by first responders and the Bee Line bus system and other government officials during both routine and emergency situations.

The Lease Agreements were approved by the County Board of Legislators by Intro Local Law No. 12779-2020 on June 25, 2020.

The Lease Agreements are exempt from the Westchester County Procurement Policy pursuant to section 3(b) thereof.

Your approval of the attached resolution is respectfully requested.

HJG/GAF/MB/RAN
Attachment

RESOLUTION

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

RESOLVED, that the County of Westchester (the “County”) is authorized to enter into (1) a sublease agreement (Agreement No. 20-923) with Pamal Broadcasting LTD (“Pamal”), which sublease will authorize the County to install, maintain and operate its antennas and microwave dishes and an equipment shelter and certain public safety, radio communication equipment, and appurtenant equipment on real property that Pamal leases from James J. Morrell for the operation of its radio station known as WHUD, which real property is located at 22 Sky Lane, Philipstown, New York, 10524, and designated as Section Block and Lot No 83.18-1-23 on the tax maps for the Town of Philipstown (the “WHUD Site”), as well as on the Pamal tower located on the WHUD Site (the “WHUD Sublease”); and (2) a lease agreement (Agreement No. 20-924) with Pamal which lease will authorize Pamal to continue to maintain and operate its transmitting and receiving apparatus and equipment on the County’s communication tower and in the shared equipment room located in County Building No. 1 at the Grasslands Reservation in Valhalla, New York (the “Grasslands Site”), noting that upon execution of this lease (the “Grasslands Lease”), Pamal’s current agreement with the County, dated January 9, 1995, for the same purposes, will terminate (collectively, the “Lease Agreements”); and be it further

RESOLVED, that no rent will be due from either party for their respective leasehold interests, unless one of the leases, either the WHUD Sublease or the Grasslands Lease, is terminated. In such event, rent will be due and payable on the lease agreement that was not terminated at the rate of \$35,000.00 per year, with a 3% annual escalator; and be it further

RESOLVED, that both the WHUD Sublease and the Grasslands Lease will have a term commencing upon execution and continuing for twenty (20) years, unless sooner terminated as provided for therein; and be it further

RESOLVED, that the County is authorized to indemnify Pamal in the WHUD Sublease as follows:

“...the County agrees that, except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of Pamal, the County shall indemnify, defend and hold harmless Pamal, and its respective officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys’ fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the County, its employees, agents, contractors and subcontractors;” and be it further

RESOLVED, that the WHUD Sublease is subject to County appropriations; and be it further

RESOLUTION

RESOLVED, that the County Executive or his authorized designee is authorized and empowered to execute and deliver all instruments and take all actions necessary or appropriate to effectuate the purposes hereof.

Sublease Agreement Number 20-923 and Lease Agreement No. 20-924

Account to be Charged/ Credited	Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account or Bond Act	Dollars
							N/A

Budget Funding Year(s): N/A Start Date: Upon Execution End Date: 20 Years from the date of Execution
 (must match resolution)

Funding Source: Tax Dollars N/A

State Aid _____

\$ N/A Federal Aid _____
 (must match resolution)

Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 07/102/2020 - LISA MRIJAJ, SECRETARY