

80369

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

DATE: October 21, 2020

SUBJECT: Change Order No. 3
Lease Agreement No. 19-920
Thirty (30) Year Lease Agreement
Family Court Facility, Garden Street, New Rochelle

Landlord/Contractor: MJ Garden, LLC
Amount of Change Order No. 3: \$328,223.00

On July 15, 2019 the Westchester County Board of Legislators adopted Local Law Intro. No. 11932 - 2019 which authorized the County of Westchester ("County") to enter into a lease agreement for property located in New Rochelle which will be occupied by the Westchester Family Court-New Rochelle (part of the NYS Unified Court System), as well as by the County's Probation Department and the Office for Women, and will replace space currently being leased by the County at 420 North Avenue, New Rochelle.

Thereafter, by resolution approved on July 25, 2019, your Honorable Board authorized the County to enter into a thirty (30) year lease agreement (the "Lease") with The Mark 95, LLC, (the "Landlord"), for approximately 35,000 square feet of space comprising two floors of a yet to be constructed building (the "Building") to be located on all, or a portion of each of the following lots (identified by section-block-lot): 3-802-0043, 3-802-0041, 3-802-0020, 3-802-0038 and 3-802-0033, collectively to be known as 26 Garden Street or such other address approved by the City of New Rochelle, along with a separate secure parking area to be located in the Building which will contain between 50 and 60 secure parking spaces separately allocated for use by County employees and Court personnel. The Lease was executed on August 15, 2020 and thereafter immediately assigned by the Landlord to MJ Garden, LLC.

Thereafter, by resolution approved on July 30, 2020, your Honorable Board approved Change Order No. 1 for installation of an additional elevator stop for the separate secure elevator in connection with the construction of the Building to be leased to the County for the new Family Court Facility on Garden Street in New Rochelle in the amount of \$55,000.00.

Thereafter, by resolution approved on September 24, 2020, your Honorable Board approved Change Order No. 2 to provide card reader/fab units for all three elevator cars, including the car station and controller provisions and for the connection of the security company's wiring to the controllers that are supplied in the amount of \$28,000.00.

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Thereafter, on October 5, 2020, the Westchester County Board of Legislators adopted Local Law No. 17 - 2020 and on October 15, 2020, your Honorable Board approved a resolution authorizing the County to amend the Lease in order to: (1) amend Section 11.5 thereof to authorize MJ Garden to assign the Lease to MJ Garden III, LLC and consent to the granting of a PILOT mortgage to the New Rochelle Industrial Development Agency as well as authorize the County to consent to the assignment of Lease rent payments and the granting of a financing mortgage to the trustee for Landlord's financing of the leased premises; (2) modify the definition of "Building" as set forth in Section 1.1(c) thereof to include, among other things, the tax lots to be assigned to the leased premises when the condominium form of ownership is in place; (3) add a new Section 11.6 whereby the County acknowledges and consents to a lease/leaseback by and among MJ Garden and the IDA; and (4) clarify Section 5.1 to provide that Taxes will include the PILOT Payments, assessments or fees required to be paid to the IDA.

The parties now desire to enter into a third Change Order (Change Order No. 3) to provide voice and data cabling and terminations, IT Room fitout and terminations, CCTV cabling and terminations for Floor 3 and below, and A/V system cabling.

Pursuant to the terms of the Lease, your Honorable Board, upon my recommendation, is authorized to approve change orders that, in the aggregate, do not exceed ten (10%) percent of the total principal amount for the build-out of the leased premises, without the need for additional Board of Legislator approval. The principal amount for the build out is \$7,000,000.00.

Accordingly, the authority of your Honorable Board is respectfully requested to approve Change Order No. 3 for the provision of voice and data cabling and terminations, IT Room fitout and terminations, CCTV cabling and terminations for Floor 3 and below, and A/V system cabling, in connection with the construction of the Building to be leased to the County for the new Family Court Facility on Garden Street in New Rochelle in the amount of \$328,223.00.

It should be noted that the total cost of the work to be performed under this Change Order is \$478,223. However, pursuant to Section 8.1 (d) of the Lease, the County was given a credit of \$150,000 for installation of telecommunications wiring systems. Therefore, the total amount of the Change Order is reduced to \$328,223.

This Change Order is in the public's best interest because it will authorize the installation of wiring which will enable the Courthouse and County offices to utilize various telecommunications equipment.

The Department of Public Works and Transportation will track scheduling and accomplishments by the contractor and perform on-site inspections to ensure the successful completion of this project.

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This additional work is incidental to the original work. The work is of the same nature as the initial work, is to be performed in the same general vicinity, is necessary to efficiently complete the project and was unanticipated until work under the contract began. The delivery of possession date is currently June 30, 2021 and will not be affected by this change order.

Accordingly, it is requested that your Honorable Board take action on the following:

Approval of Change Order No. 3

Total Amount of Change Order No. 3.....\$328,223.00

This Change Order has been reviewed by the Law Department and a proposed form of Resolution is attached hereto for your approval.

Approval is recommended.

HJG/GAF/jpg
Attachment

RESOLUTION

RE: LEASE AGREEMENT NO. 19-920
PRINCIPAL AMOUNT OF BUILD OUT: \$ 7,000,000.00
CHANGE ORDER NO. 1: \$ 55,000.00
CHANGE ORDER NO. 2: \$ 28,000.00
CHANGE ORDER NO. 3: \$ 328,223.00
NET INCREASE: \$ 328,223.00
REVISED PRINCIPAL AMOUNT: \$ 7,411,223.00

CHANGE ORDER NO. 3

Upon communication from the Commissioner of Public Works and Transportation and the Director of Real Estate,

WHEREAS, Hugh J. Greechan, Jr., P.E., Commissioner, Public Works and Transportation, requests approval of Change Order No. 3 on Lease Agreement No. 19-920, between the County of Westchester (the "County") and MJ Garden, LLC, 1250 Waters Place PH1, Bronx, New York 10461, for construction of the building which will serve as the County's new Family Court Facility to be located on Garden Street in the City of New Rochelle; and

WHEREAS, it is requested that Lease Agreement No. 19-920 be further amended to complete the work necessary to provide voice and data cabling and terminations, IT Room fitout and terminations, CCTV cabling and terminations for Floor 3 and below, and A/V system cabling; and

WHEREAS, this matter has been discussed by the Board; now, therefore, be it

RESOLVED, that said Change Order No. 3 on Lease Agreement No. 19-920 be and the same is hereby approved in the amount of \$328,223.00; and be it further

RESOLVED, that the delivery of possession date of this Lease is currently June 30, 2021 and will not be affected by this Change Order; and be it further

RESOLVED, that all other terms and conditions of Lease Agreement No. 19-920 shall remain in full force and effect; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purposes hereof.

Total Amount of Change Order No. 3 \$328,223.00

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
	101	46	3300	4320	N/A	\$328,223.00

Budget Funding Year(s): 2020 Start Date: 08/01/2020 End Date: 06/29/2051
 (must match resolution)

Funding Source: Tax Dollars 100% County

State Aid _____

\$328,223.00 Federal Aid _____

(must match resolution) Other _____