

82631

**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:** February 10, 2021

**SUBJECT:** Change Order No. 5  
Lease Agreement No. 19-920  
Thirty (30) Year Lease Agreement  
Family Court Facility, Garden Street, New Rochelle

**Landlord/Contractor:** MJ Garden III, LLC  
**Amount of Change Order No. 5: \$37,895.00**

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 immediately thereafter was 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, LLC 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.

Thereafter, by resolution approved on October 29, 2020, your Honorable Board approved 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, in the amount of \$328,223.00.

Shortly thereafter, the Lease was assigned from MJ Garden, LLC to MJ Garden III, LLC.

Thereafter, by resolution approved on January 28, 2021, your Honorable Board approved Change Order No. 4 to provide electrical wiring for the electric car chargers to be located in the garage area in the amount of \$45,000.00.

The parties now desire to enter into a fifth Change Order (Change Order No. 5) to provide window treatments.

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. 5 for the provision of window treatments for the new Family Court Facility on Garden Street in New Rochelle in the amount of \$37,895.00.

This Change Order is in the public's best interest because it will enhance the aesthetics of the windows in the new courthouse.

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. 5

**Total Amount of Change Order No. 5.....\$37,895.00**

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

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/18/2021 - ES/MRIJAJ, SECRETARY

# 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**  
**CHANGE ORDER NO. 4: \$ 45,000.00**  
**CHANGE ORDER NO. 5: \$ 37,895.00**  
**NET INCREASE: \$ 37,895.00**  
**REVISED PRINCIPAL AMOUNT: \$ 7,494,118.00**

## CHANGE ORDER NO. 5

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. 5 on Lease Agreement No. 19-920, between the County of Westchester (the "County") and MJ Garden III, 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 window treatments; and

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

**RESOLVED**, that said Change Order No. 5 on Lease Agreement No. 19-920 be and the same is hereby approved in the amount of \$37,895.00; 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. 5 ..... \$37,895.00**

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	\$37,895.00

Budget Funding Year(s): 2021-51 Start Date: 08/01/2020 End Date: 06/29/2051  
 (must match resolution)

Funding Source: Tax Dollars 100% County

State Aid \_\_\_\_\_

\$37,895.00 Federal Aid \_\_\_\_\_  
 (must match resolution)

Other \_\_\_\_\_