

George Latimer
County Executive

Department of Social Services

Leonard G. Townes
Commissioner

94634

DATE: July 12, 2022

TO: Board of Acquisition and Contract

FROM: Leonard G. Townes
Commissioner, Department of Social Services

SUBJECT: Rescinding a resolution approved on April 21, 2022, which amended a resolution approved on February 3, 2022, by reducing, from twelve (12) months to seven (7) months, the authorized term of a lease agreement between the County of Westchester and 101 North Broadway LLC for the premises at 101 North Broadway in Yonkers, New York.

By a resolution approved on February 3, 2022 (the "Original Resolution"), your Honorable Board authorized the County of Westchester (the "County") to enter into a lease agreement with 101 North Broadway LLC (the "Owner"), pursuant to which the Owner was to lease to the County the premises at 101 North Broadway in Yonkers, New York (the "Premises"), which would be used to provide an emergency overnight shelter and other housing, for the period from March 1, 2022 through February 28, 2023, for a total rent amount not to exceed \$410,707.00, payable at a rental rate of \$34,225.58 per month, and subject to various other terms (the "12-Month Lease Agreement").

Subsequent to your Honorable Board's approval of the Original Resolution, during execution of the authorized lease agreement, certain issues arose. Both parties executed the 12-Month Lease Agreement, but the Owner contended that the execution process was not fully completed prior to him communicating to the County that he had, essentially, reconsidered his desire to enter into that agreement.

The County did not agree with the Owner's view. However, as a result of this disagreement, the County and the Owner eventually worked out an alternative arrangement. Instead of a twelve (12) month term, the new lease agreement between the parties would have a term of seven (7) months, but otherwise be on the same basic terms as authorized in the Original Resolution.

Accordingly, the County previously requested that your Honorable Board amend the Original Resolution by modifying its first 'RESOLVED' clause to provide for an authorized term of seven (7) months instead of twelve (12) months. Your Honorable Board approved the requested modification, by a resolution approved on April 21, 2022 (the "Amending Resolution").

The County thereafter sought to execute the authorized seven-month lease agreement for the Premises. However, despite numerous inquiries from the County, the Owner did not proceed with execution of that agreement.

During the entire interim period, the County made the monthly payments that would have been required under either the 12-Month Lease Agreement or the replacement seven-month lease agreement, and the Owner accepted the payments.

Ultimately, the Owner recently communicated that it had, essentially, withdrawn its previous contention that the 12-Month Lease Agreement had not been executed and had not commenced. Accordingly, the understanding and intention of the parties is that the 12-Month Lease Agreement is in effect, and commenced on March 1, 2022, based upon the execution that took place in February 2022, under the authority of the Original Resolution, and prior to the approval of the Amending Resolution.

In order to clarify matters and eliminate any confusion that might be associated with the Amending Resolution, and the previously-proposed seven-month lease that is now moot, the County now respectfully requests that your Honorable Board rescind the Amending Resolution, thereby restoring the Original Resolution to its original provisions that were in place at the time of the execution of the 12-Month Lease Agreement.

I respectfully recommend the adoption of the attached resolution.

LGT/bdm/nm

RESOLUTION

Upon a communication from the Commissioner of the Department of Social Services, be it hereby:

RESOLVED, that the resolution approved on April 21, 2022 (the “Amending Resolution”), which amended a resolution approved on February 3, 2022 (the “Original Resolution”), by changing its first ‘RESOLVED’ clause in order to reduce, from twelve (12) months to seven (7) months, the authorized term of a lease agreement between the County of Westchester and 101 North Broadway LLC for the premises at 101 North Broadway in Yonkers, New York (the “Lease Agreement”), is hereby rescinded; and be it further

RESOLVED, that the Original Resolution shall, by the rescinding of the Amending Resolution, thereby be restored to its original provisions, as they existed prior to the approval of the Amending Resolution; 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.

1. Account to be Charged/Credited:

Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
					N/A

2. Budget Funding Year(s): _____

Start Date: _____ End Date: _____
(must match resolution)

3. Funding Source:

Federal	%	CFDA#(s)			
State	%	State ID#(s)			
Operating/Tax Levy	%				
Capital	%				

4. Total NTE: N/A _____

(must match resolution)