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# COUNTY OF ERIE

**MARK C. POLONCARZ**
COUNTY EXECUTIVE

September 14, 2015

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

**Re: Department of Social Services**
**Modification of Lease Extension and Modification Agreement – 43 Court Street**

Dear Honorable Members:

The Department of Social Services ("DSS") is requesting authorization to modify/amend a recently approved Lease Extension and Modification Agreement pertaining to 43 Court Street with 43 Court Street Realty Company for the purpose of housing DSS programs at that site.

The Lease Extension and Modification Agreement that this Honorable body recently approved was for the period of July 13, 2015 through July 12, 2020 and was for 20,750 square feet of space at 43 Court Street at a rental amount of $13.70 per square foot, for an annual base rental amount of $284,274.96. The landlord also agreed to provide, at no cost to tenant, all of the improvement and maintenance items reflected on attachment "A" to that lease Extension and Modification Agreement during the extension period. Unfortunately, the landlord mistakenly communicated the incorrect square footage and this instant modification/amendment is needed to correct same and set forth the accurate square footage and rental amount for the rental space.

Therefore, DSS is requesting authorization to modify/amend the previously approved Lease Renewal and Modification Agreement to reflect the correct square footage of 21,034 square feet instead of the previously stated 20,750 square feet, resulting in a rental amount of $288,165.80 per year or $24,013.82 per month, effective retroactively to July 13, 2015 to the expiration of the extension period (July 12, 2020). All other terms or conditions of the previously approved Lease Extension and Modification Agreement will remain in effect.

Funds for this lease were anticipated and are included in the 2015 Adopted Budget; therefore, there is no 2015 fiscal impact. This resolution requests waiver of section 19.08 of the County Code requirement for a Request for Proposals as the cost of moving is prohibitive due to the extensive cabling and systems installations in place at the current location.

Should your honorable body require further information, I encourage you to contact Michael A. Siragusa, Erie County Attorney, at the Erie County Attorney's Office. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP
Enclosure

Cc: Michael Siragusa, County Attorney

# A RESOLUTION SUBMITTED BY:
# DEPARTMENT OF SOCIAL SERVICES

RE: Lease Renewal – 43 Court Street

WHEREAS, the Department of Social Services ("DSS") is requesting authorization to modify/amend a recently approved Lease Extension and Modification Agreement pertaining to 43 Court Street with 43 Court Street Realty Company for the purpose of housing DSS programs at that site; and

WHEREAS, the Lease Extension and Modification Agreement that this Honorable body recently approved was for the period of July 13, 2015 through July 12, 2020 and was for 20,750 square feet of space at 43 Court Street at a rental amount of $13.70 per square foot, for an annual base rental amount of $284,274.96; and

WHEREAS, the landlord also agreed to provide, at no cost to tenant, all of the improvement and maintenance items reflected on attachment "A" to the Lease Extension and Modification Agreement during the extension period; and

WHEREAS, a modification/amendment to the previously approved Lease Extension and Modification Agreement is needed to correct the stated amount of square footage of rental space and the correct the rental amount due, due to the fact that the landlord mistakenly communicated the incorrect square footage which was then set forth in the previously approved Lease Extension and Modification Agreement and resulted in the incorrect rental amount being stated.

WHEREAS, this modification/amendment is needed to correct same and set forth the accurate square footage and rental amount for the rental space.

WHEREAS, DSS is therefore requesting authorization to modify/amend the previously approved Lease Renewal and Modification Agreement to reflect the correct square footage of 21,034 square feet instead of the previously stated 20,750 square feet, resulting in a rental amount of $288,165.80 per year or $24,013.82 per month, effective retroactively to July 13, 2015 to the expiration of the extension period (July 12, 2020). All other terms or conditions of the previously approved Lease Extension and Modification Agreement will remain in effect.

WHEREAS, funds for this lease were anticipated and are included in the 2015 Adopted Budget; therefore, there is no 2015 fiscal impact.

NOW, THEREFORE, BE IT

RESOLVED, the County Executive is authorized to execute the Lease Modification Agreement attached hereto which modifies/amends the previously approved Lease Extension and Modification Agreement for 43 Court Street at the rental terms herein presented; and be it further

RESOLVED, section 19.08 of the County Code requirement for a Request for Proposals is waived as the cost of moving is prohibitive due to the extensive cabling and systems installations in place at the current location; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive, the Commissioner of Social Services, the Erie County Comptroller, and the Director of the Division of Budget and Management.

# MEMORANDUM

**To:** Honorable Members of the Erie County Legislature
**From:** Department of Social Services
**Re:** Modification/Amendment to Lease Extension and Modification Agreement – 43 Court Street
**Date:** September 14, 2015

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## SUMMARY

The Department of Social Services ("DSS") is requesting authorization to modify/amend a recently approved Lease Extension and Modification Agreement pertaining to 43 Court Street with 43 Court Street Realty Company for the purpose of housing DSS programs at that site. This resolution waives section 19.08 of the County Code requirement for a Request for Proposals.

## FISCAL IMPLICATIONS

Funds for this lease extension, including these instant requested modifications/amendments, were anticipated and are included in the 2015 Adopted Budget; therefore, there is no 2015 fiscal impact.

## REASONS FOR RECOMMENDATION

A modification/amendment to the previously approved Lease Extension and Modification Agreement is needed to correct the stated amount of square footage of rental space and the correct the rental amount due, due to the fact that the landlord mistakenly communicated the incorrect square footage which was then set forth in the previously approved Lease Extension and Modification Agreement and resulted in the incorrect rental amount being stated.

## BACKGROUND INFORMATION

the Lease Extension and Modification Agreement that this Honorable body recently approved was for the period of July 13, 2015 through July 12, 2020 and was for 20,750 square feet of space at 43 Court Street at a rental amount of $13.70 per square foot, for an annual base rental amount of $284,274.96. DSS is requesting authorization to modify/amend the previously approved Lease Renewal and Modification Agreement to reflect the correct square footage of 21,034 square feet instead of the previously stated 20,750 square feet, resulting in a rental amount of $288,165.80 per year or $24,013.82 per month, effective retroactively to July 13, 2015 through the expiration of the extension period (July 12, 2020). All other terms or conditions of the previously approved Lease Extension and Modification Agreement will remain in effect.

## CONSEQUENCES OF NEGATIVE ACTION

True and accurate rental payments would not be paid to the landlord.

## STEPS FOLLOWING APPROVAL

A Lease Modification Agreement will be executed (see attached).

**43 COURT STREET REALTY COMPANY**
43 COURT STREET, SUITE 910
BUFFALO, NEW YORK 14202

**LEASE MODIFICATION AGREEMENT**

**AUGUST 15, 2015**

WHEREAS, the County of Erie, on behalf of the Erie County Department of Social Services (hereinafter referred to as "Tenant") and 43 Court Street realty Company (hereinafter referred to as "Landlord") entered into a Lease Agreement (hereinafter referred to as the "Lease") dated October 20, 1999 and,

WHEREAS, THE Landlord and Tenant subsequently entered into the following: a certain Lease Modification Agreement dated December 7, 2004; a certain Lease Modification and Extension Agreement dated June 22, 2010; a certain Lease Modification Agreement dated June 11, 2012, Lease Extension and Modification Agreement dated July 15, 2015, (hereinafter collectively referred to as "Addenda"), and

.WHEREAS, the Landlord and Tenant desire to modify the Lease and Addenda by way of this Lease Modification Agreement.

NOW THEREFORE, the parties agree as follows:

1.) The Lease Extension and Modification Agreement, dated July 15, 2015, mistakenly represented the Gross Leasable Area ("GLA") of the Leased Premises as 20,750 square feet, when the actual GLA of the Leased Premises is **21,034** square feet, as previously determined and reflected in the Lease Modification Agreement of June 11, 2012, and

2.) The Rent for the Leased Premises (21,034) shall be $288,165.80 per year or $24,013.82 per month, effective from July 13, 2015 to the expiry of the Extension Period.

Landlord and Tenant warrant and represent that neither party has had any dealings with any realtor, broker or agent in connection with this agreement, and they agree to hold each other harmless from any cost, expense or commission.

Except for the items described herein, all other terms and conditions of the Lease dated October 20, 1999 and the Addenda shall remain in full force and effect

Signature Page to Follow

Agreed to this day of September, 2015

COUNTY OF ERIE
"Tenant"

By:_____
Mark Poloncarz, County Executive

Approved as to Content:

By:_____
Al Dirschberger, PhD
Commissioner of Social Services

Approved as to Form:

By:_____
Michael Siragusa
County Attorney
Document No.

Agreed to this day of September, 2015

43 COURT STREET REALTY COMPANY
"Landlord"

By:_____
Partner