

12151

TO: Board of Acquisition and Contract
FROM: John J. Hsu, PE
Acting Commissioner of Public Works
DATE: June 7, 2010
SUBJECT: Third Amendment (of a Multi-Phased Agreement) to Agreement No. 07-933
In the matter of Engineering Services in connection with the
Tibbetts Pool Modernization, Yonkers, New York
Consultant: Clough Harbour & Associates, LLP
Amendment Amount: \$99,500.00

Authority of your Honorable Board is requested to amend the existing Agreement between the County of Westchester and Clough Harbour & Associates, LLP, III Winners Circle, PO Box 5269, Albany, New York 12205. The original Agreement dated November 19, 2007, was for engineering services in connection with the Tibbetts Pool Modernization, Yonkers, New York. The Agreement was thereafter amended pursuant to a Resolution approved October 2, 2008, to provide for final design services. The Agreement was thereafter further amended pursuant to a Resolution approved July 23, 2009, to provide for erosion and sediment control self inspection services mandated by the New York State Department of Environmental Conservation (NYSDEC).

Tibbetts Pool is presently undergoing construction renovations which must be completed by June 2010 in order for the facility to be open to the public for this summer.

It is therefore requested that the existing Agreement be further amended to provide for supplemental design services during construction associated with the Tibbetts Pool Modernization in Yonkers, New York. In order to accelerate the completion of construction by June 2010, it was necessary to include in the contract specifications an incentive/disincentive payment of \$4,300.00 per day to be paid to the contractor if the contract was completed prior to the established contract completion date (not to exceed 10 days). The disincentive would cost the contractor \$4,300.00 per day if the contract work continued past the contract completion date, with no penalty limitations.

In order to accommodate the contractor's work schedule, it was necessary for the Consultant to make additional site visits that were not included in their original agreement. The original Consultant's Agreement included weekly site visits, but due to the accelerated construction schedule, it was necessary for the Consultant to: (1) make more frequent site visits to address the contractor's Requests for Information (RFI's); (2) perform Health Department inspections on-demand in order to facilitate the contractor's work schedule; and (3) record all field changes to prepare as-built drawings for the Health Department.

The objective of this project is to improve and renovate the existing pool and to add aquatic facilities such as a lazy river, relaxation pool, sprayground and slides. The additional services provided by the Consultant under this amendment will ensure that the pool will be open to the public this summer. Wherever possible, proposed new materials will be incorporated in compliance with LEED guidelines for environmental sustainability as per the United States Green Building Council. This agreement will benefit the public as it will ensure that construction operations are safe and environmentally compliant, thereby enhancing the health and general welfare of the residents of Westchester County.

The original intent of this Agreement was to have the design and construction administration performed in multiple phases as subsequent funding became available. The initial design phase defined the scope of work and

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Agreement No. 07-933, Third Amendment,
Tibbetts Pool Modernization, Yonkers, New York
Clough Harbour & Associates, LLP
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the required budget for the subsequent phases of design and construction administration, for which funding has been approved.

The engineering discipline encompassed in this Amendment is not new, but rather, it is an integral part of the project that involves the same degree of skill, experience and complexity as the expertise generally described in the original project. Accordingly, this type of engineering discipline was originally contemplated in the Professional Prequalification Board and Professional Selection Board process.

The fee for the above services is for an amount of \$99,500.00, pursuant to an approved budget, bringing the total Agreement plus Amendments to \$840,500.00. The completion date of the Agreement shall remain December 31, 2011.

Proposed form of Resolution to accomplish the foregoing is attached hereto.

APPROVED BOARD OF ACQUISITION & CONTRACT - 6-24-2010 - JOMARY VIEIRA, SECRETARY

RESOLUTION

Upon communication from the Acting Commissioner of Public Works, be it hereby

RESOLVED, that the existing Agreement between the County of Westchester and Clough Harbour & Associates, LLP, III Winners Circle, PO Box 5269, Albany, New York 12205, be amended to provide for supplemental design services during construction associated with the Tibbetts Pool Modernization, Yonkers, New York; and be it further

RESOLVED, that for the additional services rendered in accordance with the consultant's proposal for the fourth phase of this multi-phase project, Clough Harbour & Associates, LLP, shall be paid a fee of \$99,500.00 pursuant to an approved budget, increasing the total maximum fee to \$840,500.00; and be it further

RESOLVED, that all other provisions of the existing Agreement 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.

JJH/PTK/MC/AS

Original Agreement	\$	180,000.00	(Preliminary Design Services)
First Amendment		526,800.00	(Final Design Services)
Second Amendment		34,200.00	(CPESC Services)
This Amendment		99,500.00	(Supplemental Design Services during Construction)
TOTAL	\$	840,500.00	

Agreement No. 07-933

Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase or Unit	Object/ Sub Object	Trust Account	Dollars
	372	42	RTB0700E	6120-03		\$ 99,500.00

Budget Funding Year(s): 2010 Start Date: 07/01/10 End Date: 12/31/11
 (must match resolution)

Funding Source: Tax Dollars: 100% County Contractor Federal I.D. No./
 State Aid: _____ Social Security No.: 14-1621922
\$99,500.00 Federal Aid: _____ Vendor No.: _____
 (must match resolution) Other: _____ Encumbrance No.: _____

APPROVED BOARD OF ACQUISITION CONTRACT - 6-24-2010 - JOMARY VIEIRA, SECRETARY