

44474

DATE: January 26, 2015

TO: Board of Acquisition & Contract

FROM: Mae Carpenter, Commissioner
Department of Senior Programs and Services

RE: Request for authority to:

- a) enter into an Agreement with the State of New York, acting by and through the New York State Office for the Aging, to accept a grant for up to an amount not-to-exceed \$2,328,782 to provide various nutrition programs for the elderly under Titles IIIC-1, IIIC-2, and the Nutritional Services Incentive Program ("NSIP") of the Older Americans Act for the program period commencing on January 1, 2015 and terminating on December 31, 2015; and
- b) amend inter-municipal and inter-agency agreements with the seventeen (17) entities set forth in the attached Schedule "A" to exercise the third of four (4) options to renew the Agreements to provide various nutrition programs for the elderly under Titles IIIC-1, IIIC-2, and the NSIP of the Older Americans Act for a total aggregate amount not-to-exceed \$1,737,421 in Federal funds, payable pursuant to an approved budget, in the individual amounts also set forth in the attached Schedule "A," for the program period commencing on January 1, 2015 and continuing through December 31, 2015.

The County of Westchester, (the "County") acting by and through its Department of Senior Programs and Services (the "Department"), seeks authority from your Honorable Board to enter into an Agreement with the State of New York, acting by and through the New York State Office for the Aging ("NYSOFA") to accept a grant in an amount not-to-exceed \$2,328,782 to provide various nutrition programs (the "Programs) for seniors under Titles IIIC-1, IIIC-2 and the NSIP of the Older Americans Act, for the program period commencing on January 1, 2015 and terminating on December 31, 2015.

Additionally, by resolution approved on June 14, 2012 (the "June 14th Resolution"), your Honorable Board authorized the County, *inter alia*, to enter into inter-municipal and inter-agency Agreements (the "Agreements") with the seventeen (17) entities set forth in the attached Schedule "A" (the "Contractors") for the purpose of administering the aforementioned nutrition Programs for the elderly under the Title IIIC-1, IIIC-2 and the NSIP of the Older Americans Act, for a total aggregate amount not-to-exceed \$1,548,247.00 in Federal funds, payable pursuant to an approved budget, for the period commencing January 1, 2012 through December 31, 2012, with the County having the sole option to renew the Agreements for up to four (4) additional one (1) year periods subject to the prior approval of your Honorable Board. The Agreements were subsequently executed.

Thereafter, by resolution approved on February 14, 2013 (the "February 14th Resolution"), your Honorable Board authorized the County, *inter alia*, to amend the Agreements with the Contractors to

exercise the first of its four (4) options to renew the Agreements with the Contractors set forth in the attached Schedule "A" to provide the aforementioned nutrition Programs for the elderly, for a total aggregate amount not-to-exceed \$1,736,064 in Federal funds, payable pursuant to an approved budget, for the period commencing on January 1, 2013 and terminating on December 31, 2013 (the "First Amendments"). The First Amendments were subsequently executed.

Thereafter, by resolution approved on April 24, 2014 (the "April 24th Resolution"), your Honorable Board authorized the County, *inter alia*, to amend the Agreements with the Contractors to exercise the second of its four (4) options to renew the Agreements with the Contractors set forth in the attached Schedule "A" to provide the aforementioned nutrition Programs for the elderly, for a total aggregate amount not-to-exceed \$1,644,981 in Federal funds, payable pursuant to an approved budget, for the period commencing on January 1, 2014 and terminating on December 31, 2014 (the "Second Amendments"). The Second Amendments were subsequently executed.

The County now seeks authority to further amend the Agreements to exercise the third of its four (4) options to renew the Agreements with the Contractors for the purpose of administering the aforementioned nutrition Programs for the elderly, for the program period commencing on January 1, 2015 and terminating on December 31, 2015 for a total aggregate amount not-to-exceed \$1,737,421 in Federal funds to be paid pursuant to an approved budget, with the Contractors required to contribute an amount not to exceed \$405,575 in Contractor matching funds to the Programs, in the individual amounts set forth in the attached Schedule "A" (the "Third Amendments"). The remaining \$591,361 in Federal funds will be used directly by the Department to provide nutrition education and counseling, service coordination, program development and area agency administration.

It should be noted that the Westchester County Board of Legislators, by Act No. 148-2013 adopted on August 12, 2013, authorized inter-municipal agreements with Westchester County municipalities, including the fifteen municipal entities (the "Contractors"), in connection with the Title III C Program.

With regard to the distribution of NSIP funding, the agreements with the Contractors will provide that the Department will be authorized to distribute such funding 1) contingent upon its receiving further State approval; and 2) by providing the Contractors with written confirmation that the State has authorized the distribution of such funds, without the need for the Contractors to execute a supplemental agreement. This practice was approved by your Honorable Board in 2010 to avoid the administrative difficulties involved in distributing NSIP funds prior to the State-imposed deadline.

The grant agreement with NYSOFA does not constitute procurement. The exercise of the County's option under each of the seventeen (17) Agreements is subject to the applicable Federal Common Grant Rules. Under those rules, the exercise of a contract option qualifies as a procurement action, which can necessitate a price analysis that might include, for example, consideration of other prices for those services that can be obtained in the open market.

However, the Department previously determined that because of the nature and extent of the services being provided by each Contractor, the services provided under each Agreement are only available from those single sources. Accordingly, the Department procured each agreement on a non-competitive basis pursuant to the regulations then contained 45 CFR 92.36(d)(4). The Department has determined that, given the nature and extent of the services, the services being provided by each Contractor under each Agreement are still only available from those single sources. Therefore, it is not possible for the Department, for example, to inquire as to prices for these services in the open market as part of its price analysis. Rather, the Department has reviewed the terms of each option and determined that the prices contained in the options are reasonable based upon the services being provided.

I certify that my department, a.) has copies of, or access to, all applicable laws, rules, regulations, grant applications, and grant agreements (including any master grant agreement), as well as any guidance or instructions received from the agency making the grant (the "Grant Terms"), b.) has

reviewed the Grant Terms, c.) is aware of and understands all of the Grant Terms, and d.) can and will comply with all of the Grant Terms.

Except as specifically amended hereby, all remaining terms and conditions set forth in the Agreements, as amended, shall remain in full force and effect.

Accordingly, I most respectfully recommend adoption of the attached proposed resolution.

MC/SJ/

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/26/2015 - JOMARY VIEIRA, SECRETARY

RESOLUTION

Upon communication from the Commissioner of the Westchester County Department of Senior Programs and Services:

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement with State of New York, acting by and through the New York State Office for the Aging (NYSOFA), to accept a grant up to an amount not-to-exceed \$2,328,782 to provide various nutrition programs (the "Programs") for the elderly pursuant to Titles IIIC-1, IIIC-2, and the Nutritional Services Incentive Program ("NSIP") of the Older Americans Act for the program period commencing on January 1, 2015 and terminating on December 31, 2015; and be it further

RESOLVED, that the County is hereby authorized to amend the inter-municipal and interagency Agreements (the "Agreements") with the seventeen (17) entities listed in the attached Schedule "A" (the "Contractors") to exercise the third of its four (4) options to renew the Agreements with the Contractors to provide the aforementioned nutrition Programs for the elderly under Titles IIIC-1, IIIC-2, and NSIP of the Older Americans Act for a total aggregate amount not-to-exceed \$1,737,421 in Federal funds to be paid pursuant to an approved budget, with the Contractors required to contribute an amount not to exceed \$405,575 in Contractor matching funds to the Programs, in the individual amounts set forth in the attached Schedule "A" (the "Third Amendments"), for the program period commencing on January 1, 2015 and terminating on December 31, 2015; and be it further

RESOLVED, With regard to the distribution of NSIP funding, the agreements with the Contractors will provide that the Department will be authorized to distribute such funding 1) contingent upon its receiving State approval; and 2) by providing the Contractors with written confirmation that the State has authorized the distribution of such funds, without the need for the Contractor to execute a supplemental agreement.

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions set forth in the Agreements, as amended, shall remain in full force and effect; and be it further

RESOLVED, that the County Executive or his duly authorized designee be, and hereby is, authorized to take such actions and execute such documents as may be necessary and appropriate to effectuate the purposes hereof.

Account to be:

	Fund	Dept	Major Program Program & Phase , Unit	Object/Sub- Object	Trust Account	Dollars
Credited	263	85	941Q	9853	T 941	\$1,163,540.00
Credited	263	85	942Q	9853	T 942	\$524,357.00
Credited	263	85	939P	9853	T 939	\$383,523.00
Credited	263	85	939P	9853	T 939	\$257,362.00
Charged	263	85	941Q	4380	T 941	\$720,054.00
Charged	263	85	942Q	4380	T 942	\$376,482.00
Charged	263	85	939P	4380	T 939	\$383,523.00
Charged	263	85	939P	4380	T 939	\$257,362.00
Charged	263	85	941Q+ 942Q	VARIOUS	T941&T942	\$591,361.00

Budget Funding Year(s): Unit 941Q & 942Q 2015 Start Date 1/1/15 End Date 12/31/15

(must match resolution)

Unit 939N 2014-2015 Start Date 10/1/14 End Date 9/30/15

Funding Source

Tax Dollars \$ 0

State Aid \$ 0

\$2,328,782

Federal Aid \$ 2,328,782

(must match resolution)

Other \$ 0

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION SECRETARY

SCHEDULE "A"

MUNICIPALITY	NOT TO EXCEED FEDERAL FUNDS		NOT TO EXCEED FEDERAL FUNDS		CONTRACTOR MATCH		NET AMOUNTS	
	IIC-1	IIC-1 NSIP	IIC-2	IIC-2 NSIP	IIC-1	IIC-2	IIC-1	IIC-2
Cortlandt	\$12,956	\$5,454	\$20,836	\$14,314	\$4,792	\$7,707	\$23,202	\$42,857
Eastchester	\$55,623	\$36,440	\$16,952	\$12,554	\$20,573	\$6,270	\$112,636	\$35,776
Greenburgh	\$70,576	\$26,962	\$39,648	\$26,742	\$26,103	\$14,665	\$123,641	\$81,055
Mamaroneck	\$17,608	\$10,150	\$42,032	\$32,276	\$6,513	\$15,546	\$34,271	\$89,854
Mount Kisco	\$28,482	\$18,524	\$24,606	\$17,954	\$10,534	\$9,101	\$57,540	\$51,661
Mount Pleasant	\$25,081	\$16,044	\$14,659	\$10,208	\$9,277	\$5,422	\$50,402	\$30,289
Mount Vernon	\$65,947	\$43,658	\$52,593	\$36,514	\$24,391	\$19,453	\$133,996	\$108,560
New Rochelle	\$66,529	\$41,012	\$0	\$0	\$24,607	\$0	\$132,148	\$0
Ossining	\$28,793	\$18,986	\$26,644	\$19,318	\$10,649	\$9,855	\$58,428	\$55,817
Peekskill	\$51,524	\$24,816	\$14,123	\$10,268	\$19,057	\$5,224	\$95,397	\$29,615
Port Chester	\$60,113	\$37,865	\$6,403	\$3,876	\$22,234	\$2,368	\$120,212	\$12,647
Somers	\$15,747	\$8,998	\$13,449	\$8,966	\$5,825	\$4,975	\$30,570	\$27,390
White Plains	\$35,200	\$18,806	\$0	\$0	\$13,019	\$0	\$67,025	\$0
Yonkers	\$134,756	\$43,446	\$45,671	\$22,174	\$49,841	\$16,892	\$228,043	\$84,737
Yorktown	\$22,770	\$14,674	\$47,799	\$34,048	\$8,422	\$17,680	\$45,866	\$99,527
<u>Not for Profit Organizations:</u>								
Westchester Jewish Community Services	\$10,330	\$6,224	\$11,067	\$8,150	\$3,821	\$4,094	\$20,375	\$23,311
YWCA Yonkers	\$18,019	\$11,464	\$0	\$0	\$6,665	\$0	\$36,148	\$0
TOTAL	\$720,054	\$383,523	\$376,482	\$257,362	\$266,323.00	\$139,252	\$1,369,900	\$773,096