

51092

TO: Board of Acquisition and Contract

FROM: Jay T. Pisco, P.E.
Commissioner of Public Works and Transportation

DATE: February 16, 2016

RE: Authority to amend the Resolution approved on July 9, 2015 which authorized the County of Westchester to enter into Contract No. 15-208 with the New York State Industries for the Disabled ("NYSID") for Janitorial Services at the Richard J. Daronco Courthouse/Annex, 85 Court Street, 143 Grand Street, and 110 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York, for the five (5) year period from September 1, 2015 to August 31, 2020, for an amount not to exceed \$10,259,664.52, subject to appropriations; to approve Jawonio, Inc. as a subcontractor; and to exempt NYSID from the Performance and Payment Bond requirement, in order to 1) change the term of the contract from a five (5) year term to a one (1) year term; and 2) reduce the total not to exceed amount of the contract from \$10,259,664.52 to \$1,944,258.36.

On July 9, 2015, your Honorable Board approved a Resolution (the "Resolution") authorizing the County of Westchester (the "County") to enter into Contract No. 15-208 with the New York State Industries for the Disabled ("NYSID") for Janitorial Services at the Richard J. Daronco Courthouse/Annex, 85 Court Street, 143 Grand Street, and 110 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York, for the five (5) year period September 1, 2015 to August 31, 2020, for an amount not to exceed \$10,259,664.52, subject to appropriations and payable pursuant to an approved budget, which budget shall include a provision for potential prevailing wage rate increases on July 1st of each year of the Contract, should the New York State Department of Labor increase the prevailing wage rates to be paid herein and a provision for a possible increase for the cost of NYSID's supplies should the Consumer Price Index increase; to approve Jawonio, Inc. as a subcontractor; and to exempt NYSID from the Performance and Payment Bond requirement. The contract has not been executed.

Subsequent to your Honorable Board's approval of the Resolution, NYSID informed the County that the New York State Office of General Services ("OGS") did not approve NYSID's proposed five (5) year pricing in accordance with State Finance Law § 162, but OGS instead approved NYSID's proposed pricing for a one (1) year contract for the referenced locations. Therefore, it is hereby requested that the Resolution approved on July 9, 2015 be amended to: 1) change the term of the contract from the five (5) year period September 1, 2015 to August 31, 2020, to the one (1) year period September 1, 2015 to August 31, 2016; and 2) reduce the total not to exceed amount of the contract from \$10,259,664.52 to \$1,944,258.36.

The State of New York enacted legislation (State Finance Law § 162) which not only exempts the procurement of certain products and services from competitive procurement provisions, but also requires the County to give designated preferred sources an opportunity to provide these commodities or services. The exemption applies to the provision of janitorial services and NYSID is a preferred source.

NYSID is a non-profit organization established in 1976 by the New York State Commissioner of Education to act as the central coordinator for member organizations, which serve people with disabilities by making those organizations eligible for State contracts as preferred providers. As of today, approximately one hundred twenty five (125) organizations are certified for NYSID membership, and Jawonio, Inc., 260 North Little Tor Road, New City, New York 10956, is such a member agency.

In accordance with, and pursuant to the provisions contained in State Finance Law § 162, the County notified NYSID describing the requirements of this contract, and NYSID submitted a notice of intent within the requisite ten (10) days to provide the services. The County has reviewed the information provided by NYSID and determined that the services are available in the “form, function and utility” required by the County.

Pursuant to State Finance Law § 162, the Commissioner of the New York State Office of General Services (“OGS”) sets the fair market price for services and determines whether a proposed price is within fifteen percent (15%) of the fair market price. The County must utilize that preferred provider as long as the price for the services does not exceed fifteen percent (15%) of the fair market price for such services as determined by the OGS. Pursuant to State Finance Law § 162, OGS has approved the price herein for the current one (1) year contract and has determined that the fee to be paid under this one (1) year contract is reasonable based on the applicable Prevailing Wage Schedule as set by the New York State Commissioner of Labor and taking into account the provisions of the Westchester County Living Wage Law.

NYSID will perform the janitorial services by utilizing Jawonio, Inc., as a subcontractor. The utilization of Jawonio, Inc. and the population it serves, individuals with disabilities, as a subcontractor on this contract, is precisely the arrangement that was envisioned when NYSID was set up and the preferred source procurement was adopted.

This contract is in the public’s best interest because it will enhance the upkeep, maintenance and cleanliness of the Courthouse/Annex and promote the health, safety and general welfare of employees and the general public.

This contract will provide an environmental benefit through the utilization of “Green” cleaning products in accordance with Executive Order 2-2006.

This department will submit expense records/vouchers for reimbursement through the County’s Advantage Financial System to track the expense reimbursements for this contract.

Accordingly, authorization to award the contract for janitorial services to NYSID is requested. I recommend approval of the attached Resolution.

RESOLUTION

Upon a communication from the Commissioner of Public Works and Transportation, be it hereby

RESOLVED, that the Resolution approved by your Honorable Board on July 9, 2015, which authorized the County of Westchester (the "County") to enter into Contract No. 15-208 with the New York State Industries for the Disabled ("NYSID") for Janitorial Services at the Richard J. Daronco Courthouse/Annex, 85 Court Street, 143 Grand Street, and 110 Dr. Martin Luther King, Jr. Boulevard, White Plains, New York, for the five (5) year period September 1, 2015 to August 31, 2020, for an amount not to exceed \$10,259,664.52, subject to appropriations and payable pursuant to an approved budget, which budget shall include a provision for potential prevailing wage rate increases on July 1st of each year of the Contract, should the New York State Department of Labor increase the prevailing wage rates to be paid herein and a provision for a possible increase for the cost of NYSID's supplies should the Consumer Price Index increase; to approve Jawonio, Inc. as a subcontractor; and to exempt NYSID from the Performance and Payment Bond requirement, be and hereby is amended to: 1) change the term of the contract from the five (5) year period September 1, 2015 to August 31, 2020, to the one (1) year period September 1, 2015 to August 31, 2016; and 2) reduce the total not to exceed amount of the contract from \$10,259,664.52 to \$1,944,258.36; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions of the July 9, 2015 Resolution shall remain in full force and effect and unchanged; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his authorized designee be and hereby is authorized and empowered to execute any and all documents necessary and appropriate to effectuate the purposes hereof.

Contract No. 15-208

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	46	3200	4380-20		\$ 624,352.78 (2015)
	101	46	3200	4380-20		\$1,319,905.58 (2016)

Budget Funding Year(s) 2015-2016 Start Date 09/01/15 End Date 08/31/16
(must match resolution)

Funding Source: Tax Dollars 100% County Contractor Federal I.D. No./
Social Security No.: _____

State Aid _____

\$1,944,258.36 Federal Aid _____ Vendor No.: _____
(must match resolution)

Other _____ Encumbrance No.: _____