

52101

DATE: May 24, 2016

TO: Board of Acquisition & Contract

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

RE: Request for authority for the County of Westchester to:

- a) amend an agreement with YWCA of Yonkers in order to exercise the fourth of the County's four (4) options to renew the agreement for the provision of various nutrition programs for the elderly under Titles IIIC-1, IIIC-2, and NSIP of the Older Americans Act for an amount not-to-exceed \$25,640 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, 2016 and continuing through December 31, 2016; and
- b) further amend the agreement with YWCA of Yonkers to add certain "Standard Assurances" including federal and state revised statutes, regulations, policies and contract requirements as mandated by the New York State Office for the Aging

By resolution approved on June 14, 2012 (the "June 14th Resolution"), your Honorable Board authorized the County, *inter alia*, to enter into an Agreement (the "Agreement") with the YWCA of Yonkers (the "Contractor") for the purpose of administering various nutrition programs for the elderly under Titles IIIC-1, and the Nutrition Services Incentive Program ("NSIP") of the Older Americans Act (the "Programs"), for an amount not-to-exceed \$43,280 in Federal funds, payable pursuant to an approved budget, in the individual amounts in Schedule A attached to the June 14th Resolution, for the period commencing January 1, 2012 through December 31, 2012, with the County having the sole option to renew the Agreement for up to four (4) additional one (1) year periods subject to the prior approval of your Honorable Board. The Agreement was 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 Agreement with the Contractor to exercise the first of its four (4) options to renew the Agreement with the Contractors to administer the Programs for the elderly, for an amount not-to-exceed \$30,254 in Federal funds, payable pursuant to an approved budget, in the individual amounts in Schedule A attached to the February 14th Resolution for the period commencing on January 1, 2013 and terminating on December 31, 2013 (the "First Amendment"). The First Amendment was 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 Agreement with the Contractor to exercise the second of its four (4) options to renew the Agreement with the Contractors to administer the Programs for the elderly, for an amount not-to-exceed \$29,063 in Federal funds, payable pursuant to an approved budget, in the individual amounts in Schedule A attached to the April 24th Resolution for the period commencing on January 1, 2014 and terminating on December 31, 2014 (the "Second Amendment"). The Second Amendment was subsequently executed.

Thereafter, by resolution approved on February 26, 2015 (the "February 26th Resolution"), your Honorable Board authorized the County, *inter alia*, to amend the Agreement with the Contractor to exercise the third of its four (4) options to renew the Agreement with the Contractor to administer the Programs for the elderly, for a total aggregate amount not-to-exceed \$29,483 in Federal funds, payable pursuant to an approved budget, in the individual amounts in Schedule A attached to the February 26th Resolution for the period commencing on January 1, 2015 and terminating on December 31, 2015 (the "Third Amendment"). The Third Amendment was subsequently executed.

The County now seeks authority to further amend the Agreement to exercise the fourth of its four (4) options to renew the Agreement with the Contractor for the purpose of administering the Programs, for the program period commencing on January 1, 2016 and terminating on December 31, 2016 for an amount not-to-exceed \$25,640 in Federal funds to be paid pursuant to an approved budget, in the individual amounts set forth in the attached Schedule A (the "Fourth Amendment").

In addition to exercising the fourth of its four (4) options to renew the Agreement, the County also respectfully requests authority to further amend the Agreement in order to incorporate certain "Standard Assurances" as mandated by the New York State Office for the Aging ("NYSOFA"), including but not limited to a revised list of federal and state statutes, regulations, policies and contract provisions applicable to the Program.

With regard to the distribution of NSIP funding, the agreement with the Contractor 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 exercise of the County's option under the Agreement 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.

During the III-C-1 2015 contract period, for example, 4,849 meals were provided to 97 congregate seniors.

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 - 06/23/2016 - LISA MRIJAJ, SECRETARY

RESOLUTION

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

- RESOLVED**, that the County is hereby authorized to exercise its fourth option to renew an Agreement (the "Agreement") with YWCA of Yonkers (the "Contractor") to provide various nutrition programs for the elderly under Titles III-C-1 and the Nutrition Services Incentive Program ("NSIP") of the Older Americans Act for an amount not-to-exceed \$25,640 in Federal funds to be paid pursuant to an approved budget, in the individual amounts listed in the attached Schedule A, for the program period commencing on January 1, 2016 and terminating on December 31, 2016. The Contractor is required to contribute an amount not to exceed \$6,665 in Contractor matching funds to the Program as also set forth in the attached Schedule A (the "Fourth Amendment"); and be it further
- RESOLVED**, that the County is further authorized to amend the Agreement with the Contractor by adding certain "Standard Assurances", including a revised list of federal and state statutes, regulations, policies and certain contract provisions as mandated by the New York State Office for the Aging; and be it further
- RESOLVED**, that with regard to the distribution of NSIP funding, the agreement with the Contractor will provide that the Department will be authorized to distribute such funding 1) contingent upon its receiving State approval; and 2) by providing the Contractor 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 Agreement, 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.

Agreement: \$43,280
 First Amendment: \$30,254
 Second Amendment: \$29,063
 Third Amendment: \$29,483
 Fourth Amendment: \$25,640
 Total: \$157,720

Account to be:	Fund	Dept.	Major Program Program & Phase, Unit	Object/Sub Object	Trust Account	Dollars
Charged	263	85	941R	4380	T 941	\$18,019
Charged	263	85	939Q	4380	T 939	\$7,621

Budget Funding Year(s): Unit 941R & 942R 2016 Start Date 1/1/16 End Date 12/31/16

(must match resolution)

Unit 939Q 2015 - 2016 Start Date 10/1/15 End Date 9/30/16

Funding Source	Tax Dollars	<u>\$ 0</u>
	State Aid	<u>\$ 0</u>
<u>\$25,640</u>	Federal Aid	<u>\$ 25,640</u>

(must match resolution)

APPROVED BOARD OF ACQUISITION & CONTRACT - 0012345678 LISA MRINAJ, SECRETARY

SCHEDULE "A"

<u>CONTRACTOR</u>	NOT TO EXCEED FEDERAL FUNDS		CONTRACTOR MATCH	NET AMOUNT
	<u>IIIC-1</u>	<u>IIIC-1 NSIP</u>	<u>IIIC-1</u>	<u>IIIC-1</u>
YWCA Yonkers	<u>\$18,019</u>	<u>\$7,621</u>	<u>\$6,665</u>	<u>\$32,305</u>

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/23/2016 - LISA MRIJAJ, SECRETARY