

57439

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, M. D.
Commissioner of Health

DATE: June 6, 2017

RE: Resolution authorizing the County of Westchester to amend an emergency contract with Phoenix Transportation Services, Inc. for the transportation of children with special needs to the special education program at John A Coleman School, White Plains, for the term February 28, 2017 through August 31, 2017, in order to add routes 3, 4, 6, 7, 10 and 15 effective July 1, 2017 as a result of the termination of TLC Transportation Corp. of Westchester on June 30, 2017 for their failure to provide adequate services.

By Resolution approved by the Board of Acquisition and Contract on March 2, 2017 the County awarded three emergency contracts to provide transportation of children with special needs to the special education program at the John A. Coleman School (“Coleman School”) in White Plains for the term February 28, 2017 through August 31, 2017 to All County Bus, LLC in the amount of \$176,580, to TLC Transportation Corp. of Westchester (“TLC”) in the amount of \$279,439, and to Phoenix Transportation Services, Inc. in the amount of \$470, 880 (Phoenix Agreement”). All three agreements were executed. Effective June 30, 2017, TLC Transportation Corp. of Westchester’s agreement is being terminated, as the result of their repeated failure to provide timely and adequate services. Authority is therefore currently being requested to amend the Phoenix Agreement in order to add routes 3, 4, 6, 7, 10 and 15 for the term July 1, 2017 through August 31, 2017 in the amount of \$103,200 for a revised aggregate amount not to exceed \$574,080.

The County has received numerous complaints from both the Coleman School itself and from parents that TLC has not been performing in accordance with the terms and conditions of the agreement. Continuing efforts to improve TLC’s service have not been successful. The special needs children who attend the Coleman school are extremely emotionally and physically vulnerable and fragile. Therefore, the Department of Health (“Department”) has decided to terminate the contract with TLC effective June 30, 2017 pursuant to Paragraphs 1, 3(F) and 13 of the contract, in order to accomplish the least disruptive transition for the children and to coincide with the start of the summer program at the Coleman School which begins July 1, 2017. Phoenix Transportation Services has indicated that it has the capacity to take over these additional routes and it has been providing bus services to the Coleman School pursuant to its current agreement without complaints.

Westchester County is mandated by Section 4410, Part 200 of the New York State Education Law and Article 25, Title IIA of the New York State Public Health Law to provide for transportation to children under five years old with special needs.

As your Honorable Board is aware, in the case of a public emergency affecting the “life, health, safety or property of a political subdivision” that requires “immediate action which cannot await competitive bidding” the County may award contracts on an emergency basis, until such competitive bidding can be undertaken. NY General Municipal Law §103(4). The dissolution of Allways East, Inc. on February 28, 2017 and its inability to provide transportation for these disabled children pursuant to the NY Education Law and the Public Health Law created a public emergency requiring immediate action, for which the County sought and received approval for the award for the initial emergency contract to TLC. The recent inability of TLC to adequately provide the required emergency contractual services through the August 31, 2017 requires that another emergency contract be awarded for the gap period until public bid documents can be prepared. The Department advertised and released bid documents for transportation of children with special needs to all special education programs expiring August 31, 2017, including the John A Coleman School, for the term beginning September 1, 2017. Since the need for gap services is immediate, the County is requesting authorization to amend the Phoenix Agreement on an emergency basis in order to add the specific routes that had been served by TLC for the term July 1, 2017 through August 31, 2017: routes 3, 4, 6, 7, 10, 15.

Performance Security in the form of a 10% retainage will be required of Phoenix.

All other terms and conditions of the Phoenix Agreement shall remain in full force and effect.

The transportation services to be provided under this amended emergency agreement will promote the public health, safety and welfare of approximately seventy-five (75) Westchester County children with special needs by enabling daily participation in Special Needs programs through safe transportation. The goals and objectives of these programs are to:

- provide appropriate services to from birth to five with developmental disabilities and/or delays in accordance with their approved Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP);
- provide these services in the child’s least restrictive setting/natural setting through safe transportation.

Monitoring of the Transportation providers, as per the contract requirements, is accomplished through required County pre-approval on all bus routes prior to implementation, random County inspections to ensure provider vehicle safety and staff compliance to County policy, and accuracy of billing by monthly reviews of submitted documentation.

Approval of the attached resolution authorizing the emergency amendment of the existing emergency contract with Phoenix is respectfully requested.

SA/am/DI

Attachment

RESOLUTION

Upon a communication from the Commissioner of Health, it is hereby

RESOLVED, that the County of Westchester is hereby authorized to amend an Emergency Agreement with Phoenix Transportation Services, Inc. for the transportation of preschool children with disabilities to the John A. Coleman School for the term February 28, 2017 through August 31, 2017 (the "Phoenix Agreement"), in order to add routes 3, 4, 6, 7, 10 and 15 for the term July 1, 2017 through August 31, 2017 in the amount of \$103,200, at a per vehicle per day rate, for total revised aggregate amount not to exceed \$574,080 as detailed below:

TERM	Program(s)/Zone	Company	Not to Exceed Amount	Security Amount
July 1, 2017 – August 31, 2017	John A. Coleman School, White Plains- routes: 3,4,6,7,10 & 15	Phoenix Transportation Services, Inc.	\$103,200	10% retainage

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 duly appointed designee is authorized to execute any and all documents and to take all actions necessary and appropriate to effectuate the purposes hereof.

Original Agreement	\$470,880
First Amendment	\$
This Amendment	<u>\$103,200</u>
TOTAL	\$574,080

Agreement # E/T526

<u>Fund</u>	<u>Dept</u>	<u>Major Program, Program & Phase or Unit</u>	<u>Object/Sub-object</u>	<u>Trust Account</u>	<u>Dollars</u>	<u>Budget Year</u>
101	27	2700	4539		\$82,560	2017
101	27	2700	4541		\$20,640	2017

Budget Funding Years	2017	Start date	7/1/17	End date	8/31/17
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Funding Source	Tax dollars	43%	\$ 44,376				
	State aid	57%	\$ 58,824				
\$103,200	Insurance						
(must match resolution)	Medicaid						

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/08/2017 - LISAMPAJ, SECRETARY