



Westchester Community College

State University of New York

62088

Date: March 13, 2018

To: Board of Acquisition and Contract

From: Belinda S. Miles
President

Re: **Authorization for the County of Westchester, acting by and through Westchester Community College (the “College”), to enter into an agreement with the New York State Industries for the Disabled (“NYSID”) for janitorial services at the Peekskill Extension site for the period from September 1, 2016 through August 31, 2018, in an amount not to exceed \$85,883.59 for the first year of the agreement, subject to annual adjustments based upon the increase in both the Consumer Price Index and the NYS Prevailing Wage Schedules, payable pursuant to an approved budget for a total amount not to exceed \$450,000.00 during the full term of the Agreement, subject to appropriations; to approve Rehabilitation Support Services, Inc. as a subcontractor; and to exempt NYSID from the County’s Performance and Payment Bond requirement.**

Authorization is hereby requested for the County of Westchester (the “County”), acting by and through Westchester Community College (the “College”), to enter into an agreement with the New York State Industries for the Disabled (“NYSID”) for janitorial services at the Peekskill Extension site for the period from September 1, 2016 through August 31, 2018 in an amount not to exceed \$85,883.59 for the first year of the agreement, subject to annual adjustments based upon the increase in both the Consumer Price Index and the NYS Prevailing Wage Schedules, payable pursuant to an approved budget for a total amount not to exceed \$450,000.00 during the full term of the Agreement, subject to appropriations; to approve Rehabilitation Support Services, Inc. as a subcontractor; and to exempt NYSID from the County’s Performance and Payment Bond requirement.

The State of New York enacted legislation (New York 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 Rehabilitation Support Services, Inc. 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 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 OGS. Pursuant to State Finance Law § 162, OGS has approved the price herein and has determined that the fee to be paid under this 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.

However, subsequent to OGS’ approval of the rates to be payable herein, OGS recently notified the County and NYSID that it did not approve of NYSID’s proposed use of a non-preferred source subcontractor (as defined in State Finance Law Section 162) to perform the snow removal portion of the work. As a result of OGS’ rejection of the non-preferred source subcontractor to perform the snow removal portion of the work contemplated herein, it was determined that NYSID could not provide the services contemplated herein in the “form, function and utility” required by the County and in accordance with State Finance Law Section 162.

Since NYSID is unable to provide these services in accordance with State Finance Law Section 162, the County must publically bid the work herein in accordance with New York General Municipal Law (It should be noted that the required Authority to Advertise Resolution has been submitted for consideration by Your Honorable Board through OnBase ID Number 61523).

NYSID has been providing these janitorial services since September 1, 2016, however, the County cannot pay NYSID since an agreement was never duly executed. NYSID has agreed to provide these services until the County can award and execute an agreement with a new janitorial contractor, however, retroactive authorization is required by Your Honorable Board so that the parties can execute an

agreement and the County can pay NYSID for the services it has provided. Upon execution of the new agreement, the County will terminate this Agreement for convenience.

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

NYSID has provided services to the County for a number of years and currently has other contracts with the County. Accordingly, authority is requested to eliminate the requirement that NYSID provide a Performance and Payment Bond.

This contract is in the public's best interest because it will enhance the upkeep, maintenance and cleanliness of the facilities of the College and promote the health, safety and general welfare of employees, students and the general public, thus addressing the County Executive's priority areas of Health and the Environment (HE) and Safety and Security (SS).

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

BSM/pt
Attachment

RESOLUTION

Upon a communication from the President, Westchester Community College; be it hereby

RESOLVED, that the County of Westchester (the “County”), acting by and through Westchester Community College (the “College”), is authorized to enter into an agreement with the New York State Industries for the Disabled (“NYSID”) for janitorial services at the Peekskill Extension site for the period from September 1, 2016 through August 31, 2018 in an amount not to exceed \$85,883.59 for the first year of the agreement, subject to annual adjustments based upon the increase in both the Consumer Price Index and the NYS Prevailing Wage Schedules, payable pursuant to an approved budget for a total amount not to exceed \$450,000.00 during the full term of the Agreement, subject to appropriations; to approve Rehabilitation Support Services, Inc. as a subcontractor, and to exempt NYSID from the County’s Performance and Payment Bond requirement; and be it further

RESOLVED, that Rehabilitation Support Services, Inc. is approved as a subcontractor; and be it further

RESOLVED, that a Performance and Payment Bond will not be required based on NYSID’s preferred source status and that NYSID has provided services to the County for a number of years and currently has other contracts with the County; 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 is authorized to execute any and all documents and to take such other action necessary to effectuate the purposes hereof.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object Sub Object	Trust Account	Dollars
	701	8191		4380		450,000.00

Budget Funding Year(s) FY 16/17 – 17/18 Start Date 9/1/16 End Date 8/31/18
 (must match resolution)

Funding Source Tax Dollars _____

State Aid \$225,000

\$450,000.00 Federal Aid _____
 (must match resolution)

Other \$225,000 (Tuition)

APPROVED BOARD OF ACQUISITION & CONTRACT - 04/05/2018 - LISA M. MAJ, SECRETARY