

74212

**DATE:** January 27, 2020  
**TO:** Board of Acquisition and Contract  
**FROM:** Hugh J. Greechan, Jr., P.E.  
Commissioner of Public Works and Transportation

Gary A. Friedman, Esq.  
Director of Real Estate  
Office of the County Executive

Kevin M. McGuire  
Commissioner of Social Services

**SUBJECT:** Authority to retroactively enter into an agreement with the State of New York, acting by and through its Department of Labor (“NYSDOL”) pursuant to which NYSDOL will grant a permit (the “Permit”) to the County for the use and occupancy of approximately 4,550 sq. ft. of space at the NYSDOL Offices located at 120 Bloomingdale Road in White Plains, New York for the period from May 1, 2018 through April 30, 2021 at a rate of \$126,762.96 per year for a total Permit fee not to exceed \$380,288.88 less a credit of \$15,360.67 for NYSDOL’s telephone use from May 1, 2018 through May 31, 2019 for a total aggregate amount not to exceed \$364,928.21. (Agreement No. 20-901)

Transmitted herewith is a Resolution requesting authority from your Honorable Board for the County of Westchester to retroactively enter into an agreement with the State of New York, acting by and through its Department of Labor (“NYSDOL”) pursuant to which NYSDOL will grant to the County a permit (the “Permit”) for the use and occupancy of approximately 4,550 square feet of space at the NYSDOL Offices located at 120 Bloomingdale Road in White Plains, New York. The space has been and will continue to be used during the Term (defined below) by the Westchester County Department of Social Services for its Office of Workforce Investment in order to combine the two separate operations of the Westchester One Stop Employment Center with that of the NYSDOL Office of Employment Services in the City of White Plains as required by the mandatory functional alignment plan that was approved by the NYSDOL Office of Workforce Development.

The Permit will be for the three-year period retroactive to May 1, 2018 through April 30, 2021 (the “Term”). In consideration for the grant of the permit, the County shall pay NYSDOL at the rate of \$27.86 per square foot per year for a total permit fee of \$126,762.96 per year for a total Permit fee not to exceed \$380,288.88 payable in one lump sum covering the period from May 1, 2018 through execution of the Permit (the “Retroactive Period”) and the remainder in equal monthly installments. The County will receive a credit of \$15,360.67 for NYSDOL’s telephone use from May 1, 2018 through May 31, 2019 (the “Phone Credit”), meaning the total aggregate amount the County will pay will not exceed \$364,928.21. After May 31, 2019, the County and NYSDOL have each paid and will continue to pay their respective shares of the telephone expenses. The County will pay the Permit fee for the Retroactive Period, less the Phone Credit for that period within sixty days of the execution of the Agreement by both parties and approval of same by the Office of the County Attorney.

The Permit shall contain the following defense and indemnity provision (the County is referred to as the "Partner"):

"The PARTNER shall save harmless and indemnify the State of New York, the NYSDOL, their officers and employees from and against any and all claims, suits, actions, cost and expense involving injury to person or property arising out of the use and occupancy of the Premises. The PARTNER, if not a self-insured governmental entity, agrees to obtain and maintain in force throughout the duration of this Contract a General Hazard and Comprehensive Public Liability Insurance Policy having coverage limits of not less than One Hundred Thousand Dollars (\$100,000.00) in the event of injury to any one person, and Three Hundred Thousand Dollars (\$300,000.00) in the event of injury to two or more persons while in and about the demised area. The PARTNER shall deliver certificates of such insurance to the NYSDOL prior to the beginning of the term of this Contract and thereafter not less than thirty (30) days prior to the expiration of any such policy. All such policies shall contain a provision that NYSDOL shall receive at least thirty (30) days notice prior to material change or cancellation."

It should be noted that the reason the County is seeking retroactive approval for this Permit is because of a prior disagreement between the County and NYSDOL over the Permit fees and telephone charges which has recently been resolved. It should further be noted that as a result of resolving these issues, a separate Resolution for another permit between the County and NYSDOL for the term beginning May 1, 2015 and expiring on April 30, 2018 was submitted and approved on December 19, 2019.

The goals and objectives of this contract are to combine the two separate operations of the Westchester One Stop Employment Center with that of the New York State Department of Labor's Office of Employment Services in the City of White Plains as required by the mandatory functional alignment plan that was approved by the NYSDOL Office of Workforce Development. Further, the goal is to reduce operational cost and operation efficiency through cost sharing and the combination of existing staff and resources between the two agencies. Further, this action will enhance the capabilities of the system and hence the public's perception of its ability to meet the related workforce needs of businesses, workers and job seekers.

These goals and objectives are in the best interest of the County because they allow for the continued delivery of high quality workforce assistance and preparation services in one centralized and accessible location; and produces significant cost savings at a time when federal workforce investment funds are being rescinded.

The goals and objectives of this contract will be tracked and monitored through the monthly financial and program reports that will reflect the operational cost savings, the number of customers served, and the variety and levels of services being used by the customers.

This agreement is exempt from the Westchester County Procurement Policy pursuant to Section 3(b) thereof.

A Resolution is herewith attached for your Honorable Board's consideration.

# RESOLUTION

## Agreement No. 20-901

Upon a communication from the Commissioner of the Department of Public Works and Transportation, the Director of Real Estate, and the Commissioner of Social Services, be it hereby

**RESOLVED**, that the County of Westchester (the "County") is authorized to retroactively enter into an agreement with the State of New York, acting by and through its Department of Labor ("NYSDOL") pursuant to which NYSDOL will grant to the County a permit (the "Permit") for the use and occupancy of approximately 4,550 square feet of space at the NYSDOL Offices located at 120 Bloomingdale Road in White Plains, New York for the period from May 1, 2018 through April 30, 2021 (the "Term"); and be it further

**RESOLVED**, that in consideration for the granting of the Permit, the County shall pay NYSDOL at the rate of \$27.86 per square foot for a total permit fee of \$126,762.96 per year for a total amount not to exceed \$380,288.88 over the Term, less the Phone Credit (as defined below) of \$15,360.67, bringing the total aggregate not-to-exceed amount to \$364,928.21; and be it further

**RESOLVED**, that the County will receive a credit (the "Phone Credit") of \$15,360.67 for NYSDOL's telephone use from May 1, 2018 until May 31, 2019, after which the County and NYSDOL have each paid and will continue to pay their respective shares; and be it further

**RESOLVED**, that the County will pay the portion of Permit fee covering the period from May 1, 2018 through execution of the Permit less the Phone Credit within sixty days of the execution of the Agreement by both parties and approval of same by the Office of the County Attorney, in one lump sum and the remainder in equal monthly installments; and be it further

**RESOLVED**, that the Permit shall contain the following defense and indemnity provision (the County is referred to as the "Partner"):

"The PARTNER shall save harmless and indemnify the State of New York, the NYSDOL, their officers and employees from and against any and all claims, suits, actions, cost and expense involving injury to person or property arising out of the use and occupancy of the Premises. The PARTNER, if not a self-insured governmental entity, agrees to obtain and maintain in force throughout the duration of this Contract a General Hazard and Comprehensive Public Liability Insurance Policy having coverage limits of not less than One Hundred Thousand Dollars (\$100,000.00) in the event of injury to any one person, and Three Hundred Thousand Dollars (\$300,000.00) in the event of injury to two or more persons while in and about the demised area. The PARTNER shall deliver certificates of such insurance to the NYSDOL prior to the beginning of the term of this Contract and thereafter not less than thirty (30) days prior to the expiration of any such policy. All such policies shall contain a provision that NYSDOL shall receive at least thirty (30) days notice prior to material change or cancellation."; and be it further

# RESOLUTION

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

Agreement No. 20-901

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	46	3300/3392	4320		\$ 74,969.98 (2018)
	101	46	3300/3392	4320		\$120,940.95 (2019)
	101	46	3300/3392	4320		\$126,762.96 (2020)
	101	46	3300/3392	4320		\$ 42,254.32 (2021)

Budget Funding Year(s) 2018-2021 Start Date 05/01/18 End Date 04/30/21  
 (must match resolution)

Funding Source: Tax Dollars 100%

State Aid \_\_\_\_\_

\$364,928.21 Federal Aid \_\_\_\_\_  
 (must match resolution)

Other \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACTS 05/19/2020 - LISA MRIJAJ, SECRETARY