



George Latimer  
County Executive

Department of Social Services

Kevin M. McGuire  
Commissioner

**75071**

DATE: February 3, 2020

TO: Board of Acquisition and Contract

FROM: Kevin M. McGuire  
Commissioner, Department of Social Services

SUBJECT: Authority to exercise the County's fourth and final one-year option under its agreement with Westhab, Inc., pursuant to which it was to operate a Tier II Family Shelter at 17 South Second Avenue in Mount Vernon.

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By a resolution approved on February 25, 2016, your Honorable Board authorized the County of Westchester (the "County") to enter into an agreement (the "Original Agreement") with Westhab, Inc. ("Westhab"), pursuant to which Westhab was to operate a Tier II Family Shelter, as defined in 18 NYCRR Part 900, (a "Tier II Shelter") at 17 South Second Avenue in Mount Vernon (the "Facility"), (the "Services") for an amount not-to-exceed \$1,939,344.00, payable pursuant to an approved budget, for the period from February 1, 2016 through January 31, 2017 (the "Initial Term"), with the County having the sole option to extend the term for up to four (4) one (1) year periods thereafter (each an "Option Term") for the respective not-to-exceed amounts specified below and otherwise on the same terms as the Initial Term:

<u>Period</u>	<u>Not-To-Exceed Amount</u>
First Option Term (2/1/17 – 1/31/18)	\$1,978,131.00
Second Option Term (2/1/18 – 1/31/19)	\$2,017,695.00
Third Option Term (2/1/19 – 1/31/20)	\$2,058,048.00
Fourth Option Term (2/1/20 – 1/31/21)	\$2,099,208.00

The Original Agreement was subsequently executed.

By a resolution approved on May 4, 2017, your Honorable Board authorized the County to amend the Original Agreement by, 1.) extending the term thereof by one (1) year, to a new termination date of January 31, 2018; 2.) modifying the amount specified in the Original

Agreement, and modifying the Original Agreement's budget and budget justification, for the first Option Term, to reflect various line-item changes and a reduction in the total not-to-exceed amount from \$1,978,131.00 to \$1,878,137.00; 3.) increasing the not-to-exceed amount of the Original Agreement by \$1,878,137.00, to a new total not-to-exceed amount of \$3,817,481.00, to pay for the services during the first Option Term; and 4.) reflecting the fact that the County will have three (3) one (1) year options remaining under the Original Agreement (the "First Amendment"). The First Amendment was subsequently executed.

By a resolution approved on February 1, 2018, your Honorable Board authorized the County to amend the Original Agreement, as amended by the First Amendment, by, 1.) extending the term thereof by one (1) year, to a new termination date of January 31, 2019; 2.) modifying the amount specified in the Agreement, and modifying the Agreement's budget and budget justification, for the second Option Term, to reflect various line-item changes and a reduction in the total not-to-exceed amount from \$2,017,695.00 to \$1,861,540.00; 3.) increasing the not-to-exceed amount of the Original Agreement, as amended, by \$1,861,540.00, to a new total not-to-exceed amount of \$5,679,021.00, to pay for the Services during the second Option Term; and 4.) reflecting the fact that the County will have two (2) one (1) year options remaining under the Original Agreement, as amended (the "Second Amendment"). The Second Amendment was subsequently executed.

By a resolution approved on December 13, 2018, your Honorable Board authorized the County to amend the Original Agreement, as amended by the First Amendment and the Second Amendment, by 1.) extending the term thereof by one (1) year, to a new termination date of January 31, 2020; 2.) modifying the amount specified in the agreement and modifying the budget and budget justification of the agreement for the third Option Term, to reflect various line-item changes and a reduction in the total not-to-exceed amount from \$2,058,048.00 to \$1,898,771.00; 3.) increasing the not-to-exceed amount of the agreement by \$1,898,771.00, to a new total not-to-exceed amount of \$7,577,792.00, to pay for the Services during the third Option Term; and 4.) reflecting the fact that the County will have one (1) additional one (1) year option remaining under the agreement (the "Third Amendment"). The Third Amendment was subsequently executed.

The County continues to require the Services. Therefore, DSS reviewed and analyzed the costs in the Original Agreement, as amended by the First Amendment, the Second Amendment, and the Third Amendment (the "Agreement") for the fourth Option Term in order to ensure that they were reasonable. As part of that analysis, DSS obtained from New York State the effective per-diem rate for two (2) other Tier II Shelters that are in Westchester and five (5) other Tier II Shelters that are outside of New York City and in counties similar to Westchester. Of those five (5) shelters, one (1) is located in each of Rockland County, Orange County, and Albany County, and two (2) are located in Suffolk County. The effective per-diem rate for Westhab to provide the Services during the fourth Option Term is just slightly above the median of the costs of the other Tier II Shelters, with three (3) having a higher effective per-diem rate and five (5) having a lower effective per-diem rate. However, the average of those seven (7) rates is higher than Westhab's effective rate for the fourth Option Term under the Agreement.

Notably, under the Agreement, the budget for the Initial Term and each Option Term was prepared for use on a cost-reimbursement basis. Accordingly, irrespective of what was specified in each budget, Westhab would only be entitled to reimbursement of the actual costs it incurred, up to the specified individual line-item amounts and total annual not-to-exceed amounts.

During the Initial Term, Westhab ultimately did not incur the full specified individual line-item amount for certain line items and was, therefore, paid a total that was less than the specified not-to-exceed amount. Since the County was, of course, unaware that this would happen, it encumbered in its budget, via the above-mentioned resolution from February 25, 2016, the full amount of \$1,939,344.00 for the Initial Term. As a result, the County was unable, for a time, to access the part of that amount that ultimately went unspent.

As alluded to above, for the first Option Term, the second Option Term, and the third Option Term, the County solved this problem of excessive encumbrance by modifying the amount specified for that option in the Agreement. Westhab recently advised the County that, once again, it will not expend the full specified individual line-item amounts for various line items in the Agreement for Services during the fourth Option Term. Westhab advised the County that all of its costs for Services during the fourth Option Term would not exceed \$1,936,746.00, which represents a savings of \$162,462.00 compared to the not-to-exceed amount of \$2,099,208.00 that was specified in the Agreement.

Naturally, a savings of \$162,462.00 improves the effective per-diem rate for Westhab to provide the Services during the fourth Option Term and makes the cost even more reasonable, and the exercise of the fourth option even more economically prudent, in light of the costs of the aforementioned other Tier II Shelters. Additionally, the County's advance knowledge of these reduced total costs allows it to take action now, in order to avoid leaving it unable to access the excess funds, as happened during the Initial Term.

Accordingly, the County respectfully requests authority from your Honorable Board to exercise its fourth and final one-year option under the Agreement and amend the Agreement by, 1.) extending the term thereof by one (1) year, to a new termination date of January 31, 2021; 2.) modifying the amount specified in the Agreement and modifying the budget and budget justification of the Agreement for the fourth Option Term, to reflect various line-item changes and a reduction in the total not-to-exceed amount from \$2,099,208.00 to \$1,936,746.00; 3.) increasing the not-to-exceed amount of the Agreement by \$1,936,746.00, to a new total not-to-exceed amount of \$9,514,538.00, to pay for the Services during the fourth Option Term; and 4.) reflecting the fact that the County will not have any options remaining under the Agreement (the "Fourth Amendment").

Except as specifically described above, all terms and conditions of the Agreement shall remain in full force and effect.

The proposed Fourth Amendment will serve a public purpose by providing the County with the services necessary to operate the Facility as a Tier II Shelter for an additional year.

The goal and objective of the proposed Fourth Amendment is to provide the County with the services necessary to operate the Facility as a Tier II Shelter for an additional year.

The goal and objective of the proposed Fourth Amendment is in the best interests of the County in terms of public health and safety, as the County having the services necessary to operate the Facility as a Tier II Shelter for an additional year will ensure that the Facility can provide housing to eligible families, which will ultimately help ensure the health and safety of those families.

The goals and objectives of the proposed Fourth Amendment will be tracked and monitored by the staff of DSS.

I respectfully recommend the adoption of the attached Resolution.

KMM/LVL/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/12/2020 - LISA M. BAY SECRETARY

**RESOLUTION**

Upon a communication from the Commissioner of Social Services, be it hereby

**RESOLVED**, that the County of Westchester (the “County”) is hereby authorized to exercise its fourth and final one-year option under its agreement with Westhab, Inc. (“Westhab”), as amended, pursuant to which Westhab was to operate a Tier II Family Shelter, as defined in 18 NYCRR Part 900, at 17 South Second Avenue in Mount Vernon, for an amount not-to-exceed \$7,577,792.00, payable pursuant to an approved budget, for the period from February 1, 2016 through January 31, 2020, with the County having the sole option to extend the term for one (1) additional one (1) year period thereafter, for the not-to-exceed amount specified below and otherwise on the same terms as the initial term, the first option term, the second option term, and the third option term of the agreement:

<u>Period</u>	<u>Not-To-Exceed Amount</u>
Fourth Option Term (2/1/20 – 1/31/21)	\$1,936,746.00

(the “Amended Agreement”) and amend the Amended Agreement by, 1.) extending the term thereof by one (1) year, to a new termination date of January 31, 2021; 2.) modifying the amount specified in the Agreement and modifying the budget and budget justification of the Agreement for the fourth Option Term, to reflect various line-item changes and a reduction in the total not-to-exceed amount from \$2,099,208.00 to \$1,936,746.00; 3.) increasing the not-to-exceed amount of the Amended Agreement by \$1,936,746.00, to a new total not-to-exceed amount of \$9,514,538.00, to pay for the services during the fourth Option Term; and 4.) reflecting the fact that the County will not have any options remaining under the Amended Agreement; and be it further

**RESOLVED**, that except as specifically hereby authorized to be amended, all terms and conditions of the Amended Agreement shall remain in full force and effect; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized to execute any documents and take any actions reasonably necessary and appropriate to effectuate the purposes of this Resolution.

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Account to be  
Charged/Credited

	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
2020	101	22	8900	5850	-----	\$1,775,350
2021	101	22	8900	5850	-----	\$161,396

Budget Funding Year(s):2020-21

Start Date: 02/01/20 End Date: 01/31/21

Funding Source	Tax Dollars:	1%
<u>\$1,936,746.00</u>	State Aid:	0%
(must match resolution)	Federal Aid:	99%
	Other:	

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/12/2020 - LISA MARIJAS SECRETARY