



# Westchester Community College

State University of New York

**76792**

**TO:** Board of Acquisition and Contract

**FROM:** Dr. Belinda S. Miles  
President, Westchester Community College

**DATE:** May 19, 2020

**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 College for the five (5) year period from September 1, 2020 to August 31, 2025, in an annual amount not to exceed \$1,728,711.16 for a total amount not to exceed \$8,643,555.80 (including \$50,000.00 in miscellaneous addition work) payable pursuant to an approved budget, subject to annual adjustments based upon the published New York State Department of Labor Prevailing Wage Schedule and subject to appropriations; to approve American Maintenance as a subcontractor; and to exempt NYSID from the County's Performance and Payment Bond requirement.

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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 College for the five (5) year period from September 1, 2020 to August 31, 2025, in an annual amount not to exceed \$1,728,711.16 for a total amount not to exceed \$8,643,555.80 (including \$50,000.00 in miscellaneous addition work) payable pursuant to an approved budget, subject to annual adjustments based upon the published New York State Department of Labor Prevailing Wage Schedule and subject to appropriations; to approve American Maintenance as a subcontractor; and to exempt NYSID from the County's Performance and Payment Bond requirement.

All work shall be payable in accordance with the approved budget which is annexed hereto and made a part hereof as Schedule "A". The not to exceed amount of contract years two (2) through five (5) shall be subject to an annual adjustment which shall be based upon the published New York State Department of Labor Prevailing Wage Schedule for Janitorial/Porter/Cleaner/Elevator Operator.

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 American Maintenance, 385 West Main Street, Babylon, New York 11702, 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 has 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.

NYSID will perform the janitorial services by utilizing American Maintenance, as a subcontractor. The utilization American Maintenance and the population it serves, individuals with disabilities, as a subcontractor on this contract, 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).

This contract will provide an environmental benefit through the utilization of “Green” cleaning products in accordance with Executive Order 2-2006.

If this resolution is not approved, the County will be in violation of State Finance Law §162 which requires the County to utilize a designated preferred source to provide these services.

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

## RESOLUTION

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

**RESOLVED**, that 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 College for the five (5) year period from September 1, 2020 to August 31, 2025, in an annual amount not to exceed \$1,728,711.16, for a total amount not to exceed \$8,643,555.80 (including \$50,000.00 in miscellaneous addition work), payable pursuant to an approved budget and subject to annual adjustments based upon the published New York State Department of Labor Prevailing Wage Schedule; and be it further

**RESOLVED**, that American Maintenance, 385 West Main Street, Babylon, New York 11702, 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 be and hereby is authorized and empowered to execute any and all documents necessary and appropriate to effectuate the purposes hereof.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
WCC FY 20/21	010	0250		4380		\$1,728,711.16
WCC FY 21/22	010	0250		4380		\$1,728,711.16
WCC FY 22/23	010	0250		4380		\$1,728,711.16
WCC FY 23/24	010	0250		4380		\$1,728,711.16
WCC FY 24/25	010	0250		4380		\$1,728,711.16

**Budget Funding Year(s)** 2020/25      **Start Date:** September 1, 2020      **End Date:** August 31, 2025  
(must match resolution)

**Funding Source:**      **Tax Dollars** \$2,123,219.54      **Contractor Federal I.D. No./**  
**Social Security No.:**  
\$8,643,555.80      **State Aid** \$ 2,383,195.52      **Federal Aid \_Vendor No.:**  
(must match resolution)      **Other** \$4,137,140.74      **Encumbrance No.:** \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/28/2020 - LISA MRIS, SECRETARY