



George Latimer  
County Executive

Department of Health

Sherlita Amler, M.D.  
Commissioner

**79139**

DATE: August 30, 2020

TO: Board of Acquisition and Contract

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

SUBJECT: Amending a resolution that, as previously amended, authorized the County to amend each of five (5) agreements for transportation services for pre-school children with special needs in order to extend the term of each agreement by one (1) year, modify the scope of work of two of the agreements, increase the not-to-exceed amount of each agreement, require specified performance security for the additional period of services for each agreement, and modify the terms of payment of each agreement, by now adding an authorization to make an additional modification to the terms of payment for each of the agreements.

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By a resolution approved on July 16, 2020 (the “Original Resolution”), your Honorable Board authorized the County of Westchester (the “County”) to amend each of five (5) agreements (the “Five Agreements”) for transportation services for pre-school children with special needs, by, a.) extending the term of each of the Five Agreements by one (1) year, such that each agreement will have a new expiration date of August 31, 2021, b.) modifying the scope of work of two of the Five Agreements, c.) increasing the not-to-exceed amount of each of the Five Agreements by a specified amount, in order to pay for the additional period of services, and d.) requiring, for the additional period of services, specified performance.

By a resolution approved on August 20, 2020 (the “August 20th Resolution”), your Honorable Board amended the Original Resolution by adding an authorization for the County to modify the terms of payment under each of the Five Agreements in order to specify that, effective September 1, 2020, in the event that, in the future, the Governor of the State of New York issues an executive order that requires the closure, due to COVID-19, of all schools and school programs for which transportation services are provided by a contractor, the contractor

shall be paid, for each school day for the duration of such ordered closure, an amount equal to forty percent (40%) of the amount to which the contractor was entitled for the services the contractor provided on the last school day prior to the beginning of such ordered closure; provided, however, that such amounts shall only be paid by the County to the extent that they will be used by the contractor for costs associated with it maintaining readiness to resume providing services upon the end of such ordered closure. The authorized amendments have not yet been executed.

The Department of Health (“DOH”) recommends that each of the Five Agreements be amended in order to further modify their respective terms of payment. Specifically, DOH believes that each of the Five Agreements should be amended in order to specify that, effective September 1, 2020, in the event that a program to be served under one of the Five Agreements modifies its schedule, due to COVID-19, such that it will operate in-person for only four (4) days of the five (5) days per regular week, the contractor will be paid at a rate of one hundred and twenty percent (120%) of the authorized round-trip rate for that program for each round-trip on each day the contractor transports students during each regular week that the program has such reduced in-person operation; provided, however, that this higher rate shall only be paid by the County to the extent that the additional payment will be used by the contractor for costs associated with it maintaining readiness to provide the transportation services for such program for five (5) days per regular week. Such amendments to the Five Agreements would help ensure that each contractor can maintain readiness to provide transportation services despite the twenty percent (20%) reduction in DOH’s transportation needs for a given program that would result from the number of days of in-person operation being reduced from five (5) to four (4).

Therefore, DOH respectfully requests that your Honorable Board amend the Original Resolution, as amended by the August 20th Resolution, by adding, between its existing third and fourth ‘RESOLVED’ clauses, a new ‘RESOLVED’ clause that will read as follows:

“RESOLVED, that the County is also authorized to amend each of the Five Agreements, in order to modify the terms of payment under each of the Five Agreements, such that each will specify that, effective September 1, 2020, in the event that a program to be served under one of the Five Agreements modifies its schedule, due to COVID-19, such that it will operate in-person for only four (4) days of the five (5) days per regular week, the contractor will be paid at a rate of one hundred and twenty percent (120%) of the authorized round-trip rate for that program for each round-trip on each day the contractor transports students during each regular week that the program has such reduced in-person operation; provided, however, that this higher rate shall only be paid by the County to the extent that the additional payment will be used by the contractor for costs associated with it maintaining readiness to provide the transportation services for such program for five (5) days per regular week; and be it further”

Except as described above, all terms and conditions of the Original Resolution, as

amended by the August 20th Resolution, shall remain in full force and effect.

I respectfully recommend the adoption of the attached resolution.

SA/MY/bdm/nm

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/03/2020 - LISA MRIJAJ, SECRETARY

## RESOLUTION

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

**RESOLVED**, that the resolution approved on July 16, 2020, as amended by the resolution approved on August 20, 2020, which authorized the County of Westchester (the "County") to amend each of five (5) agreements for transportation services for pre-school children with special needs (the "Five Agreements") by, a.) extending the term of each of the Five Agreements by one (1) year, such that each agreement will have a new expiration date of August 31, 2021, b.) modifying the scope of work of two of the Five Agreements, c.) increasing the not-to-exceed amount of each of the Five Agreements by a specified amount, in order to pay for the additional period of services, d.) requiring, for the additional period of services, specified performance security, and e.) modifying the terms of payment under each of the Five Agreements, (the "Current Resolution") is hereby amended by adding, between its existing third and fourth 'RESOLVED' clauses, a new 'RESOLVED' clause that reads as follows:

"RESOLVED, that the County is also authorized to amend each of the Five Agreements, in order to modify the terms of payment under each of the Five Agreements, such that each will specify that, effective September 1, 2020, in the event that a program to be served under one of the Five Agreements modifies its schedule, due to COVID-19, such that it will operate in-person for only four (4) days of the five (5) days per regular week, the contractor will be paid at a rate of one hundred and twenty percent (120%) of the authorized round-trip rate for that program for each round-trip on each day the contractor transports students during each regular week that the program has such reduced in-person operation; provided, however, that this higher rate shall only be paid by the County to the extent that the additional payment will be used by the contractor for costs associated with it maintaining readiness to provide the transportation services for such program for five (5) days per regular week; and be it further"

; and be it further

**RESOLVED**, that except as hereby amended, all terms and conditions of the Current Resolution 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
N/A					

Budget Funding Year(s): \_\_\_\_\_ Start Date: 09/01/20 End Date: 08/31/21  
(must match resolution)

Funding Source \_\_\_\_\_ Tax Dollars: \_\_\_\_\_  
(must match resolution) State Aid: \_\_\_\_\_  
Federal Aid: \_\_\_\_\_  
Other: \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/03/2020 - LISA MRIJAJ, SECRETARY