

George Latimer  
County Executive

Department of Health

Sherlita Amler, M.D.  
Commissioner

## 87058

DATE: September 10, 2021

TO: Board of Acquisition and Contract

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

SUBJECT: Authority to amend each of twelve (12) agreements, pursuant to each of which the contractor was to provide transportation services for pre-school children with special needs, by modifying the terms of payment under each of the agreements in order to add a new provision for certain payments to each contractor in the event that one or more schools or school programs for which transportation services are provided by the contractor is closed and/or conducts only remote learning for a period of at least five (5) consecutive scheduled school days due to COVID-19.

Collectively, by resolutions approved on July 13, 2017, July 19, 2018, and June 6, 2019, your Honorable Board authorized the County of Westchester (the "County") to, among other things, enter into each of the following twelve (12) agreements (the "Original Agreements") for transportation services for pre-school children with special needs, for certain schools and school programs, with the following contractors, for the following periods:

Contract Number	Contractor	Term
E/T528	Astra Transportation Corp.	9/1/17 – 8/31/22
E/T538	TLC Transportation Corp. of Westchester	9/1/17 – 8/31/22
E/T539	TLC Transportation Corp. of Westchester	9/1/17 – 8/31/22
E/T545	Astra Transportation Corp.	9/1/18 – 8/31/23
E/T546	Astra Transportation Corp.	9/1/18 – 8/31/23
E/T547	All County Bus, LLC	9/1/18 – 8/31/23
E/T549	All County Bus, LLC	9/1/18 – 8/31/23
E/T550	Astra Transportation Corp.	9/1/19 – 8/31/24
E/T551	Astra Transportation Corp.	9/1/19 – 8/31/24
E/T552	All County Bus, LLC	9/1/19 – 8/31/24
E/T553	Astra Transportation Corp.	9/1/19 – 8/31/24
E/T554	All County Bus, LLC	9/1/19 – 8/31/24

Each of the Original Agreements was subsequently executed.

By a resolution approved on August 20, 2020, as amended by a resolution approved on September 3, 2020, your Honorable Board authorized the County to amend each of the Original Agreements by modifying the terms of payment under each agreement such that they would provide for payment to the contractor, a.) in the event 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 the contractor, and b.) in the event that a program to be served an agreement 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 amendments, collectively, the "First Amendments"). Each of the First Amendments was subsequently executed.

The Department of Health ("DOH") has determined that each of the Original Agreements, as modified by each of the First Amendments, (collectively, the "Current Agreements") should be amended in order to modify their respective terms of payment. Specifically, DOH believes that each of the Current Agreements should be amended in order to add a new provision for certain payments to each contractor in the event that one or more schools or school programs for which transportation services are provided by the contractor is closed and/or conducts only remote learning for a period of at least five (5) consecutive scheduled school days due to COVID-19.

Accordingly, the County respectfully requests authority from your Honorable Board to amend each of the Current Agreements by modifying the terms of payment under each of the Current Agreements (collectively, the "Second Amendments") in order to specify that, effective September 1, 2020, in the event that one or more schools or school programs for which transportation services are provided by a contractor is closed and/or conducts only remote learning for a period of at least five (5) consecutive scheduled school days due to COVID-19, the contractor shall be paid, for each scheduled school day for such schools or school programs, for the duration of such period, an amount equal to forty percent (40%) of the amount to which the contractor was entitled for the services the contractor provided for such schools or school programs on the last school day prior to the beginning of such period; 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 period.

Except as described above, all terms and conditions of each of the Current Agreements shall remain in full force and effect.

The proposed Second Amendments will serve a public purpose by helping ensure that each of the County's contractors for transportation services for children with special needs will, during a covered closure or period of only remote learning, maintain its readiness to provide services under its agreement with the County, such that it can resume providing such services upon the end of such a closure or period of only remote learning, and thereafter provide children with safe transportation to and from the programs in which they participate.

The goal and objective of the proposed Second Amendments is to help ensure that each of the County's contractors for transportation services for children with special needs will, during a covered closure or period of only remote learning, maintain its readiness to provide services under its agreement with the County, such that it can resume providing such services upon the end of such a closure or period of only remote learning, and thereafter provide children with safe transportation to and from the programs in which they participate.

The goal and objective of the proposed Second Amendments is in the best interests of the County in terms of public health and safety, as ensuring the future availability of safe transportation services for children in Westchester County with special needs, so that they can safely travel to and from the programs in which they participate, will allow each child to receive appropriate services in accordance with each child's respective approved Individualized Education Program, and do so in the child's least restrictive setting.

The goal and objective of the proposed Second Amendments will be tracked and monitored by the staff of DOH.

I respectfully recommend the adoption of the attached resolution.

SA/MY/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/23/2021 - RAYMOND S. DUKAKIS SECRETARY

**RESOLUTION**

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

**RESOLVED**, that the County of Westchester (the “County”) is hereby authorized to amend each of the following twelve (12) agreements (the “Current Agreements”) for transportation services for pre-school children with special needs, for certain schools and school programs, with the following contractors, for the following periods, in order to modify the terms of payment under each of the Current Agreements, such that each will specify that, effective September 1, 2020, in the event that one or more schools or school programs for which transportation services are provided by a contractor is closed and/or conducts only remote learning for a period of at least five (5) consecutive scheduled school days due to COVID-19, the contractor shall be paid, for each scheduled school day for such schools or school programs, for the duration of such period, an amount equal to forty percent (40%) of the amount to which the contractor was entitled for the services the contractor provided for such schools or school programs on the last school day prior to the beginning of such period; 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 period:

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; and be it further

**RESOLVED**, that except as hereby authorized to be amended, all terms and conditions of each of the Current Agreements 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

<u>Fund</u>	<u>Dept</u>	<u>Major Program, Program &amp; Phase or Unit</u>	<u>Object/S ub-object</u>	<u>Trust Account</u>	<u>Dollars</u>	<u>Budget Year</u>

Budget Funding Years	2017-24	Start date	End date
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Funding Source	Tax dollars					
	State aid					
	Insurance					
(must match resolution)	Medicaid					

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