

64750

**TO:** Board of Acquisition and Contract

**FROM:** Hugh J. Greechan, Jr., PE  
Commissioner of Public Works and Transportation

**DATE:** August 21, 2018

**SUBJECT:** Second Amendment (of a Multi-Phased Agreement) to Agreement No. 10-909 in the matter of:

(1) Authorization for Ammann & Whitney Consulting Engineers, P.C. to Assign Agreement No. 10-909 to Louis Berger U.S., Inc.

(2) Amendment for Engineering Services in connection with the Bronx River Reservation Pathway, Greenacres Avenue to Crane Road, Scarsdale, New York

**Consultant:** Louis Berger U.S., Inc.  
**Amendment Amount:** \$581,238.00

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Pursuant to a Resolution approved on April 29, 2010, the County of Westchester ("County") entered into Agreement Number 10-909 ("Original Agreement") with Berger Lehman Associates, P.C. ("Consultant"), 411 Theodore Fremd Avenue, Rye, New York 10580, commencing on May 6, 2010, wherein the Consultant was to provide engineering services associated with the Bronx River Reservation Pathway, Greenacres Avenue to Crane Road, Scarsdale, New York. On December 22, 2011, your Honorable Board authorized the County to execute an agreement consenting to the assignment of the Original Agreement from Berger Lehman Associates, P.C. to Ammann & Whitney Consulting Engineers, P.C., ("First Amendment"). The First Amendment was subsequently executed.

Upon communication from Ammann & Whitney Consulting Engineers, P.C., dated August 15, 2018, the County was informed that Ammann & Whitney Consulting Engineers, P.C. has merged with Louis Berger U.S., Inc. effective May 5, 2017. Ammann & Whitney Consulting Engineers, P.C. has requested that the County approve the assignment of Original Agreement, as amended by the First Amendment ("Agreement") to Louis Berger U.S., Inc. Therefore, Louis Berger U.S., Inc. would assume all of the rights and obligations under Agreement No. 10-909. The same principals and staff shall be assigned to complete the work, thus guaranteeing continuity to the project.

Accordingly, authority is hereby requested of your Honorable Board to consent to the assignment of the Agreement from Ammann & Whitney Consulting Engineers, P.C. to Louis Berger U.S., Inc., 2500 Westchester Avenue, Suite 305, Purchase, New York 10577 effective as of the date of the assignment.

This project is currently in design. The County has been satisfied with the overall quality of services provided to date by the Consultant. As the design progressed, the County requested that the Consultant perform multiple pathway alignment alternatives requiring numerous revisions to the design plans. Construction bids that were received in April 2018 exceeded the construction budget. Subsequent to the bidding process, the County requested that the Consultant undertake a value engineering approach to determine the feasibility of an alternate alignment at the northern end of the project work limit. The Consultant found that the alignment could be shifted in the area between Fenimore Road and Greenacres Avenue from the west side of the Bronx River Parkway to the east side resulting in construction cost savings. The pathway alignment shift will require

additional design effort. The project will be re-bid for construction in the near future which requires construction administration services to be provided.

Authority of your Honorable Board is therefore also requested to amend the Agreement to provide for additional design services and construction administration services. Additional design services shall include field investigations, the preparation of construction documents (plans and specifications), and construction cost estimates. For construction administration services, the Consultant shall monitor the construction procedures on the site to ensure compliance with the contract documents, coordinate scheduled activities of the contractors, submit construction progress reports and review and process contractors' applications for payment.

The objective of this project is to design and construct a new segment of the Bronx River Reservation Pathway from Greenacres Avenue to Crane Road in Scarsdale. The Greenacres Avenue to Crane Road section of the Bronx River Pathway has been missing since a major re-alignment of the Bronx River Parkway occurred in the 1960's. Pathway users are currently forced to use local vehicular roadways to make the connection between Scarsdale and Hartsdale. This project is required to meet the goal of creating a continuous pathway along the Reservation, and is an important link in the County railway system. This pathway from White Plains to the Bronx Line has been designated to be part of the East Coast Greenway, a national trail system stretching from Maine to Florida. In addition, pathway use by walkers, joggers and cyclists has been listed as one of the most desired activities by County residents in the 2007 Parks User Survey. The work will include drainage improvements, footbridge construction, sign installation, slope stabilization, and associated landscaping. The planned work will also improve the water quality of the Bronx River and associated water bodies. This Agreement will benefit the public as it will enhance the use of the Bronx River Reservation Pathway by improving public access and by providing a variety of settings for passive and active use.

The original intent of this Agreement was to have the project performed in multiple phases as subsequent funding became available. The initial phase defined the scope of work and required budget for the subsequent phases of the project for which funding has been approved.

The engineering discipline encompassed in this Amendment is not new, but rather, it is an integral part of the project that involves the same degree of skill, experience and complexity as the expertise generally described in the original project. Accordingly, this type of engineering discipline was originally contemplated in the Professional Prequalification Board and Professional Selection Board process.

The fee for the above services is for an amount of \$581,238.00 pursuant to an approved budget, bringing the total Agreement plus Amendments to \$955,738.00. The completion date of the Agreement shall be extended to December 31, 2022.

The Department of Public Works and Transportation will track scheduling and accomplishments by the Consultant and perform on-site inspections to ensure the successful completion of this project. It is recognized and understood that the County shall evaluate the performance of this contract by the Consultant and shall use such evaluation in deciding to award future contracts to the Consultant.

Proposed form of Resolution to accomplish the foregoing is attached hereto.

HJG/RSD/ER/as

# RESOLUTION

Upon communication from the Commissioner of Public Works and Transportation, be it hereby

RESOLVED, that the County of Westchester ("County") is hereby authorized to consent to the assignment of Agreement No. 10-909 dated May 6, 2010, for engineering services in connection with the Bronx River Reservation Pathway, Greenacres Avenue to Crane Road, Scarsdale, New York, as amended by the First Amendment, from Ammann & Whitney Consulting Engineers, P.C. to Louis Berger U.S., Inc. ("Consultant"), 2500 Westchester Avenue, Suite 305, Purchase, New York 10577, effective as of the date of execution of the assignment; and be it further

RESOLVED, that as a condition for the granting of the County's consent to this assignment, the Consultant will comply with all contract provisions; and be it further

RESOLVED, that the existing Agreement, as amended by the First Amendment, be amended to provide for additional design services and construction administration services. Additional design services shall include field investigations, the preparation of construction documents (plans and specifications), and construction cost estimates. For construction administration services, the Consultant shall monitor the construction procedures on the site to ensure compliance with the contract documents, coordinate scheduled activities of the contractors, submit construction progress reports and review and process contractors' applications for payment; and be it further

RESOLVED, that for the additional services rendered in accordance with the Consultant's proposal, Louis Berger U.S., Inc., shall be paid a fee of \$581,238.00 pursuant to an approved budget, increasing the total maximum fee to \$955,738.00; and be it further

RESOLVED, that the completion date of the Agreement shall be extended to December 31, 2022; and be it further

RESOLVED, that all other provisions of the Agreement, as amended by the First Amendment, shall remain in full force and effect; and be it further

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

Original Agreement	\$	374,500.00	(Design Services)
First Amendment		0.00	(Assignment)
This Amendment		<u>581,238.00</u>	(Assignment, Additional Design Services & Construction Administration Services)
TOTAL	\$	955,738.00	

**Agreement No. 10-909**

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Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase or Unit	Object/ Sub Object	Bond Act No.	Dollars
	372	42	RBR01-05-E	6120-03	BA #135-2016	\$ 91,346.00
	372	42	RBR01-05-I	6120-05	BA #135-2016	\$ 489,892.00

Budget Funding Year(s): 2018 Start Date: 05/06/10 End Date: 12/31/22  
 (must match resolution)

Funding Source: Tax Dollars: 100% County Contractor Federal I.D. No./  
 State Aid: \_\_\_\_\_ Social Security No.: \_\_\_\_\_  
 \$ 581,238.00 Federal Aid: \_\_\_\_\_ Vendor No.: \_\_\_\_\_  
 (must match resolution) Other: \_\_\_\_\_ Encumbrance No.: \_\_\_\_\_

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