

**71387**

DATE: August 28, 2019

TO: Board of Acquisition and Contract

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

RE: Authority to consent to the subcontract by Acme Bus Corp. to Phoenix Transportation Services Inc., for a term not exceeding the period from September 1, 2019 through August 31, 2020, the provision of, a.) a portion of the services Acme Bus Corp. was to provide under Contract Number E/T 533, and b.) all of the services Acme Bus Corp. was to provide under Contract Number E/T 537.

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By a resolution approved on July 13, 2017, your Honorable Board authorized the County of Westchester (the “County”) to, among other things, enter into two (2) separate agreements with Acme Bus Corp. (“Acme”), pursuant to which Acme would provide transportation services for pre-school children with special needs for certain programs/routes, as follows:

- 1.) Contract Number E/T 533 for “Regional Transportation Needs – Northern Region”, which currently serves the following five (5) programs/routes:
  - a. CSED - South Salem/Vista
  - b. Easter Seals - Project Soar
  - c. Thera Care - Bright Beginnings/Yorktown
  - d. Hudson Valley UCP
  - e. Parkside/PARC Preschool
  
- 2.) Contract Number E/T 537 for Westchester County Chapter NYSARC/CSED program locations in Katonah, Mount Kisco, and Yorktown, which currently serves the following four (4) programs/routes:
  - a. CSED - Katonah CCC The White House
  - b. CSED - Mount Kisco/Boy's & Girl's Club
  - c. CSED - Mount Kisco/Child Care
  - d. CSED - Yorktown/Country Children's Center

Contract Number E/T 533 and Contract Number E/T 537 were both subsequently executed.

Acme informed the County's Department of Health ("DOH") that it cannot presently provide services for three (3) of the five (5) programs/routes ('a', 'b', and 'c', above) required under Contract Number E/T 533.

Acme also informed DOH that it cannot presently provide services for any of the four (4) programs/routes required under Contract Number E/T 537.

After informing DOH that it could not perform as required under Contract Number E/T 533 and Contract Number E/T 537, Acme sought to negotiate a subcontract with Phoenix Transportation Services Inc. ("Phoenix"), whereby Acme would subcontract to Phoenix the above-specified seven (7) programs/routes under Contract Number E/T 533 and Contract Number E/T 537 that Acme has said that it cannot perform.

It is the understanding of DOH that Acme and Phoenix are still working to finalize the terms of such a subcontract, including the length of its term. However, as your Honorable Board is aware, the County is mandated by Section 4410 of the New York State Education Law, and its implementing regulations in 8 NYCRR Part 200, and by Title II-A of Article 25 of the New York State Public Health Law, to pay for education and transportation of children with special needs. Therefore, the County must act to prevent any disruption in transportation services for the children served under the above-specified seven (7) programs/routes.

Accordingly, in advance of Acme and Phoenix finalizing the terms of their intended subcontract, the County respectfully requests that your Honorable Board authorize the County to consent to the subcontract by Acme to Phoenix, for a term not exceeding the period from September 1, 2019 through August 31, 2020, the provision of, a.) the three (3) above-specified routes that Acme was to provide under Contract Number E/T 533, and b.) all four (4) of the routes that Acme was to provide under Contract Number E/T 537.

I respectfully recommend the adoption of the attached resolution.

SA/tr/bdm/nn

**RESOLUTION**

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

**RESOLVED**, that the County of Westchester (the “County”) is hereby authorized to consent to the subcontract by Acme Bus Corp. (“Acme”) to Phoenix Transportation Services Inc., for a term not exceeding the period from September 1, 2019 through August 31, 2020, the provision of:

- 1.) The following programs/routes that Acme was to operate under Contract Number E/T 533 for “Regional Transportation Needs – Northern Region”:
  - a. CSED - South Salem/Vista
  - b. Easter Seals - Project Soar
  - c. Thera Care - Bright Beginnings/Yorktown
  
- 2.) The following programs/routes that Acme was to operate under Contract Number E/T 537 for Westchester County Chapter NYSARC/CSED program locations in Katonah, Mount Kisco, and Yorktown:
  - a. CSED - Katonah CCC The White House
  - b. CSED - Mount Kisco/Boy's & Girl's Club
  - c. CSED - Mount Kisco/Child Care
  - d. CSED - Yorktown/Country Children's Center

; 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.

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): 2019-2020 Start Date: On or after 09/01/19 End Date: On or before 08/31/20  
 (must match resolution)

Funding Source \_\_\_\_\_ Tax Dollars: 51% \_\_\_\_\_  
 State Aid: 49% \_\_\_\_\_  
 Federal Aid: \_\_\_\_\_  
 Other: \_\_\_\_\_  
 (must match resolution)