

73933

Memorandum
Department of Correction

Date: January 10, 2020

To: Honorable Board of Acquisition and Contract

From: Joseph K. Spano
Commissioner of Correction

Re: Authority to further amend an Agreement with Pulitzer/Bogard & Associates, LLC, to act as the Monitor to implement a separate voluntary agreement between the United States of America and the County of Westchester, acting by and through its Department of Correction in order to: 1) exercise an option to extend the term thereof from January 1, 2020 through December 31, 2020; and 2) increase the not-to-exceed amount thereunder by \$263,000.00 for a new total not-to-exceed amount of \$1,663,000.00.

By resolution approved on November 24, 2015, your Honorable Board authorized the County of Westchester (the "County"), acting by and through its Department of Correction ("DOC"), to enter into an agreement (the "Agreement") with David M. Bogard (the "Monitor") to act as the Monitor to implement a separate voluntary agreement between the United States of America and the County, acting by and through DOC for the purpose of clearly articulating and further complying with DOC's duties under the United States Constitution, in particular the Civil Rights of Institutionalized Persons Act (the "U.S. Agreement"), and to approve Michael Gatling and Judith Regina-Whitely as subcontractors, for an amount not to exceed \$665,000.00. The Agreement commenced on January 1, 2016 (the Effective Date of the U.S. Agreement), for a term of three (3) years and contained a budget which authorized an annual not-to-exceed amount to be payable by DOC to the Monitor. The Agreement was subsequently executed.

Thereafter by resolution approved on May 18, 2017, your Honorable Board authorized the County to amend the Agreement in order to: 1) increase the not-to-exceed amount thereunder by \$735,000.00 for a new not-to-exceed amount of \$1,400,000.00; 2) reflect new rates payable in accordance with an approved budget, without annual not-to-exceed limitations; and 3) reflect that the Monitor's corporate legal name is Pulitzer/Bogard & Associates, LLC (the "First Amendment"). The First Amendment was subsequently executed.

Thereafter by resolution approved on October 4, 2018, your Honorable Board authorized the County to amend the Agreement in order to: 1) extend the term thereof from January 1, 2019 through December 31, 2019; and 2) reserve an option to further extend the term thereof for the period from January 1, 2020 through December 31, 2020 (the "Second Amendment"). The Second Amendment was subsequently executed.

Transmitted herewith is a resolution which, if approved by your Honorable Board, would authorize the County to further amend the Agreement in order to 1) exercise an option to extend the term thereof from January 1, 2020 through December 31, 2020; and 2) increase the not-to-exceed amount thereunder by \$263,000.00 for a new total not-to-exceed amount of \$1,663,000.00.

It should be noted that there shall be no further increase in the hourly rates in connection with this amendment.

Except as specifically amended hereby, all remaining terms and conditions of the Agreement, as previously amended, shall remain in full force and effect upon the parties.

The goals and objectives of the Agreement and this proposed amendment are in the County's best interest and will serve a public purpose by enabling the County to continue its full compliance with the U.S. Agreement. The performance of the Agreement and amendment will be tracked and monitored by DOC personnel.

Authority to exempt the amendment from the requirements of the Westchester County Procurement Policy, pursuant to Section 3(a)(xxi) thereof, has been submitted to your Honorable Board by a separate resolution of even date herewith.

For the reasons stated herein and in order to continue implementing the U.S. Agreement, I recommend approval of the annexed Resolution.

JKS/WF/SG/jpg
Attachment

RESOLUTION

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

RESOLVED, that the County of Westchester is authorized to further amend an Agreement with Pulitzer/Bogard & Associates, LLC to act as the Monitor under a separate voluntary agreement between the United States of America and the County of Westchester, acting by and through its Department of Correction (“DOC”), for the purpose of clearly articulating and further complying with DOC’s duties under the United States Constitution, in particular the Civil Rights of Institutionalized Persons Act, in order to: 1) exercise an option to extend the term thereof from January 1, 2020 through December 31, 2020; and 2) increase the not-to-exceed amount thereunder by \$263,000.00 for a new total not-to-exceed amount of \$1,663,000.00; and be it further

RESOLVED, that there shall be no further increase in the hourly rates in connection with this amendment; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions of the Agreement, as previously amended, shall remain in full force and effect upon the parties; 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	Agency	Capital Project Or Org	Object/ Sub Object	Trust Account	Activity	Dollars
	101	35	1000	4380			\$263,000

Budget Funding Year(s) 2020 Start Date 01/01/2020 End Date 12/31/2020

(must match resolution)

\$263,000

Funding Source

Tax Dollars \$ 263,000

State Aid _____

Federal Aid _____

Other _____