



OnBase: 95046

DATE: July 27, 2022

TO: Board of Acquisition and Contract

FROM: Belinda S. Miles  
President, Westchester Community College

SUBJECT: Authority to amend a resolution approved on April 14, 2022 that authorized the County of Westchester to enter into an agreement with "TVC Albany, Inc. d/b/a/ First Light Fiber", in order to: a.) change the name of the contractor to "FirstLight Fiber, Inc.", and b.) authorize the County to agree to indemnify, defend, and hold harmless FirstLight Fiber, Inc.

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By a resolution approved on April 14, 2022 (the "Original Resolution"), your Honorable Board authorized the County of Westchester (the "County"), acting by and through Westchester Community College ("WCC"), to enter into an agreement with TVC Albany, Inc. d/b/a First Light Fiber, pursuant to which it was to provide a second internet connection to WCC, for a total amount not to exceed of \$88,100.00, for a term of sixty-two (62) months, commencing on or about March 31, 2022 (the "Agreement"). The Agreement has not yet been executed.

The County subsequently learned that TVC Albany, Inc. had changed its corporate name, and the same entity is now FirstLight Fiber, Inc. The County also subsequently learned that the "FirstLight Standard Terms and Conditions" applicable to the services require the County to agree to indemnify, defend, and hold harmless FirstLight Fiber, Inc.

Accordingly, the County respectfully requests that your Honorable Board amend the Original Resolution by: a.) replacing, in its first 'RESOLVED' clause, "TVC Albany, Inc. d/b/a/ First Light Fiber" with "FirstLight Fiber, Inc.", and b.) adding a new second 'RESOLVED' clause authorizing the County to agree to indemnify, defend, and hold harmless FirstLight Fiber, Inc. which new second 'RESOLVED' clause will read as follows:

"RESOLVED, that the County of Westchester shall be authorized to agree, under this agreement, to indemnify FirstLight Fiber, Inc. as follows, in which text "Customer" shall be understood to mean

the County of Westchester and "Service" shall be understood to mean the services provided by FirstLight Fiber, Inc. under the agreement:

"FirstLight shall be indemnified, defended and held harmless by Customer against all claims, suits, proceedings, expenses, losses, liabilities, damages or damages, including reasonable attorney fees (collectively "Claims") arising from the use of Service and to the extent legally permissible for: (i) damage to tangible property; (ii) bodily injury including death; (iii) infringement of a third party's intellectual property right; (iv) claims made by any client or customer of Customer with regards to the Service; and (v) any breach of a material obligation of this contract."

; and be it further"

Except as described above, all terms and conditions of the Original Resolution shall remain in full force and effect.

I respectfully recommend the adoption of the attached resolution.

SG/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/04/2022 - RAYMOND SISKY, SECRETARY

## RESOLUTION

Upon a communication from the President of Westchester Community College, be it hereby:

**RESOLVED**, that the resolution approved on April 14, 2022, which authorized the County of Westchester, acting by and through Westchester Community College, to enter into an agreement with TVC Albany, Inc. d/b/a/ First Light Fiber for the provision of a second internet connection for Westchester Community College, for a total amount not to exceed of \$88,100.00, for a term of sixty-two (62) months, commencing on or about March 31, 2022, (the "Original Resolution"), is hereby amended by: a.) replacing, in its first 'RESOLVED' clause, "TVC Albany, Inc. d/b/a/ First Light Fiber" with "FirstLight Fiber, Inc.", and b.) inserting a new second 'RESOLVED' clause, between its existing first and second 'RESOLVED' clauses, which new second 'RESOLVED' clause shall read as follows:

"RESOLVED, that, under this agreement, the County of Westchester shall be authorized to agree to indemnify, defend, and hold harmless FirstLight Fiber, Inc. as follows, in which text "Customer" shall be understood to mean the County of Westchester and "Service" shall be understood to mean the services provided by FirstLight Fiber, Inc. under the agreement:

"FirstLight shall be indemnified, defended and held harmless by Customer against all claims, suits, proceedings, expenses, losses, liabilities, damages or damages, including reasonable attorney fees (collectively "Claims") arising from the use of Service and to the extent legally permissible for: (i) damage to tangible property; (ii) bodily injury including death; (iii) infringement of a third party's intellectual property right; (iv) claims made by any client or customer of Customer with regards to the Service; and (v) any breach of a material obligation of this contract."

; and be it further"

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

Budget Funding Year(s): \_\_\_\_\_ Start Date: 03/31/22 End Date: 05/31/27  
 (must match resolution)

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

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/04/2022 - RAYMOND SCALKY, SECRETARY