

70733

DATE: July 16, 2019

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

SUBJECT: Authority to enter into an agreement with STV Incorporated, pursuant to which it will provide the County with consulting services concerning the procurement of up to one hundred and eight (108) 40-foot, heavy-duty, low-floor, hybrid electric buses (Agreement No. DOTCAP01-19)

Authority is requested for the County of Westchester (the "County") to enter into an agreement (the "Agreement") with STV Incorporated ("STV"), pursuant to which STV will provide the County with consulting services (the "Services") concerning the County's procurement of up to one hundred and eight (108) 40-foot, heavy-duty, low-floor, hybrid electric buses, which is anticipated to be conducted via a single bid solicitation, with approximately half of the intended total constituting the base bid and the remaining portion of the buses being available to the County via one or more options under the bid (the "Bus Procurement").

The proposed Agreement will be for a term that will commence upon execution and continue until the end of the Bus Procurement, which is currently anticipated to occur by December 31, 2023, but is subject to change due to myriad factors that will be involved in said procurement, many of which will be outside of the control of the County and STV.

Under the proposed Agreement, the total cost to the County for the Services will vary based upon the manufacturer with which the County contracts for the Bus Procurement and the and facility at which the manufacturer produces the buses. This is due to the fact that the Services will include substantial on-site work at the manufacturer's facility and STV's cost for the on-site work will vary considerably based upon the location of the facility. However, there are a limited number of manufacturers (and facilities) that could fulfill the Bus Procurement. Therefore, STV proposed costs for each of the possible manufacturers (and facilities). Under the proposed Agreement, the not-to-exceed will be as specified below, for the following manufacturers (and facilities):

<u>Manufacturer (and Facility)</u>	<u>Not-To-Exceed Amount</u>
1.) New Flyer (Anniston)	\$366,068.52
2.) New Flyer (St. Cloud)	\$366,068.52
3.) New Flyer (Winnipeg/Crookston)	\$447,276.52
4.) Gillig	\$364,945.87
5.) NovaBus	\$405,956.84

On May 20, 2019, the County, acting by and through its Department of Public Works and Transportation (the "Department"), issued a request for proposals that solicited proposals from vendors to provide the Services (the "RFP"). In response to the RFP, the Department received one (1) proposal, which was from STV. The Department had several individuals review the proposal from the MVNHC and evaluate it based upon the evaluation criteria specified in the RFP. The Department conducted an analysis of the budgets for the proposed Agreement (including consideration of the costs that vary by manufacturer and facility locations) and found that they are reasonable. Based on the Department's review of the proposal from STV and STV's performance under previous contracts with the County, the Department is satisfied that it is a responsible vendor for these services.

The Department advertised the RFP in "Passenger Transport", which is published by the American Public Transportation Association and serves as an industry trade journal that is read by consultants, manufacturers, and the like that work in the bus industry. The County believes that it is reasonably assured that all prospective proposers that are capable of providing the Services, and potentially interested in doing so, will have reviewed the County's advertisement in Passenger Transport. The Department also advertised the RFP in the New York State Contract Reporter and The Journal News. The County understood, when the RFP was issued, that the overall bus industry was very well aware that the Bus Procurement was pending. However, the County only received the above-mentioned proposal from STV.

This is the second consecutive time that the County has had difficulty in attracting competition for consulting services related to a bus procurement. In 2014, the County issued a request for proposals for consulting services to develop technical specifications for 60-foot articulated buses. That request for proposals was advertised in "Passenger Transport" and The Journal News. The County was aware that, in 2014, just as is the case today, the overall bus industry knew about the pending procurement of buses. However, in response to the request for proposals for those services in 2014, the County received only two (2) proposals: one from STV and one from Ameritrans Service Corporation, which does business as Transit Resource Center ("TRC").

Based upon its experience in 2014, and based upon its awareness that there has been consolidation in the industry over the past several years, the County was prepared for the idea that there might not be very many proposals in response to the RFP. However, the County anticipated that TRC would be interested in submitting a proposal in response to the RFP. In order to obtain more information about the situation, the County recently contacted TRC and inquired as to why it did not submit a proposal in response to the RFP. TRC advised that it made a business decision about not submitting a proposal.

Therefore, the County has determined, after the solicitation of a number of sources via the RFP and the related advertisements, and based upon all of the foregoing, that competition for the Services is inadequate. Accordingly, pursuant to 2 C.F.R. 200.320(f)(4) and Section 13 of the Procurement Policy, the County can proceed with the proposed Agreement despite receiving only one (1) proposal in response to the RFP.

The proposed Agreement will serve a public purpose by providing the County with the Services, which will help ensure that the Bus Procurement is conducted in such a way as to provide the County with exactly what it needs in terms of the new 40-foot buses.

The goal and objective of the proposed Agreement is to provide the County with the Services, which will help ensure that the Bus Procurement is conducted in such a way as to provide the County with exactly what it needs in terms of the new 40-foot buses.

The goal and objective of the proposed Agreement is in the best interests of the County in terms of health and safety, as ensuring that the County receives exactly what it needs in terms of the new 40-foot buses will ultimately help ensure the health and safety of the riding public.

The goal and objective of the proposed Agreement will be tracked and monitored by the staff of the Department.

I respectfully recommend the adoption of the attached Resolution.

RESOLUTION

Agreement No. DOTCAP01-19

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

RESOLVED, that the County of Westchester (the “County”) is hereby authorized to enter into an agreement (the “Agreement”) with STV Incorporated (“STV”), pursuant to which STV will provide the County with consulting services (the “Services”) concerning the County’s procurement of up to one hundred and eight (108) 40-foot, heavy-duty, low-floor, hybrid electric buses (the “Bus Procurement”); and be it further

RESOLVED, that the Agreement will be for a term that will commence upon execution and continue until the end of the Bus Procurement; and be it further

RESOLVED, that, under the proposed Agreement, the total cost to the County for the Services will vary based upon the manufacturer with which the County contracts for the Bus Procurement and the and facility at which the manufacturer produces the buses, such that the total not-to-exceed amount to be paid to STV for the Services will be as specified below, for the following manufacturers (and facilities):

<u>Manufacturer (and Facility)</u>	<u>Not-To-Exceed Amount</u>
1.) New Flyer (Anniston)	\$366,068.52
2.) New Flyer (St. Cloud)	\$366,068.52
3.) New Flyer (Winnipeg/Crookston)	\$447,276.52
4.) Gillig	\$364,945.87
5.) NovaBus	\$405,956.84

; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the “State Budget”) proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; 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.

RESOLUTION

Agreement No. DOTCAP01-19

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
	365	44	T001X01S	6124	N/A	\$447,276.52

Budget Funding Year(s) 2019-2023 Start Date Upon Execution End Date _____ Completion of the Bus Procurement

(must match resolution)

Funding Source:	Tax Dollars	<u>10% County</u>	<u>\$ 44,727.65</u>
	State Aid	<u>10% State</u>	<u>\$ 44,727.65</u>
<u>\$447,276.52</u>	Federal Aid	<u>80% Federal</u>	<u>\$357,821.22</u>
(must match resolution)	Other	_____	_____

APPROVED BOARD OF ACQUISITION & CONTRACTS 04/18/2019 - LISA MRYNIA, SECRETARY