

64841

DATE: August 24, 2018

TO: Board of Acquisition and Contract

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

RE: Authority to, a.) exercise the County's five-year option under its agreement with Liberty Lines Transit, Inc., pursuant to which it was to provide professional management, operation, and maintenance of a portion of the County's Bee-Line System, and thereby extend both its term and the term of the County's related facility and equipment leases with Liberty Lines Transit, Inc.; and b.) memorialize certain modifications to the agreement.
(Agreement No. DOTOP01-14, as amended)

By a resolution approved on December 12, 2013 (the "Authorizing Resolution"), your Honorable Board authorized the County of Westchester to enter into an agreement (the "Original Management Agreement") with Liberty Lines Transit, Inc. ("Liberty"), pursuant to which Liberty was to provide professional management, operation, and maintenance of a portion of the County's Bee-Line System, as detailed and specified in the request for proposals, issued on September 23, 2013, by which the County solicited said services (the "Services"). The Original Management Agreement was to have a term from January 1, 2014 through December 31, 2018 (the "Initial Term"), with the County having the sole option (the "Option") to renew the Original Management Agreement for an additional five (5) year period, to begin immediately following the end of the Initial Term, on specified terms (the "Option Term"). The Original Management Agreement was subsequently executed.

By a resolution approved on August 25, 2016, your Honorable Board authorized the County to amend the Original Management Agreement by modifying certain provisions regarding payments (the "First Amendment"). The First Amendment was subsequently executed.

The County continues to require the Services. Therefore, the Department of Public Works and Transportation ("DPW&T") reviewed and analyzed the cost in the Original Management Agreement, as amended by the First Amendment, (the "Management Agreement") for the Option Term in order to ensure that it is reasonable.

For that analysis, DPW&T investigated the marketplace and obtained, from the Federal Transit Administration's 2016 National Transit Database (since the 2017 data is not yet available), cost information for 'NICE Bus', which is operated by a private company under a contract with Nassau County. Comparing key figures and costs for such service in Nassau County against the same figures for service by Liberty, under the Management Agreement, in Westchester County, DPW&T found the following:

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	Vehicles Operated in Maximum Service	Operating Expenses per Passenger Mile	Operating Expenses per Unlinked Passenger Trip	Unlinked Trips per Vehicle Revenue Mile	Unlinked Trips per Vehicle Revenue Hour
Westchester	264	\$0.90	\$4.39	3.8	41.0
Nassau	255	\$0.76	\$4.22	2.9	34.5

The above table shows that Westchester County and Nassau County have similar operating expenses per passenger mile and per unlinked passenger trip. Westchester County's operating expenses are slightly higher, reflecting the additional peak buses in the Bee-Line System. This is due to the Bee-Line System operating a more intensive service, with more trips per mile and more trips per hour.

Based on the foregoing, DPW&T has determined that the cost specified in the Management Agreement for the first Option Term is reasonable and, accordingly, decided to exercise the Option.

In the course of discussing the Option with Liberty, the County and Liberty agreed upon certain modifications to the Agreement regarding the elimination of a cost adjustment, the addition of a cost credit, the purchase of fuel, the purchase of insurance, route-planning and route-scheduling, and other modifications to the cost terms of the Management Agreement, which, together, will provide savings and cost-certainty to the County, and which the County and Liberty desire to memorialize.

Accordingly, the County respectfully requests authority from your Honorable Board to, 1.) exercise its five-year option under the Management Agreement and therefore amend the Management Agreement by, a.) extending the term thereof by five (5) years, to a new termination date of December 31, 2023; and b.) reflecting the fact that the County will not have any options remaining under the Management Agreement; and 2.) modify other terms of the Management Agreement for the Option Term by, a.) eliminating the "13(c) Price Adjustment" for the Option Term, b.) adding a \$100,000.00 annual credit for miscellaneous additional work performed, c.) allowing for the County to, itself, purchase fuel, d.) modifying the insurance terms to account for the County having decided to, itself, purchase certain insurance, e.) specifying that the County and Liberty will work collaboratively to ensure that Liberty is utilizing state-of-the-art technologies and current industry-standard practices and procedures concerning route-planning and route-scheduling, and f.) modifying the cost terms of the Management Agreement to reflect the revised fees, in light of the foregoing and related agreed-upon cost reductions (the "Management Amendment").

Although the stated annual fixed fee amounts will be higher under the Management Amendment than under the current Management Agreement, the elimination of the above-mentioned adjustment and other changes made to the overall cost structure of the agreement are projected to yield, during the Option Term, total savings of over \$12.6 million on the Services. Those projected savings do not include additional projected annual savings on insurance of over \$1 million annually and possible savings on fuel that result from the County making those purchases for itself.

In the Authorizing Resolution, your Honorable Board also authorized the County to enter into:

- 1.) Lease agreements (collectively, the "Garage Leases") with Liberty for the use of the Central Maintenance Facility in Yonkers and the Cerrato Satellite Bus Facility in Valhalla, to facilitate provision of the Services, for consideration including one dollar (\$1.00) per year, for a term from January 1, 2014 through December 31, 2018, with the County having the sole option to renew the lease agreements for an additional five (5) year period, to begin immediately following the end of the Initial Term of the Garage Leases, but with the general caveat that the Garage Leases would terminate if the Management Agreement were terminated; and
- 2.) An equipment lease (the "Equipment Lease") with Liberty for the use of County-owned buses, mini-buses, and vans; transit communication equipment, revenue collection, counting and reporting equipment; maintenance and supervisory vehicles; and related equipment to be used in the provision of the Services, for consideration including one dollar (\$1.00) per year, for a term from January 1, 2014 through December 31, 2018, with the County having the sole option to renew the equipment lease for an additional five (5) year period, to begin immediately following the end of the Initial Term of the Equipment Lease, but with the general caveat that the Equipment Lease would terminate if the Management Agreement were terminated.

The Garage Leases and the Equipment Lease were all subsequently executed.

The Garage Leases and the Equipment Lease are all vital to Liberty's provision of the Services under the Management Agreement. Therefore, in order for Liberty to provide the Services during the extended term of the Management Agreement (i.e., during the Option Term), said leases will, likewise, have to be extended.

Notably, the Garage Leases and the Equipment Lease, as executed by the County and Liberty, provided that the term length of each lease would be the same as that of the Management Agreement, such that if the Management Agreement were extended, the Garage Leases and the Equipment Lease would also be extended. Therefore, the Garage Leases and the Equipment Lease need not be directly amended in order to extend their respective terms.

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However, as these leases were separately-authorized within the Authorizing Resolution and separately-executed by the County and Liberty, the County respectfully requests authority from your Honorable Board to exercise its five-year option under the Garage Leases and the Equipment Lease, and to thereby extend the term of each lease by five (5) years, to a new termination date of December 31, 2023, through the County's extension of the Management Agreement via the proposed Management Amendment (collectively, the "Lease Extensions"). During each Lease Extension, the County will continue to receive consideration including one dollar (\$1.00) per year for each lease.

Except as specifically described above, all terms and conditions of the Management Agreement, the Garage Leases, and the Equipment Lease shall remain in full force and effect.

The proposed Management Amendment and Lease Extensions will serve a public purpose by enabling the County to receive the Services, for an additional period of time, on reasonable cost terms.

The goal and objective of the proposed Management Amendment and Lease Extensions is to enable the County to receive the Services, for an additional period of time, on reasonable cost terms.

The goal and objective of the proposed Management Amendment and Lease Extensions is in the best interests of the County in terms of fiscal responsibility, as they will enable the County to receive the Services, for an additional period of time, on reasonable cost terms.

The goal and objective of the proposed Management Amendment and Lease Extensions will be tracked and monitored by the staff of DPW&T.

I respectfully recommend the adoption of the attached resolution.

HJG/bdm/nn

RESOLUTION

Agreement No. DOTOP01-14

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, 1.) exercise its five-year option under its agreement (the "Management Agreement") with Liberty Lines Transit, Inc. ("Liberty"), pursuant to which Liberty was to provide professional management, operation, and maintenance of a portion of the County's Bee-Line System, as detailed and specified in the request for proposals, issued on September 23, 2013, by which the County solicited said services (the "Services"), for a term from January 1, 2014 through December 31, 2018 (the "Initial Term"), with the County having the sole option to renew the Management Agreement for an additional five (5) year period, to begin immediately following the end of the Initial Term, on specified terms (the "Option Term"), and therefore amend the Management Agreement by, a.) extending the term thereof by five (5) years, to a new termination date of December 31, 2023; and b.) reflecting the fact that the County will not have any options remaining under the Management Agreement; and 2.) modify other terms of the Management Agreement for the Option Term by, a.) eliminating the "13(c) Price Adjustment", b.) adding a \$100,000.00 annual credit for miscellaneous additional work performed, c.) allowing for the County to, itself, purchase fuel, d.) modifying the insurance terms to account for the County having decided to, itself, purchase certain insurance, e.) specifying that the County and Liberty will work collaboratively to ensure that Liberty is utilizing state-of-the-art technologies and current industry-standard practices and procedures concerning route-planning and route-scheduling, and f.) modifying the cost terms of the Management Agreement to reflect the revised fees, in light of the foregoing and related agreed-upon cost reductions (the "Management Amendment"); and be it further

RESOLVED, that, under the Management Agreement, as it will be amended by the Management Amendment, Liberty will be paid the following annual fixed fees for the Services:

2019: \$118,560,995.00
2020: \$122,710,629.00
2021: \$128,305,906.00
2022: \$132,475,848.00
2023: \$136,781,313.00

; and be it further

RESOLVED, that, under the Management Agreement, in the same manner during the Option Term as during the Initial Term, the total amount to be paid to Liberty may vary upward or downward, as follows: a.) in addition the above-specified fixed fees, Liberty shall be paid for its actual fuel costs for the Services for any period of time during which the County does not, itself, purchase the fuel; b.) the above-specified fixed fees shall be adjusted upward or downward as a result of route changes, based on the verified increase or decrease in costs attributable to such route changes; c.) in addition to the above-specified fixed fees, Liberty shall be paid for any supplemental services it provides, to be reimbursed at an hourly rate, which will remain the same through the Option Term as it was for the year 2018, and be paid for any miscellaneous additional work it provides, to be paid at rates to be agreed upon by the parties, less the above-mentioned \$100,000.00 annual credit; and d.) in addition to the above-specified fixed fees, Liberty shall be reimbursed the cost of the insurance that it is required to procure, in accordance with the terms of the Management Agreement, as it will be amended by the Management Amendment; and be it further

RESOLUTION

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RESOLVED, that the County is authorized to exercise its five-year option under each of its lease agreements (collectively, the “Garage Leases”) with Liberty for the use of the Central Maintenance Facility in Yonkers and the Cerrato Satellite Bus Facility in Valhalla (the “County Garages”), which were to facilitate provision of the Services, for consideration including one dollar (\$1.00) per year, for a term from January 1, 2014 through December 31, 2018, with the County having the sole option to renew the Garage Leases for an additional five (5) year period, to begin immediately following the end of the Initial Term of the Garage Leases, with the general caveat that the Garage Leases would terminate if the Management Agreement were terminated, and with the provision that the term length of each of the Garage Leases would be the same as that of the Management Agreement, such that if the Management Agreement were extended, the Garage Leases would also be extended; and thereby extend the term of each of the Garage Leases by five (5) years, to a new termination date of December 31, 2023, through the County’s extension of the Management Agreement via the Management Amendment (collectively, the “Garage Lease Extensions”), with County continuing to receive consideration including one dollar (\$1.00) per year for each of the Garage Leases during the Lease Extensions; and be it further

RESOLVED, that the County is authorized to exercise its five-year option under its lease agreement (the “Equipment Lease”) with Liberty for the use of County-owned buses, mini-buses, and vans; transit communication equipment, revenue collection, counting and reporting equipment; maintenance and supervisory vehicles; and related equipment to be used in the provision of the Services, for consideration including one dollar (\$1.00) per year, for a term from January 1, 2014 through December 31, 2018, with the County having the sole option to renew the Equipment Lease for an additional five (5) year period, to begin immediately following the end of the Initial Term of the Equipment Lease, with the general caveat that the Equipment Lease would terminate if the Management Agreement were terminated, and with the provision that the term length of the Equipment Lease would be the same as that of the Management Agreement, such that if the Management Agreement were extended, the Equipment Lease would also be extended; and thereby extend the term of the Equipment Lease by five (5) years, to a new termination date of December 31, 2023, through the County’s extension of the Management Agreement via the Management Amendment (the “Equipment Lease Extension”), with County continuing to receive consideration including one dollar (\$1.00) per year for the Equipment Lease during the Equipment Lease Extension; and be it further

RESOLVED, that except as specifically hereby authorized to be modified, all terms and conditions of the Management Agreement, the Garage Leases, and the Equipment Lease 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.

RESOLUTION

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Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	44	2100	4924		\$118,560,995.00 (2019)
	101	44	2100	4924		\$122,710,629.00 (2020)
	101	44	2100	4924		\$128,305,906.00 (2021)
	101	44	2100	4924		\$132,475,848.00 (2022)
	101	44	2100	4924		\$136,781,313.00 (2023)

Budget Funding Year(s): 2019-2023
(must match resolution)

Start Date: 01/01/2019

End Date: 12/31/2023

Funding Source:

Tax Dollars 100% County

State Aid _____

\$638,834,691.00
(must match resolution)

Federal Aid _____

Other _____

APPROVED BOARD OF ACQUISITION & CONTRACTS - JOAN SCIARDI, SECRETARY