

George Latimer  
County Executive

Department of Social Services

Kevin M. McGuire  
Commissioner

**74895**

DATE: February 25, 2020

TO: Board of Acquisition and Contract

FROM: Kevin M. McGuire  
Commissioner  
Department of Social Services

SUBJECT: Authority to:

- 1.) Amend an emergency contract with All County Bus, LLC for transportation services for, a.) homeless pre-school and school-age children during the regular school year, b.) homeless pre-school and school-age children during summer school, and c.) homeless youth in extracurricular activities during both the regular school year and summer school, by extending its term through August 31, 2020 and increasing its not-to-exceed amount in order to pay for services during the extended term; and
- 2.) Enter into an emergency contract with All County Bus, LLC for transportation services for children placed in court-directed custody and children in foster care, for a term from March 1, 2020 through August 31, 2020.

---

By a resolution approved on September 26, 2019 (the “Original Resolution”), your Honorable Board authorized the County of Westchester (the “County”) to enter into the following emergency contracts for the below-specified services (collectively, the “Services”; the persons served, the “Children”):

- 1.) An emergency contract with All County Bus, LLC (“All County Bus”), pursuant to which it will provide the County with transportation services for, a.) homeless pre-school and school-age children during the regular school year, b.) homeless pre-school and school-age children during summer school, and c.) homeless youth in extracurricular activities during both the regular school year and summer school, for the period from October 1, 2019 through February 29, 2020, for an

amount not-to-exceed \$3,910,200.00, payable pursuant to an approved budget (the “ACB Agreement”); and

- 2.) An emergency contract with White Plains Bus Co., Inc. (“White Plains Bus”), pursuant to which it will provide the County with transportation services for children placed in court-directed custody and children in foster care, for the period from October 1, 2019 through February 29, 2020, for an amount not-to-exceed \$437,500.00, payable pursuant to an approved budget (the “WPB Agreement”);

The ACB Agreement and the WPB Agreement (collectively, the “Current Agreements”) were subsequently executed.

As noted in the Original Resolution, the Current Agreements were needed because of the sudden, and continuing, financial and operational difficulties experienced by the single contractor that the Department of Social Services (“DSS”) had procured in 2017 for all of the Services. Therefore, DSS sought to take a different approach to the procurement of the Services for longer-term replacement contracts that would follow the Current Agreements. Specifically, DSS determined that it would prepare four (4) separate bids, with one for each aspect of the Services. DSS concluded that this would have the benefits of both being expected to increase competition and limiting future exposure to risk from one contractor’s difficulties by allowing for the possibility of a different contractor for each aspect of the Services.

DSS worked extensively to prepare those four (4) bids, in order to divide out what had previously been bid together and also improve and update appropriate aspects of the work specifications and other provisions from the previous, 2017 bid. This extensive work took much more time than anticipated, and left DSS with a very short period of time in which to complete the procurement before the end of the Current Agreements.

In order to allow more time for the bid process, DSS considered seeking a shorter-term extension of the Current Agreements. However, the mid-year marketplace for such transportation services has proven even more problematic than the tight timeframe for the new bids.

At the time that DSS procured the Current Agreements, it experienced great difficulty in finding one or more contractors that were willing and able to provide the necessary services. At that time, DSS solicited offers from four (4) entities because they customarily provided transportation services and DSS believed that those entities might possibly have some capacity to provide the necessary services. However, only two (2) contractors—All County Bus and White Plains Bus—actually had some capacity that they were willing to offer, and each was willing to provide a portion of the necessary services.

DSS learned that this difficulty was, apparently, largely due to a lack of capacity in the overall marketplace mid-year. That is because the annual cycle on which such transportation contracts regularly operate within the child/school-related busing industry start on September 1. Therefore, the vast majority of the existing capacity in the marketplace had already been

committed well before the County sought to procure the Current Agreements.

Those commitments of marketplace capacity appear to continue. Notably, in response to DSS's inquiry about a short-term extension, White Plains Bus informed the County that it would be unable to provide services through April, due to its existing commitments. Indeed, due to its existing commitments, even All County Bus is unable to provide transportation for all hours of the day for every aspect of the Services for the coming months; transportation for children placed in court-directed custody and children in foster care on weekdays before 9:00 AM and between 1:00 PM and 4:00 PM will be provided by DSS Child Welfare staff.

Based on all of the foregoing, DSS determined that it can expect to have great difficulty attracting an adequate level of interest and competition from qualified entities if these services are procured by bid for a term with a start date other than September 1, when it would line up with the regular annual cycle for such procurements in the industry. DSS believes that a competitive procurement process performed off-cycle could lead to a lack of competition, lower quality services, and/or higher costs.

Accordingly, DSS has concluded that it is most advisable for the above-mentioned four (4) bids to be solicited for terms commencing September 1, 2020. Additional resolutions concerning those bids have separately been submitted for your Honorable Board's consideration.

Therefore, DSS believes that continuing to operate under emergency contracts for the Services through August 31, 2020 is the most prudent decision that it can make in support of its long-term goals of increased competition, high-quality services, and the lowest possible cost. Consequently, DSS is requesting authority from your Honorable Board to:

- 1.) Amend an emergency contract with All County Bus, pursuant to which it was to provide the County with transportation services for, a.) homeless pre-school and school-age children during the regular school year, b.) homeless pre-school and school-age children during summer school, and c.) homeless youth in extracurricular activities during both the regular school year and summer school, for the period from October 1, 2019 through February 29, 2020, for an amount not-to-exceed \$3,910,200.00, payable pursuant to an approved budget, by, a.) extending its term, to a new expiration date of August 31, 2020, and b.) increasing its not-to-exceed amount by \$3,241,350.00, to a new total not-to-exceed amount of \$7,151,550.00, to pay for services during the extended term (the "Amendment"); and
- 2.) Enter into an emergency contract with All County Bus, pursuant to which it will provide the County with transportation services for children placed in court-directed custody and children in foster care, for the period from March 1, 2020 through August 31, 2020, for an amount not-to-exceed \$875,000.00, payable pursuant to an approved budget (the "New Agreement").

As noted in the Original Resolution, the present circumstance arose due to the issues with the previous contractor that were out of the control of the County, and the County cannot go without the Services for any period of time. As a result, DSS determined, in consultation with

the Law Department, and based on the facts presented by the staff of DSS, that this is a condition that was unforeseen, affects the life, health, and safety the inhabitants of the County, and obtaining on-going replacement services requires immediate action that cannot await competitive bidding. Therefore, this situation meets the legal requirements for an emergency contract under Section 167.171(5) of the Laws of Westchester County and Section 103(4) of the New York General Municipal Law.

In order to ensure that the Services would be provided to the Children without interruption, DSS declared an emergency by a memorandum, dated September 24, 2019, that I previously submitted to your Honorable Board, in accordance with Section 167.171(3) of the Laws of Westchester County. As stated in that declaration, “in order to avoid an interruption in services, DSS has determined that one or more emergency contracts will be needed as a stop-gap between the end of the [previous contractor’s agreement] and the start of one or more new, longer-term contracts for the Services that will be procured through the normal bid process.” The Amendment and the New Agreement are part of the “one or more” agreements to be used as the above-described stop-gap.

As noted above, of the existing two (2) contractors, only All County Bus was willing and able to provide the Services through August 31, 2020. DSS determined that the pricing offered by All County Bus is the most advantageous option available to the County under the circumstances. All County Bus has previously performed satisfactory work for the County.

The proposed Amendment and New Agreement (collectively, the “Emergency Contracts”) will serve a public purpose by ensuring that the Children will be provided with the transportation services that they need while the County procures longer-term replacement contracts for the Services in the manner that is intended to be as favorable as possible to the County.

The goal and objective of the proposed Emergency Contracts is to ensure that the Children will be provided with the transportation services that they need while the County procures longer-term replacement contracts for the Services in the manner that is intended to be as favorable as possible to the County.

The goal and objective of the proposed Emergency Contracts is in the best interests of the County in terms of public health and safety, as ensuring that the Children will be provided with the transportation services that they need, while the County procures longer-term replacement contracts for the Services, will ultimately help safeguard the health and safety of the Children.

The goal and objective of the proposed Emergency Contracts will be tracked and monitored by the staff of DSS.

I respectfully recommend the adoption of the attached resolution.

KMM/BG/bdm/nn

## RESOLUTION

Upon a communication from the Commissioner of Social Services, be it hereby:

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to enter into the following emergency contracts:

- 1.) Amend an emergency contract with All County Bus, LLC , pursuant to which it was to provide the County with transportation services for, a.) homeless pre-school and school-age children during the regular school year, b.) homeless pre-school and school-age children during summer school, and c.) homeless youth in extracurricular activities during both the regular school year and summer school, for the period from October 1, 2019 through February 29, 2020, for an amount not-to-exceed \$3,910,200.00, payable pursuant to an approved budget, by, a.) extending its term, to a new expiration date of August 31, 2020, and b.) increasing its not-to-exceed amount by \$3,241,350.00, to a new total not-to-exceed amount of \$7,151,550.00, to pay for services during the extended term (the "Amendment"); and
- 2.) Enter into an emergency contract with All County Bus, LLC , pursuant to which it will provide the County with transportation services for children placed in court-directed custody and children in foster care, for the period from March 1, 2020 through August 31, 2020, for an amount not-to-exceed \$875,000.00, payable pursuant to an approved budget;

and be it further

**RESOLVED**, that these agreement are subject to County appropriations; and be it further

**RESOLVED**, that these agreements are 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 these agreements. 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 one or both of these agreements or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to one or both of the contractors, then such contractor(s) shall have the right to terminate their respective agreements 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.

---

Account to be  
Charged/Credited

	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
2020	101	22	8900	5630	-----	\$3,241,350
2020	101	22	8900	5880	-----	\$875,000

Budget Funding Year(s):2020  
(must match resolution)

Start Date: 03/01/20

End Date: 08/31/20

5630      5880

Funding Source	Tax Dollars:	0%	32%
<u>\$ 4,116,350</u>	State Aid:	0%	38%
(must match resolution)	Federal Aid:	100%	30%
	Other:		

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/27/2020 - LISA MARIJAL SECRETARY