

110634

DATE: March 4, 2025

TO: Board of Acquisition and Contract

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

RE: Authority to amend an agreement with Liberty Lines Transit, Inc. for professional management, operation, and maintenance of a certain portion of the County's Bee-Line System, by, (A.) extending its term, and thereby also extending the term of each of the related facility and equipment leases, by one (1) week, to a new expiration date of March 14, 2025; and (B.) specifying a fixed fee amount, excluding fuel, of \$2,708,457.00 for services during the extended term.
(Agreement No. DOTOP01-14, as amended)

By resolutions approved on December 12, 2013, August 25, 2016, and August 30, 2018, your Honorable Board authorized the County of Westchester (the "County") to, collectively, contract with Liberty Lines Transit, Inc. ("Liberty"), under an initial authorized agreement, which was executed, as it was successively modified by authorized amendments, each of which was executed, (the "Original Agreement") for the provision of professional management, operation, and maintenance services (the "Services") for a certain portion of the County's Bee-Line System (the "Bee-Line"), for the period from January 1, 2014 through December 31, 2023, for certain annual fixed fees for the Services and other cost terms.

By resolutions approved on December 12, 2013 and August 30, 2018, your Honorable Board authorized the County of Westchester to enter into initial leases, which were executed, and then automatically extended the term of, (A.) an 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, (B.) a lease with Liberty for the use of the Central Maintenance Facility in Yonkers, to facilitate provision of the Services, and (C.) a lease with Liberty for the use of the Cerrato Satellite Bus Facility in Valhalla, to facilitate provision of the Services, (collectively, the "Leases") with each of the Leases being for consideration including one dollar (\$1.00) per year, and for a term from January 1, 2014 through December 31, 2023, but which term would automatically modify to be co-terminus with the term of the Original Agreement, if the term of the Original Agreement were extended or terminated.

By a resolution approved on December 21, 2023, your Honorable Board authorized the County to amend the Original Agreement by, (A.) extending its term by six (6) months, to a new expiration date of June 30, 2024 (the "First Extension Period"); (B.) specifying a fixed fee amount, excluding fuel, of \$70,613,353.00 for the Services during the First Extension Period; and (C.) adding a County option to further extend the term of the Original Agreement, by an additional six (6) months, to an expiration date of December 31, 2024, at a cost of an additional \$70,613,353.00 for the fixed fee amount, excluding fuel, for the Services during such option term (the "Second Extension Period"), with the understanding that, based upon the provisions in each of the Leases, the term of each of the Leases would automatically extend through the First Extension Period and, if the option were exercised, the Second Extension Period (the "First 2024 Amendment"). The County subsequently executed the First 2024 Amendment.

By a resolution approved on June 13, 2024, your Honorable Board authorized the County to exercise its option under the Original Agreement, as amended by the First 2024 Amendment, and therefore amend the agreement by, (A.) extending its term by six (6) months, through the Second Extension Period, to a new expiration date of December 31, 2024, and thereby also extending the term of each of the Leases for that period; and (B.) increasing its authorized cost by the specified fixed fee amount, excluding fuel, of \$70,613,353.00 for the Services during the Second Extension Period (the "Second 2024 Amendment"). The County subsequently executed the Second 2024 Amendment.

By a resolution approved on December 12, 2024, your Honorable Board authorized the County to amend the Original Agreement, as amended by the First 2024 Amendment and the Second 2024 Amendment, by, (A.) extending its term by three (3) months, to a new expiration date of March 31, 2025, and thereby also extending the term of each of the Leases for that period; and (B.) specifying a fixed fee amount, excluding fuel, of \$35,306,677.00 for the Services during the extended period.

The County later determined that it only required a portion of the authority provided by your Honorable Board and, accordingly, executed an amendment to the Original Agreement, as amended, that, (A.) extended its term by two (2) months, to a new expiration date of February 28, 2025 (the "Additional Period"); and (B.) increased its not-to-exceed amount by \$23,537,784.67, to pay for the costs, excluding fuel, during the Additional Period (the "First 2025 Amendment"). The First 2025 Amendment was subsequently executed.

By a resolution approved on February 27, 2025, your Honorable Board authorized the County to amend the Original Agreement, as amended by the First 2024 Amendment, the Second 2024 Amendment, and the First 2025 Amendment, by, (A.) extending its term by one (1) week, to a new expiration date of March 7, 2025 (the "Further Period"), and thereby also extending the term of each of the Leases for that period; and (B.) specifying a fixed fee amount, excluding fuel, of \$2,708,457.00 for the Services during the Further Period (the "Second 2025 Amendment"). The Second 2025 Amendment was subsequently executed.

The County continues to require the Services for the Bee-Line, overall, including the certain portion of the system to which the Original Agreement, as amended by the First 2024 Amendment, the Second 2024 Amendment, the First 2025 Amendment, and the Second 2025

Amendment, (the “Agreement”) applies.

On August 17, 2023, the Department of Public Works and Transportation (“DPW&T”) issued a request for proposals for the Services for the entire Bee-Line, as well as for ‘info center’ operations (the “RFP”). Proposals in response to the RFP were due on February 5, 2024. Further RFP-specified processes occurred through 2024. Negotiations with the first-ranked proposer have concluded, but it is not possible for the resulting proposed agreement to be executed until after March 7, 2025. However, the County cannot go without the Services for the Bee-Line for a single day.

Liberty has informed the County that it is willing to continue to provide the Services, for its certain portion of the Bee-Line, under the Agreement, for an additional one (1) week. For such further period, Liberty would continue to lease the garages and the equipment under the existing terms of each of the Leases.

Accordingly, the County respectfully requests authority from your Honorable Board to amend the Agreement by, (A.) extending its term by one (1) week, to a new expiration date of March 14, 2025 (the “Final Period”), and thereby also extending the term of each of the Leases for that period; and (B.) specifying a fixed fee amount, excluding fuel, of \$2,708,457.00 for the Services during the Final Period.

During the Final Period, the total amount to be paid to Liberty may vary upward or downward, as follows: (A.) in addition to the above-specified fixed fee amounts, 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, and be paid for any miscellaneous additional work it provides, to be paid at rates to be agreed upon by the parties, less a \$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 Agreement.

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

The proposed amendment to the Agreement, and the consequent extension of the term of each of the Leases, will serve a public purpose by enabling the County to receive the Services, for an additional period of time.

The goal and objective of the proposed amendment to the Agreement, and the consequent extension of the term of each of the Leases, is to enable the County to receive the Services, for an additional period of time.

The goal and objective of the proposed amendment to the Agreement, and the consequent extension of the term of each of the Leases, is in the best interests of the County in terms of

fiscal responsibility, as they will enable the County to receive the Services, at a rate negotiated to the County's fiscal satisfaction, for an additional period of time.

The goal and objective of the proposed amendment to the Agreement, and the consequent extension of the term of each of the Leases, will be tracked and monitored by the staff of DPW&T.

The procurement of the Services under the proposed amendment to the Agreement is exempt from the Westchester County Procurement Policy and Procedures (the "Procurement Policy") pursuant to Section 8 (formerly Section 10) thereof, as the need for the extension of the term of the Agreement could not reasonably be avoided, and the time required to comply with the Procurement Policy could be construed to affect or endanger the well being of persons, based upon the expected consequences of the immediate cessation of services for Liberty's portion of the Bee-Line after March 7, 2025. The need for this 'accelerated procurement', under the aforementioned Section 8, is due to the time required to complete the RFP process, and subsequent contract negotiations, and execute a new agreement for the Services for the entire Bee-Line.

Section 11 (formerly Section 13) of the Westchester County Procurement Policy and Procedures specifies that each procurement concerning an agreement that is funded, in whole or in part, by federal funds shall be made in accordance with any and all applicable federal laws, regulations, rules, guidance, instructions, or grant terms. Specifically, this procurement of the Services under the proposed amendment to the Agreement complies with 2 C.F.R. 200.320(c)(3), which allows for non-competitive procurement when "[t]he public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation". This procurement is compliant with that provision due to the exigent circumstance created by the immediate need for the Services beyond the current expiration date of the Agreement, in order to allow that certain portion of the Bee-Line to continue to operate while the proposed agreement resulting from the procurement process under the RFP, and the subsequent contract negotiation, is executed; it only recently becoming apparent that the Services would be needed, under the Agreement, for the Final Period; and there being insufficient time to publish, and provide public notice of, a competitive procurement for the Services for the Final Period.

The procurement of the extended term of each of the Leases is exempt from the Westchester County Procurement Policy and Procedures pursuant to Section 3(b) thereof.

I respectfully recommend the adoption of the attached resolution.

HJG/MS/bdm/nm

RESOLUTION

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 amend its agreement with Liberty Lines Transit, Inc. ("Liberty"), pursuant to which Liberty was to provide professional management, operation, and maintenance services for a certain portion of the County's Bee-Line System (the "Services"), for the period from January 1, 2014 through March 7, 2025, for certain annual fixed fees for the Services and other cost terms, (the "Agreement") by, (A.) extending its term by one (1) week, to a new expiration date of March 14, 2025 (the "Final Period"); and (B.) specifying a fixed fee amount, excluding fuel, of \$2,708,457.00 for the Services during the Final Period; and be it further

RESOLVED, that it is understood and acknowledged that the extension of the term of the Agreement through the Final Period shall thereby also extend, through that period, the term of the County's leases with Liberty for, (A.) equipment, including 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); (B.) the use of the Central Maintenance Facility in Yonkers, to facilitate provision of the Services; and (C.) the use of the Cerrato Satellite Bus Facility in Valhalla, to facilitate provision of the Services, (collectively, the "Leases") with each of the Leases being for consideration including one dollar (\$1.00) per year, and currently having a term from January 1, 2014 through March 7, 2025, but which term will automatically modify to be co-terminus with the term of the Agreement, if the term of the Agreement were extended or terminated; and be it further

RESOLVED, that, during the Final Period, the total amount to be paid to Liberty may vary upward or downward, as follows: (A.) in addition to the above-specified fixed fee amounts, 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, and be paid for any miscellaneous additional work it provides, to be paid at rates to be agreed upon by the parties, less a \$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 Agreement; and be it further

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

Account to be Charged/Credited
DOTOP01-14, A7

Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	44	2100	4924		\$2,708,457.00

Budget Funding Year(s): 2025
(must match resolution)

Start Date: 03/08/25

End Date: 03/14/25

Funding Source:

Tax Dollars: \$2,708,457.00

State Aid: _____

\$2,708,457.00

Federal Aid: _____

(must match resolution)

Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/06/2025 - RAYMOND SCALKY, SECRETARY