



Memorandum
Department of Public Works and Transportation

103185

TO: Board of Acquisition and Contract

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

DATE: September 1, 2023

RE: Authority to amend an agreement with STV Incorporated, pursuant to which it was to provide consulting services related to the procurement of certain hybrid buses, in order to, a.) increase the not-to-exceed amount by \$18,398.47, and b.) modify the budget in order to allocate the additional funds to pay for additional 'Buy America'-related services.
(Agreement No. DOTCAP03-21)

By a resolution approved on September 2, 2021, your Honorable Board authorized the County of Westchester (the "County") to enter into an agreement (the "Agreement"; No. DOTCAP03-21) with STV Incorporated ("STV"), pursuant to which STV was to provide the County with consulting services (the "Services") concerning the County's procurement of up to ten (10) 35-foot, heavy-duty, low-floor, hybrid electric buses, which was anticipated to be conducted via a purchase option available under a previously-issued bid solicitation (the "Bus Procurement"), for an amount not-to-exceed \$58,448.19, for a term commencing upon execution, which occurred on January 3, 2022, and continuing until the end of the Bus Procurement.

STV recently advised the County that STV did not budget sufficient funds, in its original cost estimate, for all of the services that are now expected to ultimately be necessary for all of the work related to federal 'Buy America' requirements. Accordingly, STV advised the County that an additional amount not-to-exceed \$18,398.47 would be necessary for additional services related to federal 'Buy America' requirements (the "Additional Services"). The Additional Services would be provided, and billed, on an hourly basis, at the rates specified in the Agreement. The Department of Public Works and Transportation ("DPW&T") has determined that this additional amount is justified and acceptable.

Accordingly, the County respectfully requests authority from your Honorable Board to amend the Agreement by, a.) increasing its not-to-exceed amount by \$18,398.47, from an amount not-to-exceed \$58,448.19 to a new amount not-to-exceed \$76,846.66, and b.) modifying its budget in order to allocate the additional funds to pay for the Additional Services (the "First Amendment").

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

The proposed First Amendment will serve a public purpose by ensuring that the County can receive and pay for the Additional Services that it needs in order to ensure compliance with the federal 'Buy America' requirements.

The goal and objective of the proposed First Amendment is to ensure that the County can receive and pay for the Additional Services that it needs in order to ensure compliance with the federal 'Buy America' requirements.

The goal and objective of the proposed First Amendment is in the best interests of the County in terms of fiscal responsibility, as ensuring that the County can receive and pay for the Additional Services that it needs in order to ensure compliance with the federal 'Buy America' requirements will help ensure that the County can use applicable federal aid for the Bus Procurement, rather than have to seek other sources of funds.

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

Authority to exempt the procurement of the Additional Services, under the proposed First Amendment, from the requirements of the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xx) thereof, has been requested of your Honorable Board by a separate resolution.

Section 13 of the Westchester County Procurement Policy 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 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 publicizing a competitive solicitation". This is due to the exigent circumstance created by the immediate need for the Additional Services, in order to ensure that the buses to be provided under the Bus Procurement are timely completed and delivered.

I respectfully recommend approval of the attached resolution.

HJG/MS/bdm

RESOLUTION

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

RESOLVED, that the County of Westchester (the "County") is authorized to amend its agreement with STV Incorporated ("STV"), pursuant to which STV was to provide the County with consulting services concerning the County's procurement of up to ten (10) 35-foot, heavy-duty, low-floor, hybrid electric buses, which was anticipated to be conducted via a purchase option available under a previously-issued bid solicitation (the "Bus Procurement"), for an amount not-to-exceed \$58,448.19, for a term commencing upon execution, which occurred on January 3, 2022, and continuing until the end of the Bus Procurement, (the "Agreement") by, a.) increasing its not-to-exceed amount by \$18,398.47, from an amount not-to-exceed \$58,448.19 to a new amount not-to-exceed \$76,846.66, and b.) modifying its budget in order to allocate the additional funds to pay for additional services related to federal 'Buy America' requirements; and be it further

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

Original Agreement: \$58,448.19
This First Amendment: \$18,398.47
TOTAL: \$76,846.66

Agreement No. DOTCAP03-21, First Amendment

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
	365	44	T001U01E	6190	BA #14-2021	\$18,398.47

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

Start Date: 01/03/2022

End Date: Completion of the Bus Procurement

Funding Source:

Tax Dollars: 100%

State Aid: _____

\$18,398.47

Federal Aid: _____

(must match resolution)

Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/14/2023 - RAYMOND SOULIER, SECRETARY