

103141

DATE: August 31, 2023

TO: Board of Acquisition and Contract

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

SUBJECT: Authority to enter into a zero cost non-disclosure agreement with New Flyer Incorporated related to the procurement of 40-foot hybrid transit buses.  
(Agreement No. DOTCAP 01-23)

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Authority is requested for the County of Westchester (the "County") to enter into a zero cost non-disclosure agreement with New Flyer Incorporated ("New Flyer"), related to the procurement of transit buses. The proposed agreement will be for a term of five (5) years commencing upon execution.

On December 7, 2020, the County, acting through the Bureau of Purchase and Supply, entered into an agreement with New Flyer to purchase 66 Forty-Foot Low Floor Heavy Duty Diesel Hybrid Electric Transit Buses and related equipment. That agreement included options for future bus procurements. To this end, the County has executed an option to purchase an additional twelve Forty-Foot Low Floor Heavy Duty Diesel Hybrid Electric Transit Buses and related equipment (the "Buses"). In connection with this procurement, it is necessary for New Flyer to provide the County with certain information deemed confidential by the manufacturer, including but not limited to information about its finances, costs, profits, markets, sales, customers, potential customers, employees, financial statements, manuals, formulae, data bases, computer programs, technical expertise, software, machines, inventions, research, engineering methods, practices, processes, designs, products, projects and improvements. New Flyer has requested that the County sign an agreement prohibiting disclosure of such information except if legally required.

The proposed agreement will serve a public purpose by allowing the County and New Flyer to conduct the procurement in such a way as to provide the County with exactly what it needs in terms of the new buses and related equipment.

The goal and objective of the proposed agreement is to establish the parameters to manage confidential information related to the new buses being manufactured by New Flyer.

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

staff of the Department of Public Works and Transportation.

I respectfully recommend the adoption of the attached resolution.

HJG/MS/dlv

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

# **RESOLUTION**

Agreement No. DOTCAP 01-23

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 a non-disclosure agreement with New Flyer Incorporated (“New Flyer”), related to the procurement of 40-foot hybrid transit buses; and be it further

**RESOLVED**, that the agreement shall be for a term of five years commencing upon execution; and be it further

**RESOLVED**, that there are no costs associated with this agreement; 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.

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Agreement No. DOTCAP 01-23

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
		N/A			N/A

Budget Funding Year(s): \_\_\_\_\_

Start Date: Upon Execution

End Date: Five years after  
execution date

(must match resolution)

Funding Source

N/A

(must match resolution)

Tax Dollars: N/A

State Aid: \_\_\_\_\_

Federal Aid: \_\_\_\_\_

Other: \_\_\_\_\_

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