

**MINUTES OF THE MEETING OF THE  
COUNTY OF WESTCHESTER  
BOARD OF ACQUISITION AND CONTRACT  
HELD ON THURSDAY, MARCH 25, 2021 @ 11:00 A.M.**

Deputy County Executive	Ken Jenkins
Chair, Board of Legislators	Benjamin Boykin
Budget Director	Larry Soule
Commissioner of Finance	AnnMarie Berg
Associate Chief Deputy County Attorney	Tami Altschiller
Board of Legislators	Greg Casciato
Board of Legislators	Mary Beth Gose
Secretary BAC	Lisa Mrijaj
Assistant Secretary	Valerie Rodriguez

**Mr. Jenkins presided.**

**Mr. Jenkins said, "For the record, this meeting is being conducted in accordance with Governor Cuomo's Executive Order 202.1 as extended."**

**Mr. Jenkins continued, "I understand that the Budget Director wishes to speak."**

**Mr. Soule said, "I move to add item 25 Onbase ID 83736 Authorization to default ACV Environmental Services, Inc. d/b/a ACV Enviro APV in connection with Contract No. EF-2001, Operation and Maintenance of Household Hazardous Material Recovery Facility, Valhalla Campus, Valhalla, NY, and authorization to enter into a Takeover Agreement with the surety Berkley Insurance Company or its designee, and to take all necessary measures to provide the contract services."**

**Mr. Boykin seconded the motion and it was unanimously approved.**

**Mr. Soule continued, "The Members of the Board of Acquisition and Contract received a memorandum from the Commissioner of Environmental Facilities declaring an emergency situation that cannot await competitive bidding."**

**On March 26, 2020, your Honorable Board awarded Contract No. EF-2001, Operation and Maintenance of Household Hazardous Material Recovery Facility (H-MRF") in Valhalla, NY to ACV Environmental Services, Inc. d/b/a ACV Enviro APV in the amount of \$2,045,088.00 for a term from April 1, 2020, through March 31, 2023, plus an option for an additional year. The County of Westchester acting by and through its Department of Environmental Facilities and ACV entered into a contract dated March 27, 2020. As required by the Contract, ACV provided a Performance and Payment Bond issued by Berkley Insurance Company as surety for this project.**

**ACV has failed to comply with the terms and specifications of the Contract in that it:**

**failed and/or refused to draft and/or maintain at the H-MRF an Operations Manual acceptable to the New York State Department of Environmental Conservation as required by 6 NYCRR § 360.16(c)(4). ACV's default hereunder constitutes a material breach of Paragraph Fifteenth of the Contract, and Sections VII, XVI (D) and XVIII of the Bid Specifications;**

**failed and/or refused to maintain accurate records related to a 55-gallon hazardous waste containing drum at the H-MRF that resulted in NYSDEC issuing a violation to DEF on February 5, 2021. ACV's default hereunder constitutes a material breach of Paragraph Fifteenth of the Contract, and Sections VII, XXXI and XXXII of the Bid Specifications; and**

**failed to seek prior approval of DEF, and provide to DEF the resume for at least one of its proposed personnel prior to implementing several staffing changes at the H-MRF in violation of Section XXIII (D) of the Bid Specifications.**

**The Department communicated these issues to ACV multiple times and provided ample opportunity to cure the deficiencies. However, ACV's failings have continued, resulting in the New York State Department of Environmental Conservation recently issuing a violation to the Department due to ACV's failure to provide proper responses and information regarding the status of on-site waste.**

**As required by the terms of the Contract, on March 16, 2021, the County provided ACV with written notice and a demand that the above issues be resolved within 48 hours or the County would exercise its options under the Contract, including the right to terminate the Contract. To date, ACV has not cured its breach of the Contract. A Resolution has been submitted to your Honorable Board seeking authority to declare ACV in default and terminate the Contract, as well as authorizing the County to enter into a Takeover Agreement with the surety Berkley Insurance Company or its designee, and to take all necessary measures to provide the contract services.**

**However, because the surety has not responded to the County's attempts to arrange an expeditious takeover of the Contract, an emergency situation has been created as the H-MRF must be continuously operated. The County and the Department are unable to operate the facility without a licensed contractor to pack and haul the household hazardous materials collected. Westchester County residents rely upon the services of the H-MRF to dispose of hazardous household chemicals. The absence of this outlet for safe and proper disposal could result in an environmental hazard. Failure to immediately replace the contractor to continue operating the H-MRF is likely to result in e harm to the environment and potentially the health and safety of Westchester's residents. This work will benefit the public as it enables the**

**County to conduct its mission of properly disposing of household hazardous materials, thereby promoting public health policies and laws.**

**In order to ensure proper operation of the facility and to protect the environment and the health and safety of the public and County employees, DEF declared an emergency situation. We will be working to enter into a contract with an alternate contractor that specializes in operating such facilities. DEF will follow the County's standard emergency contracting and procurement protocols. We will submit a Resolution to your Honorable Board at a later date requesting approval of an emergency contract to address the issues as described above."**

**Mr. Jenkins said, "I direct the Secretary to the Board of Acquisition & Contract to include the memo from the Commissioner of Environmental Facilities as part of the minutes of today's meeting."**

**Acquisition & Contract.** Minutes of the meeting 3/18/21 and the SEQR Review for agenda items.

L. Mrijaj

**Mr. Jenkins moved to receive and file the foregoing minutes and SEQR review, which were duly seconded and approved.**

1. (83054) **CE/Board of Legislators** - Enter into an agreement with Community Service Associates, Inc., for a term beginning 1/1/21 – 12/31/21, to provide meals and ancillary services to those in need in the Mt. Vernon community, for an amount not to exceed \$53,303.

Latimer/Boykin

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

2. (83635) **Information Technology** - Pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, to exempt from procurement an agreement with Software Guidance & Assistance, Inc.

M. Beirne

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

3. (83639) **Information Technology** – Enter into Agreement IT-1681 with Software Guidance & Assistance, Inc., to provide the County with temporary personnel who will work as data entry scribes at COVID-19 vaccination clinics, for the period 3/29/21 – 12/31/21, for a total amount not to exceed \$962,500, payable based upon a specified hourly rate for such personnel.

M. Beirne

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

4. (83126) **Planning** - Enter into an agreement with the Village of Mamaroneck, through the Community Development Block Grant Program, in the not to exceed amount of \$200,000, for a period beginning 3/1/21 – 9/30/22, for a Sidewalk and Curb Replacement Project on Waverly and Prospect/East Prospect Avenues in the Village of Mamaroneck.
- N. Drummond
- Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**
5. (83034) **Social Services** - Enter into an agreement with Family Services of Westchester, Inc. ("FSW"), pursuant to which FSW will offer the R.E.A.L Parenting Program providing responsible parenting and employability preparedness training services to promote the financial and personal responsibility of non-custodial fathers, for the period from 3/1/21 – 2/28/22, for an amount not to exceed \$45,000.
- L. Townes
- Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**
6. (83508) **Social Services** – Enter into an agreement with Feeding Westchester, Inc., to provide emergency food distribution, through its network of non-profit food distribution centers, to needy individuals and families, including children and seniors during the COVID-19 pandemic, for the term commencing on 1/1/21 – 12/31/21, in the not to exceed amount of \$800,000.
- L. Townes
- Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**
7. (83621) **Social Services** – Solicit Bids by public advertisement for contracts, to provide Non-Emergency Moving and Storage Services for planned "non-emergency" moves of households within Westchester County eligible for temporary housing, for a two-year period, with the County having an option to extend the contract for three (3) additional one-year periods.
- L. Townes
- Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**
8. (82963) **Senior Programs** - Enter into an agreement with the New York State Office for the Aging, to accept a grant in the amount of \$54,074 to implement New York State Transportation Program, for the program period commencing on 4/1/21 – 3/31/22.
- M. Carpenter
- Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

9. (82964) **Senior Programs - Enter into 1)** an agreement with the New York State Office for the Aging to accept a grant in the amount of \$19,611 to provide various support services to caregivers of elderly Westchester County residents 60 years and older under the Caregiver Resource Center program, for the program period commencing on 4/1/21 – 3/31/22; and **2)** amend an agreement with Westchester Jewish Community Services, Inc., to provide various support services to caregivers of elderly Westchester County residents 60 years and older under the Caregiver Resource Center program, in order to exercise the second of four (4) one-year periods, to renew and extend for the program period commencing on 4/1/21 – 3/31/22. State funding shall be for an amount not to exceed \$19,611.

M. Carpenter

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

10. (82966) **Senior Programs - Enter into 1)** an agreement with the New York State Office for the Aging ("NYSOFA") to accept a grant, in an amount not to exceed \$20,806 in Congregate Services Initiative State funds, to be used to provide various social and recreational programs to County seniors, for the program period commencing on 4/1/21 – 3/31/22 and; **2)** an agreement with Westchester Public/Private Membership Fund for Aging Services, Inc. ("WPPMF" also the "Contractor") to provide Senior Center Recreation and Education to County seniors (the "Program"). Funding for the Program will be in an amount not to exceed \$36,000, comprised of \$20,806 in CSI State Funds and \$15,194 in County tax dollars, for the program period commencing on 4/1/21 – 3/31/22.

M. Carpenter

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

11. (83528) **Senior Programs – Enter into an agreement with the New York State Office for the Aging, to accept a grant in an amount not to exceed \$53,225 comprised of \$38,361 in Federal funds and \$14,864 in New York State funds, pursuant to the Health Insurance Information, Counseling and Assistance Program to pay for personnel, maintenance and operations costs associated with providing Medicare information and assistance to Westchester seniors, caregiver groups and professional case managers and social workers, who deal with these population, for the period from 4/1/21 – 3/31/22.**

M. Carpenter

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

12. (83438) **Health – Enter into contract with Health Research, Inc., to accept continued funding for the Expanded Partner Services Program Grant, for the contract period 4/1/21 – 3/31/22, in the not to exceed amount of \$105,000, and that the County of Westchester is authorized to defend and indemnify Health Research Inc., and the New York State Department of Health according to the following indemnification language contained in the agreement, under the listed terms and conditions.**

S. Amler

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

13. (83541) **College** – Enter into affiliation agreements with the multiple healthcare providers and entities for supervised laboratory/clinical education and instruction for matriculated Westchester Community College Students, as listed, under the terms and conditions.

B. Miles

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

14. (82979) **DPW/Transportation** - Amend Agreement No. 03-941 with GHD Consulting Services Inc., for engineering services in connection with the Phase III – Pump Station Rehabilitation Program, Mamaroneck Sewer District, to provide additional design services and construction services associated with this project, for a proposal fee of \$595,600, increasing the total maximum fee to \$5,198,535, with the completion date of the agreement to be extended to 12/31/25.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

15. (82980) **DPW/Transportation** - Amend Agreement No. 12-908 with GHD Consulting Services Inc., for engineering services in connection with the Boiler and Generator Replacement, Ossining Wastewater Treatment Plant, Ossining, New York, to provide additional design services during construction and construction administration services associated with this project, for a proposal fee of \$136,433, increasing the total maximum fee to \$973,319, with the completion date of the agreement to be extended to 12/31/22. Approved the two (2) subconsultants.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

16. (82981) **DPW/Transportation** - Amend Agreement No. 14-922 with GHD Consulting Services Inc., for engineering services in connection with the North Yonkers Pump Station Upgrades, Yonkers, New York, to provide additional design services during construction and construction administration services associated with this project, for a proposal fee of \$199,710 increasing the total maximum fee to \$1,161,410, with the completion date of the agreement to be extended to 12/31/23.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

17. (82982) **DPW/Transportation** - Amend Agreement No. 15-944 with GHD Consulting Services Inc., for engineering services in connection with the Grit Handling Improvements, Yonkers Joint Wastewater Treatment Plant, Yonkers, New York, to provide additional design services during construction and construction administration services associated with this project, for a proposal fee of \$314,409, increasing the total maximum fee to \$764,012, with the completion date of the agreement to be extended to 12/31/23.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

18. (82983) **DPW/Transportation** - Amend Agreement No. 16-903 with GHD Consulting Services Inc., for engineering services in connection with the Sal J. Prezioso Mountain Lakes Park Dam Rehabilitation, Town of North Salem, New York, to provide additional design services during construction and construction administration services associated with this project, for a proposal fee of \$496,836, increasing the total maximum fee to \$700,436, with the completion date of the agreement to be extended to 12/31/24. Approved KJM Construction Management, Inc., White Plains, as a subconsultant.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

19. (83263) **DPW/Transportation** - Contract No. 18-531 with R. Pugni & Sons, Inc., for Playground Site Work Rehabilitation, Kensico Dam Plaza, Mt. Pleasant and North Castle, New York. Approved the three (3) listed subcontractors.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

20. (83287) **DPW/Transportation** - Contract No. 17-530 with Laura Li Industries LLC, for Rehabilitation of Various Bridges, Westchester County, New York. Approved Patriot Shotcrete LLC, Jersey City, NJ, as a subcontractor.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

21. (83491) **DPW/Transportation** - Contract No. 20-513 for Rehabilitation of Pelham Parkway, From Fulton Avenue Bridge to Boston Post Road, A Total Distance of Approximately 0.30 Miles, Village of Pelham Manor, New York. Advertise for bids.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

22. (83492) **DPW/Transportation** - Contract No. 20-518 for Roadway Rehabilitation, Mamaroneck Avenue, From Bryant Avenue to Mount Pleasant Avenue, A Distance of 5.09 Miles, City of White Plains, Town of Harrison and Village of Mamaroneck, New York. Advertise for bids.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

23. (83493) **DPW/Transportation** - Contract No. 21-504 for Resurfacing and Related Improvements, Westchester Avenue, From South Kensico Avenue to Main Street, and Westchester Avenue, From 1,824 Feet East of Anderson Hill Road to Corporate Park Drive, A Total Distance of 1.63 Miles, City of White Plains, New York. Advertise for bids.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

24. (83496) **DPW/Transportation** - Contract No. 17-519 for Site Work Improvements, Blue Mountain Reservation, Town of Cortlandt and City of Peekskill, New York. Advertise for bids.

H. Greechan

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

25. (83736) **DEF** - Default ACV Environmental Services, Inc. d/b/a ACV Enviro APV in connection with Contract No. EF-2001, Operation and Maintenance of Household Hazardous Material Recovery Facility, Valhalla Campus, Valhalla, NY, and authorization to enter into a Takeover Agreement with the surety Berkley Insurance Company or its designee, and to take all necessary measures to provide the contract services.

V. Kopicki

**Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.**

There being no further business, the Chair declared the meeting adjourned. All approved resolutions are on file electronically with the Board of Acquisition and Contract.

I have reviewed the foregoing minutes and have found them to be correct as written.


Signed: *Lisa Mríaj*, Secretary

Dated: 3/25/2021



Memorandum  
Department of Environmental Facilities

**TO:** Honorable Members of the Board of Acquisition and Contract

**FROM:** Vincent F. Kopicki, P.E.   
Commissioner of Environmental Facilities

**DATE:** March 24, 2021

**SUBJECT:** Declaration of Emergency Situation - Operation and Maintenance of Household Hazardous Material Recovery Facility, Valhalla Campus, Valhalla, NY

On March 26, 2020, your Honorable Board awarded Contract No. EF-2001, Operation and Maintenance of Household Hazardous Material Recovery Facility (H-MRF) in Valhalla, NY to ACV Environmental Services, Inc. d/b/a ACV Enviro APV ("ACV") in the amount of \$2,045,088.00 for a term from April 1, 2020, through March 31, 2023, plus an option for an additional year. The County of Westchester ("County"), acting by and through its Department of Environmental Facilities (the "Department") and ACV entered into a contract dated March 27, 2020 (the "Contract"). As required by the Contract, ACV provided a Performance and Payment Bond issued by Berkley Insurance Company as surety for this project.

ACV has failed to comply with the terms and specifications of the Contract in that it:

1. failed and/or refused to draft and/or maintain at the H-MRF an Operations Manual acceptable to the New York State Department of Environmental Conservation ("NYSDEC") as required by 6 NYCRR § 360.16(c)(4). ACV's default hereunder constitutes a material breach of Paragraph Fifteenth of the Contract, and Sections VII, XVI (D) and XVIII of the Bid Specifications;
2. failed and/or refused to maintain accurate records related to a 55-gallon hazardous waste containing drum at the H-MRF that resulted in NYSDEC issuing a violation to DEF on February 5, 2021. ACV's default hereunder constitutes a material breach of Paragraph Fifteenth of the Contract, and Sections VII, XXXI and XXXII of the Bid Specifications; and
3. failed to seek prior approval of DEF, and provide to DEF the resume for at least one of its proposed personnel prior to implementing several staffing changes at the H-MRF in violation of Section XXIII (D) of the Bid Specifications.

The Department communicated these issues to ACV multiple times and provided ample opportunity to cure the deficiencies. However, ACV's failings have continued, resulting in the New York State Department of Environmental Conservation recently issuing a violation to the

Department due to ACV's failure to provide proper responses and information regarding the status of on-site waste.

As required by the terms of the Contract, on March 16, 2021, the County provided ACV with written notice and a demand that the above issues be resolved within 48 hours or the County would exercise its options under the Contract, including the right to terminate the Contract. To date, ACV has not cured its breach of the Contract. A Resolution has been submitted to your Honorable Board seeking authority to declare ACV in default and terminate the Contract, as well as authorizing the County to enter into a Takeover Agreement with the surety Berkley Insurance Company or its designee, and to take all necessary measures to provide the contract services.

However, because the surety has not responded to the County's attempts to arrange an expeditious takeover of the Contract, an emergency situation has been created as the H-MRF must be continuously operated. The County and the Department are unable to operate the facility without a licensed contractor to pack and haul the household hazardous materials collected. Westchester County residents rely upon the services of the H-MRF to dispose of hazardous household chemicals. The absence of this outlet for safe and proper disposal could result in an environmental hazard. Failure to immediately replace the contractor to continue operating the H-MRF is likely to result in e harm to the environment and potentially the health and safety of Westchester's residents. This work will benefit the public as it enables the County to conduct its mission of properly disposing of household hazardous materials, thereby promoting public health policies and laws.

In order to ensure proper operation of the facility and to protect the environment and the health and safety of the public and County employees, DEF declared an emergency situation. We will be working to enter into a contract with an alternate contractor that specializes in operating such facilities. DEF will follow the County's standard emergency contracting and procurement protocols. We will submit a Resolution to your Honorable Board at a later date requesting approval of an emergency contract to address the issues as described above.

VFK/DLV/dv