

45191

DATE: April 17, 2015

TO: Board of Acquisition and Contract

FROM: John B. McCaffrey
Chief Information Officer
Department of Information Technology

Kevin M. McGuire
Commissioner
Department of Social Services

RE: 1.) Amending a resolution approved on June 23, 2011, which authorized the County of Westchester, acting on behalf of the Westchester-Putnam Local Workforce Investment Board, to enter into agreement (IT-1199) with Comcast Business Services, pursuant to which it would provide high-speed Internet service, in order to make various changes.
2.) Rescinding a resolution approved on September 4, 2014, which authorized the County of Westchester, acting on behalf of the Westchester-Putnam Local Workforce Investment Board, to enter into an agreement with Comcast Business Services, pursuant to which it would provide high-speed Internet services, for a term July 15, 2014 through July 14, 2017.

By a resolution approved on June 23, 2011 (the "June 23rd Resolution"), your Honorable Board authorized the County of Westchester, acting on behalf of the Westchester-Putnam Local Workforce Investment Board, (the "County") to enter into an agreement ("IT-1199") with Comcast Business Services ("Comcast"), pursuant to which Comcast was to provide high-speed Internet service for the One-Stop Employment Center in the Town of Carmel, Putnam County, with a bandwidth of 12 MB 'down' / 2 MB 'up', (the "Internet Services") for a three year term commencing July 15, 2011 and continuing through July 14, 2014, for a total amount not-to-exceed \$4,200, payable as follows: \$1,500 in initial construction cost and \$900 in annual service charges. IT-1199 was subsequently executed.

By a resolution approved on September 4, 2014 (the "September 4th Resolution"), your Honorable Board authorized the County to amend IT-1199 by, 1) extending the term of IT-1199 by three years, to a new termination date of July 14, 2017, and 2) increasing the not-to-exceed amount of IT-119 by \$4,500, to a new not-to-exceed amount of \$8,700 (the "Amendment"). The Amendment has not been executed.

During discussions with Comcast regarding the Amendment, the County discovered several discrepancies between Comcast's understanding of IT-1199 and the County's understanding of IT-1199.

First, although the term of IT-1199 started on July 15, 2011, installation delays apparently delayed the start of the intended initial three-year period of the Internet Services. Accordingly, Comcast determined that the commencement date of the provision of the Internet Services under IT-1199 was, for its purposes, actually May 26, 2012, and that the three year term for the provision of such services under IT-1199 would, accordingly, not expire until May 25, 2015.

Second, based on Comcast's reading of the "Business Services Customer Terms and Conditions" (the "Terms and Conditions") that Comcast determined are applicable to IT-1199, Comcast concluded that IT-1199 would automatically renew at the end of its current term (i.e., May 25, 2015), subject to the provisions of the Terms and Conditions.

Comcast's communications with the County also specified that the other party to IT-1199 is actually Comcast Cable Communications Management, LLC.

During a subsequent review and analysis of the Terms and Conditions, the County found that Comcast's analysis was correct.

In addition, during the course of its reviews of IT-1199, the County found that the not-to-exceed amount authorized by the June 23rd Resolution did not account for all of the costs specified in IT-1199, and that the installation services to be provided under IT-1199 (called "construction costs" in the June 23rd Resolution), and the costs for such services, were not fully and accurately spelled-out. Furthermore, the County found that the speed of the Internet Services specified in the June 23rd Resolution was incorrect and should, instead, be 16 MB 'down' / 3 MB 'up'.

Therefore, the County has determined that the June 23rd Resolution should be amended, in order to reflect the above-described terms, and that the September 4th Resolution should be rescinded, since it is now unnecessary.

Accordingly, the County respectfully requests that your Honorable Board:

- 1.) Amend the June 23rd Resolution, in order to:
 - a.) specify explicitly that standard and additional, custom installation services for the Internet Services would be provided under IT-1199;
 - b.) change the authorized term for IT-1199 from July 15, 2011 through July 14, 2014 to July 15, 2011 through May 25, 2015 (the "Initial Term");
 - c.) specify that, after the provision of installation services, the Internet Services were to be provided for the period from May 26, 2012 through May 25, 2015;
 - d.) specify that IT-1199 will, after the Initial Term, automatically renew for successive periods of one year (unless otherwise stated in IT-1199), and unless and until either party notifies the other, at least 30 days before the expiration of the then-current term, that it will not be renewing IT-1199;
 - e.) specify that the County will have the right to terminate IT-1199 for convenience, in whole or in part, upon 60 days prior notice to the vendor;
 - f.) change the not-to-exceed amount for IT-1199 for the Initial Period from \$4,200.00 to \$4,497.60 and change to the following the breakdown of how the not-to-exceed amount will be paid:
 - \$324.90 for standard installation services;
 - \$1,476.30 for additional, custom installation services; and
 - \$2,696.40 for the Internet Services, based upon a fee of \$74.90 per month;
 - g.) change the speed of the Internet Services to 16 MB 'down' / 3 MB 'up';
 - h.) specify that IT-1199 will provide that the vendor may modify the charges for the services provided under IT-1199 for any renewal term, subject to 30 days prior notice to the County, which will have 30 days from receipt of such notice to cancel the services, and if it fails to do so, will be deemed to have accepted the modified pricing; and
 - i.) change the name of the vendor to Comcast Cable Communications Management, LLC,
- and
- 2.) Rescind the September 4th Resolution.

I respectfully recommend the adoption of the attached Resolution.

JBM/KMM/LH/bdm/nn

RESOLUTION

Upon a communication from the Chief Information Officer, Department of Information Technology, and the Commissioner of Social Services, be it hereby

RESOLVED, that the resolution approved on June 23, 2011 (the "June 23rd Resolution"), which authorized the County of Westchester, acting on behalf of the Westchester-Putnam Local Workforce Investment Board, (the "County") to enter into an agreement ("IT-1199") with Comcast Business Services, is hereby amended by deleting the first "RESOLVED" clause and inserting the following "RESOLVED" clauses in its place:

RESOLVED, that the County of Westchester, acting on behalf of the Westchester-Putnam Local Workforce Investment Board, (the "County") is hereby authorized to enter into an agreement (IT-1199) with Comcast Cable Communications Management, LLC ("Comcast"), pursuant to which Comcast will provide installation services for high-speed Internet service with a bandwidth of 16 MB 'down' / 3 MB 'up' (the "Internet Services"), and subsequently provide the Internet Services; and be it further

RESOLVED, that IT-1199 shall have an initial term commencing on July 15, 2011 and continuing through May 25, 2015 (the "Initial Term"); and be it further

RESOLVED, that the term during which Comcast shall provide the Internet Services shall commence May 26, 2012 and continue through May 25, 2015 (the "Initial Term"); and be it further

RESOLVED, that under IT-1199, after the Initial Term, the agreement shall automatically renew for successive periods of one (1) year (unless otherwise stated in IT-1199), and unless and until either party notifies the other, at least 30 days before the expiration of the then-current term, that it will not be renewing IT-1199; and be it further

RESOLVED, that under IT-1199, the County will have the right to terminate IT-1199 for convenience, in whole or in part, upon 60 days prior notice to the vendor; and be it further

RESOLVED, that under IT-1199, for the Initial Term, Comcast shall be paid a total amount not-to-exceed \$4,497.60, payable as follows:

\$324.90 for standard installation services;
\$1,476.30 for additional, custom installation services; and
\$2,696.40 for the Internet Services, based upon a fee of \$74.90 per month

; and be it further

RESOLVED, that under IT-1199, after the Initial Term, Comcast may modify the charges for the services provided under IT-1199 for any renewal term, subject to 30 days prior notice to the County, which will have 30 days from receipt of such notice to cancel the services, and if it fails to do so, will be deemed to have accepted the modified pricing; and be it further

; and be it further

RESOLVED, that except as specifically amended hereby, all terms and conditions of the June 23rd Resolution shall remain the same and in full force and effect; and be it further

RESOLVED, that the resolution approved on September 4, 2014, which authorized the County to amend IT-1199 by, 1.) extending the term of IT-1199 by three years, to a new termination date of July 14, 2017, and 2.) increasing the not-to-exceed amount of IT-119 by \$4,500, to a new not-to-exceed amount of \$8,700, is hereby rescinded; 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	\$4,200.00
This Amendment	\$ 297.60
TOTAL	\$4,497.60

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
275	22	418P	7293	T418	\$297.60

Budget Funding Year(s): 2011-2015 Start Date: 7/15/2011 End Date: 5/25/2015
(must match resolution)

Funding Source	Tax Dollars: _____
	State Aid: _____
<u>\$ 297.60</u>	Federal Aid: <u>\$297.60</u>
(must match resolution)	Other: _____