

**69643**

DATE: May 8, 2019

TO: Board of Acquisition and Contract

FROM: Marguerite Beirne, Chief Information Officer  
Gary Friedman, Director of Real Estate

Re: Authority to amend the license agreement (IT-558) with the American Towers, LLC to extend the term of the agreement for five (5) years commencing April 1, 2019 and terminating on March 31, 2024 for a Monthly License fee of \$5,073.43 subject to a 4% Annual Escalator commencing July 1, 2019 and on each July 1<sup>st</sup> thereafter.

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On December 24, 2003, your Honorable Board approved a resolution which authorized the County of Westchester ("County") to enter into a license agreement ("Agreement") with American Towers, Inc. for the installation and operation of radio equipment and antennas at their radio tower located on Pines Bridge Road in Ossining, New York, for a five (5) year period commencing on April 1, 2004 for an annual license fee of \$9,600, with a 4% annual increase, and a \$2,000 one time site inspection fee. The Agreement was subsequently executed.

On February 9, 2006, your Honorable Board approved a resolution which authorized an amendment to the Agreement in order to increase the number of antennas from 4 to 8, as well as to install a shelter and generator at the radio tower site. In addition, the annual rent was increased to \$28,800 with a 4% increase each year. This resolution was subsequently amended on May 18, 2006 to reflect that the new annual rent was increased to \$29,184. The First Amendment to the Agreement was subsequently executed.

On December 23, 2008, your Honorable Board approved a resolution which authorized the County to renew the Agreement for a five (5) year period commencing on April 1, 2009, for a monthly fee of \$2,735.67 with a 4% annual increase on each July 1<sup>st</sup>. All other terms and conditions of the Agreement, as amended, remained the same.

On October 13, 2011, your Honorable Board approved a resolution in order to update the engineering details to reflect the extension of the radio tower and the new type and location of the County's equipment installed at the radio tower, and to change the name of American Towers, Inc. to American Towers, LLC. All other terms and conditions of the Agreement, as amended, remained the same. The Second Amendment to the Agreement was subsequently executed.

On July 10, 2014, your Honorable Board approved a resolution which authorized the County to amend the Agreement in order to extend the term of the Agreement for five (5) years commencing April 1, 2014 for a monthly license fee of \$3,600, which fee increases yearly on July 1<sup>st</sup> by 4% and provides the parties the right to renew the Agreement for three (3) successive periods of five (5) years each, subject to necessary legal approvals. The Third Amendment to the Agreement was subsequently executed.

On August 19, 2015 your Honorable Board approved a resolution in order to update the engineering details to reflect the installation of a microwave dish at the site for an additional license fee of \$616.50 per month, commencing on the earlier of installation or January 1, 2016. All other terms and conditions of the Agreement, as amended, shall remain unchanged and in full force and effect. The Fourth Amendment to the Agreement was subsequently executed.

Authorization is now sought to amend the Agreement to extend the term of the Agreement for five (5) years commencing April 1, 2019 and terminating on March 31, 2024 for a Monthly License Fee of \$5,073.43 with an Annual Escalator of 4% every year starting July 1, 2019 and on each July 1<sup>st</sup> thereafter and provide the parties with rights to renew the agreement for two (2) successive periods of five (5) years each. All other terms and conditions of the Agreement, as amended, shall remain unchanged and in full force and effect.

The space rented from American Towers houses equipment and antennas that are critical components of County radio systems used for Police, Fire, and EMS communications and for operation of the Bee Line bus system. These radio systems serve a public purpose because they allow first responders and other government personnel to serve Westchester's residents by safeguarding their property and health and by coordinating the operation of the County's public bus system.

The goals and objectives of the agreement are to continue to operate critical County first responder and public transportation radio systems which require the use of antennas and equipment placed at strategically located sites that best cover Westchester. The Department of Information Technology ("DoIT"), along with the Departments of Emergency Services, Public Safety, and Public Works and Transportation monitor the radio systems that utilize the Ossining radio site to make sure that it best suits the County's needs. DoIT audits the invoices to make sure they comply with the terms of the Agreement.

Approval of the attached resolution by your Honorable Board is requested.

MB/GF/RAN  
Attachment

**RESOLUTION**

Upon a communication from the Chief Information Officer, and the Real Estate Director, be it hereby

**RESOLVED**, that the County of Westchester (“County”) is authorized to amend Contract IT-558 with American Towers, LLC., to extend the term of the Agreement for five (5) years commencing April 1, 2019 and terminating on March 31, 2024 for a Monthly License Fee of \$5,073.43 with an annual escalator of four percent (4%) commencing July 1, 2019 and on each July 1st thereafter and provide the parties with rights to renew the agreement for two (2) successive periods of five (5) years each and be it further

**RESOLVED** that all other terms and conditions of the Agreement, as amended, shall remain unchanged and in full force and effect, and be it further

**RESOLVED** that the County Executive or his duly authorized designee is hereby authorized to execute and deliver any and all documents and to take all action necessary and appropriate to effectuate the purposes hereof.

Agreement # IT-558

Original Agreement	\$ 9,600
First Amendment	\$ 19,200
Renewal	\$ 183,141
Second Amendment	\$ 0
Third Amendment	\$ 241,009
Fourth Amendment	\$ 32,160
This amendment	<u>\$ 357,562.15</u>
TOTAL	\$ 842,672.15

Account to be Charged/ credited

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
2019	101	20	1000	4070		\$11,935.15
2019	101	44	1000	4070		\$12,346.71
2019	101	38	2000	4070		\$7,376.37
2020	101	20	1000	4070		\$25,321.60
2020	101	44	1000	4070		\$26,194.76
2020	101	38	2000	4070		\$15,649.69
2021	101	20	1000	4070		\$27,387.87
2021	101	44	1000	4070		\$28,332.28
2021	101	38	2000	4070		\$16,926.72
2022	101	20	1000	4070		\$29,622.70
2022	101	44	1000	4070		\$30,644.17
2022	101	38	2000	4070		\$18,307.93
2023	101	20	1000	4070		\$32,039.90
2023	101	44	1000	4070		\$33,144.72
2023	101	38	2000	4070		\$19,801.85
2024	101	20	1000	4070		\$ 8,493.71
2024	101	44	1000	4070		\$ 8,786.59
2024	101	38	2000	4070		\$ 5,249.43

Budget Funding Year(s) 2019-2024 Start Date 04/01/2019 End Date 3/31/2024  
 (must match resolution)

Funding Source Tax Dollars \$357,562.15  
 State Aid \_\_\_\_\_  
\$357,562.15 Federal Aid \_\_\_\_\_  
 (must match resolution)  
 Other \_\_\_\_\_

APPROVED BOARD OF ACQUISITION CONTRACT 05/30/2019 JOHN COCCARDI SECRETARY