

36106

DATE: September 24, 2013

TO: Board of Acquisition and Contract

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

RE: AMENDING A RESOLUTION APPROVED ON APRIL 11, 2013, WHICH AUTHORIZED THE COUNTY TO ENTER INTO AN AGREEMENT (IT-1307) WITH TRIMBLE NAVIGATION LIMITED, PURSUANT TO WHICH TRIMBLE NAVIGATION LIMITED WILL PROVIDE MOBILE RESOURCE MANAGEMENT SERVICES, IN ORDER TO AUTHORIZE THE INCLUSION IN THE AGREEMENT OF VARIOUS TERMS, INCLUDING INDEMNITIES

By a resolution approved on April 11, 2013 (the April 11th Resolution”), your Honorable Board authorized the County of Westchester (the “County”) to enter into an agreement (IT-1307) with Trimble Navigation Limited (“Trimble”), pursuant to which Trimble will provide the County with mobile resource management services, for a term commencing April 1, 2013 and continuing through March 31, 2014, for an amount not-to-exceed \$26,551.29 (the “Agreement”).

The services to be provided under the Agreement allow the County to view tracking-device-equipped County vehicle location and status on a map, both in real-time and historically, and extract any of this information in extensive customizable reports. The County accesses these services via a secure, password-protected website hosted by Trimble. Since 2006, the County has entered into several contracts with Trimble for the continuous provision of mobile resource management services. The term of the most recent such agreement expired March 31, 2013.

Since the approval of the April 11th Resolution, the County has had numerous contacts and lengthy negotiations with Trimble over additional terms that Trimble has insisted be included in the Agreement. Trimble has insisted on such additional terms because of Trimble’s own obligations to its vendors for certain wireless services. Specifically, Trimble has insisted that the County include the following terms (the “Additional Terms”) in the Agreement:

1.) For wireless data plan services on the AT&T Wireless GSM/GPRS Network (the “Carrier”), purchased by the County (the “Customer” or “You”) from Trimble as part of Trimble’s services under the Agreement:

“CUSTOMER INDEMNIFICATION. YOU SHALL INDEMNIFY AND HOLD HARMLESS CARRIER AND ITS OFFICERS, EMPLOYEES, AND AGENTS AGAINST ANY AND ALL CLAIMS, INCLUDING

WITHOUT LIMITATION CLAIMS FOR LIBEL, SLANDER, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING IN ANY WAY, DIRECTLY OR INDIRECTLY, IN CONNECTION WITH YOUR AGREEMENT WITH TRIMBLE OR THE USE, FAILURE TO USE, OR INABILITY TO USE THE TELEPHONE, DATA AND/OR MESSAGING NUMBER ASSIGNED FOR YOU TO OBTAIN ACCESS TO THE CARRIER SERVICE (HEREINAFTER, THE "NUMBER"), EXCEPT WHERE THE CLAIMS RESULT FROM CARRIER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THIS INDEMNITY SHALL SURVIVE THE TERMINATION OF YOUR AGREEMENT WITH TRIMBLE."

2.) For wireless data plan services on the Verizon Network purchased by the County from Trimble as part of Trimble's services under the Agreement:

"IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR."

As noted in the April 11th Resolution, the County is reviewing alternatives for equivalent mobile resource management services, and may select different tracking devices, tracking services, and/or tracking service providers in the near future. While any changes are pending, however, the County still requires these services from Trimble, as the tracking devices currently used in County vehicles are only compatible with mobile resource management services available from Trimble. Therefore, I have determined that the best course of action for the County at this time is to seek authority to enter into the Agreement with the Additional Terms included.

Accordingly, I respectfully request that your Honorable Board amend the April 11th Resolution by adding a 'RESOLVED' clause authorizing the County to include the Additional Terms in the Agreement.

The proposed Agreement will serve a public purpose by providing the County with the services it needs in order to obtain information about tracking-device-equipped County vehicles, and thereby allow the County to best manage its mobile resources.

The goal and objective of the proposed Agreement is to provide the County with the services it needs in order to obtain information about tracking-device-equipped County vehicles, including their location and status, both in real-time and historically.

The goal and objective of the proposed Agreement is in the best interests of the County in terms of safety and security, as the County, in obtaining information about tracking-device-equipped County vehicles can, among other things, 1) enhance the safety of County police officers by making their locations known to the County; 2) improve dispatch capabilities by helping locate the nearest County police officers who can respond to an incident; and 3) support interdepartmental or county-wide incident response coordination by having the ability to identify the locations of the vehicles of multiple departments in one system at the incident command location.

The goal and objective of the proposed Agreement will be tracked and monitored by the staff of the Department of Information Technology.

I respectfully recommend approval of the attached resolution.

JBM/SW/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/10/2013 - JOMARY VIEIRA, SECRETARY

RESOLUTION

UPON A COMMUNICATION FROM THE CHIEF INFORMATION OFFICER,
DEPARTMENT OF INFORMATION TECHNOLOGY, BE IT HEREBY:

RESOLVED, that the resolution approved on April 11, 2013 (the "April 11th Resolution"), which authorized the County of Westchester (the "County") to enter into an agreement (IT-1307) with Trimble Navigation Limited ("Trimble"), pursuant to which Trimble will provide the County with mobile resource management services, for a term commencing April 1, 2013 and continuing through March 31, 2014, for an amount not-to-exceed \$26,551.29 (the "Agreement"), is hereby amended by added an additional 'RESOLVED' clause, in between the existing first and second 'RESOLVED' clauses in the April 11th Resolution, which shall reads as follows:

RESOLVED, that the County is authorized to include in the Agreement the following terms:

1.) For wireless data plan services on the AT&T Wireless GSM/GPRS Network (the "Carrier"), purchased by the County (the "Customer" or "You") from Trimble as part of Trimble's services under the Agreement:

"CUSTOMER INDEMNIFICATION. YOU SHALL INDEMNIFY AND HOLD HARMLESS CARRIER AND ITS OFFICERS, EMPLOYEES, AND AGENTS AGAINST ANY AND ALL CLAIMS, INCLUDING WITHOUT LIMITATION CLAIMS FOR LIBEL, SLANDER, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING IN ANY WAY, DIRECTLY OR INDIRECTLY, IN CONNECTION WITH YOUR AGREEMENT WITH TRIMBLE OR THE USE, FAILURE TO USE, OR INABILITY TO USE THE TELEPHONE, DATA AND/OR MESSAGING NUMBER ASSIGNED FOR YOU TO OBTAIN ACCESS TO THE CARRIER SERVICE (HEREINAFTER, THE "NUMBER"), EXCEPT WHERE THE CLAIMS RESULT FROM CARRIER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THIS INDEMNITY SHALL SURVIVE THE TERMINATION OF YOUR AGREEMENT WITH TRIMBLE."

2.) For wireless data plan services on the Verizon Network purchased by the County from Trimble as part of Trimble's services under the Agreement:

"IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR."

; and be it further

RESOLVED, that except as specifically amended hereby, all terms and conditions of the April 11th Resolution shall remain the same 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.

Original Agreement: \$ 26,551.59
This Amendment: \$ **N/A**
Total: \$ 26,551.59

Account to be Charged/Credited:
 Agreement IT-1307

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
2013	101	16	6000	4070		N/A

Budget Funding Year(s): 2013 Start Date: 04/01/13 End Date: 03/31/14
 (must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
 \$ N/A Federal Aid _____
 (must match resolution) Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/10/2013 - JOSEPH VERA, SECRETARY