

36286

DATE: October 4, 2013

TO: Board of Acquisition and Contract

FROM: John B. McCaffrey,  
Chief Information Officer

Mary J. Mahon,  
Director of Real Estate

RE: AUTHORIZATION TO AMEND A RESOLUTION APPROVED ON AUGUST 23<sup>RD</sup>, 2012 WHICH AUTHORIZED THE COUNTY OF WESTCHESTER TO ENTER INTO A LICENSE AGREEMENT (IT-1248) WITH NEW CINGULAR WIRELESS PCS, LLC ("NEW CINGULAR"), FOR THE INSTALLATION AND OPERATION OF RADIO EQUIPMENT AT THE MOUNT VERNON DISTRICT OFFICE FOR A FIVE YEAR PERIOD COMMENCING JUNE 1, 2012 AND TERMINATING MAY 31, 2017 FOR AN ANNUAL LICENSE FEE OF \$58,345.44, WITH AN INCREASE OF FIVE PERCENT PER YEAR, IN ORDER TO REFLECT THE ADDITION OF A PROVISION TO THE AGREEMENT THAT WOULD PRE-AUTHORIZE AN ASSIGNMENT BY NEW CINGULAR FOR A CHANGE IN CORPORATE NAME ONLY

---

BACKGROUND:

- New Cingular has been a radio tenant at the County's Mount Vernon District Office located at 100 East First Street, Mount Vernon, New York since 2007. New Cingular wishes to continue its operation at this site.
- By resolution approved on August 23, 2012 (the "August 23<sup>rd</sup> Resolution"), your Honorable Board authorized an agreement for the installation, maintenance and operation of equipment and antennas by New Cingular at the Mount Vernon District Office for a five-year term commencing June 1, 2012, with New Cingular reserving an option to renew the agreement for an additional five (5) year term.
- The August 23<sup>rd</sup> Resolution further provided that New Cingular would pay the County a monthly license fee of \$4,862.12 for a total license fee in Year One of \$58,345.44. The license fee would automatically increase by five percent (5%) each year on the anniversary of the commencement date. In addition, the August 23<sup>rd</sup> Resolution provided that New Cingular would pay the County a fixed fee of \$852.72 per month for the cost of electricity consumed by operation of its equipment at the site and in the event the rate that the County pays for electricity increases, New Cingular will be responsible to pay the increased amount.
- The license agreement has not yet been executed.
- The parties would now like to add a provision to the license agreement that would pre-authorize an assignment by New Cingular for a change in corporate name only without the need for the further approval of your Honorable Board. Under the new provision, New Cingular would be pre-authorized to assign the agreement for the limited purpose of changing its corporate name only, by providing the County with a copy of its amended Certificate of Incorporation within thirty (30) days of filing same with the appropriate State entity. All other types of corporate changes,

including but not limited to transfers of assets, mergers and acquisitions, would require the prior approval of your Honorable Board before the License could be assigned.

ACTION REQUESTED:

- Authorization to amend the August 23<sup>rd</sup> Resolution which, *inter alia*, authorized the County to enter into a license agreement (IT-1248) with New Cingular Wireless PCS, LLC for the installation, operation and maintenance of radio equipment at the Mount Vernon District Office located at 100 East First Street in Mount Vernon, New York for a five year period commencing June 1, 2012 and terminating May 31, 2017 for an annual license fee of \$58,345.44, with an increase of five percent per year, by reflecting the addition of a provision to the agreement that would pre-authorize an assignment by New Cingular for a change in corporate name only without the need for the further approval of your Honorable Board. Under the new provision, New Cingular would be pre-authorized to assign the agreement for the limited purpose of changing its corporate name only, by providing the County with a copy of its amended Certificate of Incorporation within thirty (30) days of filing same with the appropriate State entity. All other types of corporate changes, including but not limited to transfers of assets, mergers and acquisitions, shall require the prior approval of the County Board of Acquisition and Contract before this License can be assigned.
- Except as specifically amended hereby, all remaining terms and conditions set forth in the August 23<sup>rd</sup> Resolution shall remain unchanged

A resolution authorizing the above amendment to the August 23<sup>rd</sup> Resolution is submitted herewith for your approval.

JM/MM/TSA

**RESOLUTION**

UPON A COMMUNICATION FROM THE CHIEF INFORMATION OFFICER, DEPARTMENT OF INFORMATION TECHNOLOGY AND THE DIRECTOR OF REAL ESTATE, OFFICE OF THE COUNTY EXECUTIVE, BE IT HEREBY

RESOLVED, that the resolution approved on August 23, 2012 (the "August 23<sup>rd</sup> Resolution") which, *inter alia*, authorized the County of Westchester to enter into a license agreement (IT-1248) with New Cingular Wireless PCS, LLC ("New Cingular"), for the installation, operation and maintenance of radio equipment and antennas at 100 East First Street in Mount Vernon, New York, for a five year period commencing June 1, 2012 and terminating May 31, 2017 for an annual license fee of \$58,345.44, with an increase of five percent per year, is hereby amended by reflecting the addition of a new provision to the agreement that would pre-authorize an assignment by New Cingular for a change in corporate name only by requiring New Cingular to provide the County with a copy of its amended Certificate of Incorporation within thirty (30) days of filing same with the appropriate State entity, without the need for the further approval of the Board of Acquisition and Contract; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions set forth in the August 23<sup>rd</sup> Resolution shall remain unchanged; 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.

Contract No. IT-1248

Original Agreement: \$ 373,558.68  
 This Amendment: 0.00  
 Total \$ 373,558.68

Account to be Charged/Credited:

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
2013	101	16	6000	9065		N/A

Budget Funding Year(s): 2012-2017

Start Date: June 1, 2012

End Date: May 31, 2017

Funding Source Tax Dollars: \_\_\_\_\_  
 State Aid \_\_\_\_\_  
\$ N/A Federal Aid \_\_\_\_\_  
 (Must match resolution) Other: REVENUE: N/A