

36630

DATE: October 22, 2013

TO: Board of Acquisition and Contract

FROM: John B. McCaffrey,
Chief Information Officer

Mary Mahon,
Senior Assistant to County Executive/Director
of Real Estate

RE: AUTHORIZATION TO ENTER INTO A LICENSE AGREEMENT (IT-1323) WITH NEW CINGULAR WIRELESS PCS, LLC FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF THE LICENSEE'S RADIO EQUIPMENT AT WESTCHESTER COUNTY AIRPORT, HANGER A, HARRISON, NEW YORK FOR A FIVE YEAR PERIOD COMMENCING DECEMBER 1, 2012 AND TERMINATING NOVEMBER 30, 2017 FOR AN ANNUAL FEE OF \$90,892.20 WITH AN ANNUAL INCREASE OF FIVE PERCENT (5%) UPON EACH ANNIVERSARY DATE

BACKGROUND:

- New Cingular Wireless PCS, LLC ("New Cingular") has radio equipment currently installed at the Westchester County Airport, Hanger A, Harrison, New York (the "Site") and is a rent paying tenant of the County.
- This license agreement (the "License") will extend the operation and maintenance of the existing equipment and antennas by New Cingular at the Harrison site, and allow for the installation of new equipment, for another five year period.
- The License shall commence December 1, 2012 (the "Commencement Date") and shall have a term of five (5) years. New Cingular, at its sole option, may renew the License for an additional five (5) year term upon ninety (90) days prior written notice to the County.
- During the term of the License, New Cingular shall pay to the County annual license fees, payable in monthly installments equal to one-twelfth (1/12) of the annual fee beginning at the Commencement Date. The first year license fee shall be in the amount of Ninety Thousand Eight Hundred Ninety-Two Dollars and 20/100 (\$90,892.20). The annual License fee will automatically increase by five percent (5%) each year on the anniversary of the Commencement Date.
- In addition, New Cingular shall purchase all electricity required for operation of its equipment at the Site from the local electric utility company or make such other arrangement as it deems necessary and shall be responsible to pay for this electricity directly to the utility company or such other provider.

- New Cingular may assign the License because it has changed its corporate name. In such event, New Cingular shall provide the County with a copy of its amended Certificate of Incorporation within thirty (30) days of filing same with the appropriate State entity and this License shall be deemed assigned. All other types of corporate changes, including but not limited to transfers of assets, mergers and acquisitions, shall require the prior approval of this Board before the License can be assigned. For any assignment of the License, New Cingular shall reimburse the County the reasonable and necessary costs of the County which are incurred in accomplishing the assignment, including the costs of the Information Technology department, legal, and financial.
- This agreement is exempt from the Westchester County procurement policy pursuant to Section 3(b): "This policy shall not apply to real property leases, licenses and concessions."

ACTION REQUESTED:

- Authorization to enter into a license agreement (IT-1323) with New Cingular Wireless PCS, LLC, for the installation, operation and maintenance of radio equipment at Westchester County Airport, Hanger A, Harrison, New York. The license will be for a five year period commencing December 1, 2012 and terminating November 30, 2017, and New Cingular will have an option to renew the agreement for an additional five year term. New Cingular will pay the County an annual fee of \$90,892.20 for the first year of the license agreement with an increase of five percent (5%) each year on the anniversary of the Commencement Date.

Accordingly, the attached resolution is submitted for your consideration.

JBM/MM/TSA

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to enter into a license agreement (IT-1323) with New Cingular Wireless PCS, LLC, ("New Cingular") for the installation, operation and maintenance of radio equipment at Westchester County Airport, Hanger A, Harrison, New York, for a term of five (5) years commencing December 1, 2012; and be it further

RESOLVED, that New Cingular, at its sole option, may renew the License for an additional five (5) year term upon ninety (90) days prior written notice to the County; and be it further

RESOLVED, that New Cingular shall pay to the County annual License fees payable in monthly installments equal to one-twelfth ($\frac{1}{12}$) of the annual fee beginning at the Commencement Date . The first year license fee shall be in the amount of Ninety Thousand Eight Hundred Ninety-Two Dollars and 20/100 (\$90,892.20). The annual license fee will automatically increase by five percent (5%) each year on the anniversary of the Commencement Date; and be it further

RESOLVED, that New Cingular shall purchase all electricity required for operation of its equipment at the Site from the local electric utility company or make such other arrangement as it deems necessary and shall be responsible to pay for this electricity directly to the utility company or such other provider; and be it further

RESOLVED, that New Cingular may assign the License because it has changed its corporate name. In such event, New Cingular shall provide the County with a copy of its amended Certificate of Incorporation within thirty (30) days of filing same with the appropriate State entity and this License shall be deemed assigned. All other types of corporate changes, including but not limited to transfers of assets, mergers and acquisitions, shall require the prior approval of this Board before the License can be assigned. For any assignment of the License, New Cingular shall reimburse the County the reasonable and necessary costs of the County which are incurred in accomplishing the assignment, including the costs of the Information Technology department, legal, and financial; 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 Number IT-1323

Account to be Charged/Credited:

Original Agreement: \$ 525,255.99
 Total: \$ 525,255.99

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
2012	101	16	6000	9065		\$7,574.35
2013	101	16	6000	9065		\$95,436.84
2014	101	16	6000	9065		\$100,208.64
2015	101	16	6000	9065		\$105,219.12
2016	101	16	6000	9065		\$110,480.04
2017	101	16	6000	9065		\$106,337.00

Budget Funding Year(s): 2012-2017
 (must match resolution)

Start Date: December 1, 2012

End Date: November 30, 2017

Funding Source

\$ 525,255.99
 (must match resolution)

Tax Dollars: _____

State Aid: _____

Federal Aid: _____

Other: Revenue \$ 525,255.99

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/21/2013 - JOMARY VIEIRA, SECRETARY