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Memorandum  
Department of Information Technology

DATE: March 2, 2021

TO: Board of Acquisition and Contract

FROM: Marguerite Beirne  
Chief Information Officer

Gary Friedman  
Director of Real Estate

RE: AUTHORIZATION TO AMEND ("THIRD AMENDMENT") 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 IN ORDER TO 1) APPROVE NEW CINGULAR'S REQUEST TO REPLACE ANTENNAS AND ASSOCIATED EQUIPMENT AT THE SITE; AND 2) APPROVE NEW CINGULAR'S CONTRACTOR AND SUBCONTRACTORS FOR THE WORK.

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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 (the "Original License Agreement") for the installation, maintenance and operation of equipment and antennas by New Cingular at the Mount Vernon District Office (the "Site") 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 increased, New Cingular would be responsible to pay the increased amount.
- By resolution approved on October 31, 2013 (the "October 31<sup>st</sup> Resolution"), your Honorable Board authorized the County to amend the August 23<sup>rd</sup> Resolution by reflecting a new 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.

- On or about December 18, 2013, the Original License Agreement was duly executed.
- By resolution approved on August 3, 2017, your Honorable Board approved amending the License Agreement (“First Amendment”) in order to permit New Cingular to contract directly with a third party electricity supplier for electricity consumed by the operation of its equipment at the Site and to permit New Cingular to replace certain antennas and associated equipment at the Site.
- On or about November 6, 2017, the First Amendment was duly executed.
- By resolution approved on April 23, 2020, your Honorable Board approved amending the License Agreement (“Second Amendment”) in order to permit New Cingular to 1) replace antennas and associated equipment at the site; 2) extend the term of the License Agreement for an additional five (5) year period, expiring on May 31, 2027; and 3) approve New Cingular’s contractor and subcontractors for the antenna work.

The Original License Agreement, the First Amendment and the Second Amendment shall hereinafter collectively be referred to as the “License Agreement.”

ACTION REQUESTED:

- Authorization to further amend the License Agreement with New Cingular by approving its request to replace antennas and associated equipment at the Site in accordance with approved schedules.
- Authorization to amend the License Agreement with New Cingular by approving the following New Cingular’s Contractor and Subcontractors to perform the antenna modification work: Overland Contracting, Inc., 600 North Greenfield Parkway, Garner, NC, 27529, to oversee any and all construction in relation to this Site; Squan Construction Services, L.L.C., 329 Harold Avenue, Englewood, NJ 07631, for antenna and related equipment changes on the roof; and Atlas Pro Construction, LLC, 23 Strauss Street, Staten Island, NY 10305, for the temporary installation and removal of safety scaffolding.

Except as specifically amended hereby, all remaining terms and conditions set forth in the License Agreement shall remain unchanged

A resolution authorizing the above amendment to the License Agreement is submitted herewith for your approval.

MB/GF/CMC/cmc

**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 County of Westchester, acting by and through its Department of Information Technology, is hereby authorized to amend (“Third Amendment”) its 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 (the “Site”), for a term which commenced on June 1, 2012 and is set to expire on May 31, 2027, for an initial annual license fee of \$58,345.44, which will automatically increase by five percent (5%) each year on the anniversary of the commencement date of the agreement (the “License Agreement”), in order to 1) modify its equipment at the Site in accordance with approved schedules; and 2) approve the following New Cingular contractor and subcontractors for the modification work: Overland Contracting, Inc., 600 North Greenfield Parkway, Garner, NC, 27529, to oversee any and all construction in relation to this Site; Squan Construction Services, L.L.C., 329 Harold Avenue, Englewood, NJ 07631, for antenna and related equipment changes on the roof; and Atlas Pro Construction, LLC, 23 Strauss Street, Staten Island, NY 10305, for the temporary installation and removal of safety scaffolding; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions set forth in the License Agreement shall remain unchanged

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: \$373,558.68  
First amendment: (\$11,938.08)  
Second amendment: \$936,615.35  
This Amendment: \$0.00

Total \$1,298,235.95

Contract No. IT-1248

Account to be Charged/Credited:

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
						N/A

Budget Funding Year(s): N/A

Start Date: June 1, 2017

End Date: May 31, 2027

Funding Source

Tax Dollars: \_\_\_\_\_

State Aid \_\_\_\_\_

Federal Aid \_\_\_\_\_

**Revenue** \$N/A

(Must match resolution)

Other: **REVENUE:** \$N/A

APPROVED BOARD OF ACQUISITION & CONTRACT 03/11/2021 - LISA MARIJAJ SECRETARY