

87844

DATE: September 30, 2021

TO: Board of Acquisition and Contract

FROM: Marguerite Beirne  
Chief Information Officer

Christopher D. Steers  
Director of Countywide Administrative Services

RE: AUTHORIZATION TO ENTER INTO A LICENSE AGREEMENT (IT-1661) WITH NEW CINGULAR WIRELESS PCS, LLC, FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF RADIO EQUIPMENT AT WESTCHESTER COUNTY AIRPORT, HANGAR A, HARRISON, NEW YORK FOR AN EIGHT YEAR PERIOD COMMENCING RETROACTIVELY ON DECEMBER 1, 2017 AND TERMINATING ON NOVEMBER 30, 2025, AND THE ANNUAL FEE AS OF DECEMBER 1, 2020 SHALL BE \$134,289.16, WITH AN ANNUAL INCREASE OF FIVE PERCENT (5%) UPON EACH ANNIVERSARY DATE.

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BACKGROUND:

- New Cingular Wireless PCS, LLC (“New Cingular” or “AT&T”) has radio equipment currently installed at the Westchester County Airport, Hangar 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 eight year period.
- The License shall commence retroactively on December 1, 2017 (the “Commencement Date”) and shall have a term of eight (8) 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.
- The County acknowledges it has received annual license fees from New Cingular for the period from the Commencement Date to the date of execution of the License (“Effective Date”). The parties further acknowledge that commencing on December 1, 2020, the third (3<sup>rd</sup>) anniversary of the Commencement Date, the annual license fee shall be \$134,289.16, to be payable in monthly installments equal to one-twelfth (1/12) of the

annual fee beginning on December 1, 2020. The annual license fee will continue to 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 and shall be responsible to pay for this electricity directly to the utility company.
- New Cingular may assign the License in the event 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) regarding real property leases, licenses and concessions.

**ACTION REQUESTED:**

- Authorization to enter into a license agreement (IT-1661) with New Cingular Wireless PCS, LLC, for the installation, operation and maintenance of radio equipment at Westchester County Airport, Hangar A, Harrison, New York. The license will be for an eight year period commencing retroactively on December 1, 2017 (“Commencement Date”) and terminating on November 30, 2025, and New Cingular will have an option to renew the agreement for an additional five year term, upon ninety (90) days prior written notice to the County. Commencing on December 1, 2020, the third (3<sup>rd</sup>) anniversary of the Commencement Date, New Cingular will pay the County an annual license fee of \$134,289.16, in monthly payments, 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.

MB/CS/cmc

## RESOLUTION

UPON A COMMUNICATION FROM THE CHIEF INFORMATION OFFICER, DEPARTMENT OF INFORMATION TECHNOLOGY, AND THE DIRECTOR OF COUNTYWIDE ADMINISTRATIVE SERVICES, BE IT HEREBY

RESOLVED, that the County of Westchester is hereby authorized to enter into a license agreement (IT-1661) with New Cingular Wireless PCS, LLC, ("New Cingular") for the installation, operation and maintenance of radio equipment at Westchester County Airport, Hangar A, Harrison, New York, for a term of eight (8) years commencing retroactively on December 1, 2017 and terminating on November 30, 2025; 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, commencing on December 1, 2020, the license fee shall be in the amount of \$134,289.16. Such license fee shall be payable in monthly installments equal to one-twelfth (1/12) of the annual fee, due and payable on the first day of each month beginning on December 1, 2020. 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 and shall be responsible to pay for this electricity directly to the utility company; and be it further

RESOLVED, that New Cingular may assign the License in the event 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-1661

Account to be Charged/Credited:

Total: \$1,107,735.08

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Acct.	Dollars
2017	161	44	4110	9096		\$116,004.03
2018	161	44	4110	9096		\$121,804.23
2019	161	44	4110	9096		\$127,894.44
2020	161	44	4110	9096		\$134,289.16
2022	161	44	4110	9096		\$141,003.62
2023	161	44	4110	9096		\$148,053.80
2024	161	44	4110	9096		\$155,456.49
2025	161	44	4110	9096		\$163,229.31

Budget Funding Year(s): 2017-2025  
(must match resolution)

Start Date: 12/1/2017 End Date: 11/30/2025

Funding Source

\$1,107,735.08  
(must match resolution)

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

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

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

Other: Revenue \$1,107,735.08

APPROVED BOARD OF ACQUISITION & CONTRACTS 10/01/2021 RAYMOND SCULKY, SECRETARY