

**95430**

DATE: August 15, 2022

TO: Board of Acquisition and Contract

FROM: Marguerite Beirne  
Chief Information Officer

Richard Wishnie  
Commissioner  
Department of Emergency Services

SUBJECT: Authority for the County of Westchester to amend the license agreement with the Westchester Joint Water Works for the operation of radio equipment and antennas on and at the base of the water tank owned by the Westchester Joint Water Works located on property owned by the Winged Foot Holding Corporation on Fenimore Road in the Town of Mamaroneck, New York (Agreement No. IT-1685).

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On April 14, 1998, your Honorable Board approved a resolution which authorized the County of Westchester (the "County") to enter into a perpetual license agreement (the "Agreement") with the Westchester Joint Water Works (the "Water Works") at no cost to the County, for the County to install and maintain fire control radio antennas and appurtenant equipment at the water tank owned by the Water Works (the "Water Tank") on land owned by the Winged Foot Holding Corporation on Fenimore Road in the Town of Mamaroneck, New York. The Agreement was duly executed on July 15, 1998.

Authorization is now sought to amend the Agreement to provide for the following:

1) To amend the current County space and equipment at the site to permit the installation of additional radio antennas on the Water Tank, cabinets on a new concrete slab at the base thereof, as well as related and appurtenant equipment and the possible installation of a County generator and load bank as part of Phase One; and the installation of additional radio antennas on the Water Tank, a County shelter on a new concrete slab at the base thereof, a County generator and load bank (if not installed in Phase One), as well as related and appurtenant equipment as part of Phase Two, subject to the parties entering into a lease agreement for Phase Two after obtaining all necessary legal approvals and consents for Phase Two (the "County Equipment").

2) To amend the Water Tank maintenance language so that if the Water Works needs to carry out maintenance work on the Water Tank, it will provide the County with at least 6 months notice of such event and take reasonable efforts to facilitate a temporary solution and/or modification to the County Equipment to permit the County to continue to safely operate the County Equipment.

3) To amend the interference language so that (A) if the County Equipment causes interference with the co-located non-County radio equipment at the property, then, provided that all equipment involved in said interference is being operated in compliance with all FCC and other applicable laws, rules and regulations, the County will take whatever steps are necessary to promptly resolve such interference, and (B) if the co-located non-County radio equipment interferes with the County Equipment, then, provided that all equipment involved in said interference is being operated in compliance with all FCC and other applicable laws, rules and regulations, then the Water Works and the County shall reasonably cooperate to resolve the interference.

4) To amend the interference language so that if the County Equipment materially interferes with any proposed future use by the Water Works of its radio system or SCADA system, then the County shall have the right to modify the County Equipment or agree to reimburse Water Works for the cost to modify the Water Works' equipment within 6 months.

5) To amend the access language to give the County access to the base and top of the water tank upon 24 hours' notice and give the County access in an emergency upon verbal request to the Water Works.

6) To amend the utilities language so that the Water Works agrees to continue to provide electric utility power to the County Equipment, and the County agrees to install a submeter for the County Equipment upon 120 days notice from the Water Works, and, upon the installation of the submeter or if the County chooses not to install a submeter, the Water Works may bill the County for its electrical consumption on a quarterly basis.

7) To amend the generator language so that the Water Works will continue to provide a Water Works shared generator for the County Equipment with the County having the right at its cost and expense and in its sole discretion to install a County generator and load bank for just the County Equipment or replace the Water Works shared generator with a County generator and load bank for the combined equipment,

8) To amend the Agreement so that upon 30 days notice the County may terminate the Agreement, as amended, for convenience.

9) To amend the Agreement so that the Water Works may terminate the Agreement, as amended, for breach if the County fails to cure the breach within sixty (60) days.

10) To amend the Agreement so that the Water Works may terminate the Agreement, as amended, upon 18 months notice if the County Equipment will adversely or detrimentally interfere with Water Works use and enjoyment of its equipment.

11) To amend the Agreement so that the County will have the right to sub-license all or a portion of its specified ground space to the Town of Mamaroneck, the Village of Mamaroneck, and/or the Village of Larchmont.

12) To amend the Agreement so that the parties agree that, by letter, they will establish and abide by a procedure to be followed for the cessation of radio transmission by the County Equipment on the top of the Water Tank in the event non-County personnel need to access the top of the Water Tank.

All other terms and conditions of the Agreement shall remain unchanged and in full force and effect

The space occupied by the County houses equipment and antennas that are critical components of the County radio systems used for Fire and EMS communications. These radio systems serve a public purpose because they allow first responders to serve Westchester's residents by safeguarding their property and health. Approval of the attached resolution by your Honorable Board is requested.

This proposed amendment is exempt from procurement pursuant to Section 3(b) of the Westchester County Procurement Policy and Procedures regarding leases, licenses and concessions.

Approval of the attached resolution by your Honorable Board is requested.

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Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT 08/25/2022 RAYMOND SCUKY, SECRETARY

## RESOLUTION

Upon a communication from the Chief Information Officer and the Commissioner of the Department of Emergency Services, be it hereby

**RESOLVED**, that the County of Westchester (the “County”) is authorized to amend the license agreement, dated July 15, 1998, with the Westchester Joint Water Works (the “Water Works”), which grants to the County a perpetual license, at no cost to the County, to install and maintain fire control radio antennas with appurtenant equipment at the water tank owned by the Water Works (the “Water Tank”) on land owned by the Winged Foot Holding Corporation on Fenimore Road in the Town of Mamaroneck, as follows:

(1) To amend the current County space and equipment at the site to permit the installation of additional radio antennas on the Water Tank, cabinets on a new concrete slab at the base thereof, as well as related and appurtenant equipment and the possible installation of a County generator and load bank as part of Phase One; and the installation of additional radio antennas on the Water Tank, a County shelter on a new concrete slab at the base thereof, a County generator and load bank (if not installed in Phase One), as well as related and appurtenant equipment as part of Phase Two, subject to the parties entering into a lease agreement for Phase Two after obtaining all necessary legal approvals and consents for Phase Two (the “County Equipment),

(2) To amend the Water Tank maintenance language so that if the Water Works needs to carry out maintenance work on the Water Tank, it will provide the County with at least 6 months notice of such event and take reasonable efforts to facilitate a temporary solution and/or modification to the County Equipment to permit the County to continue to safely operate the County Equipment,

(3) To amend the interference language so that (A) if the County Equipment causes interference with the co-located non-County radio equipment at the property, then, provided that all equipment involved in said interference is being operated in compliance with all FCC and other applicable laws, rules and regulations, the County will take whatever steps are necessary to promptly resolve such interference, and (B) if the co-located non-County radio equipment interferes with the County Equipment, then, provided that all equipment involved in said interference is being operated in compliance with all FCC and other applicable laws, rules and regulations, then the Water Works and the County shall reasonably cooperate to resolve the interference,

(4) To amend the interference language so that if the County Equipment materially interferes with any proposed future use by the Water Works of its radio system or SCADA system, then the County shall have the right to modify the County Equipment or agree to reimburse Water Works for the cost to modify the Water Works’ equipment within 6 months,

(5) To amend the access language to give the County access to the base and top of the water tank upon 24 hours’ notice and give the County access in an emergency upon verbal request to the Water Works,

(6) To amend the utilities language so that the Water Works agrees to continue to provide electric utility power to the County Equipment, and the County agrees to install a submeter for the County Equipment upon 120 days notice from the Water Works, and, upon the installation of the submeter or if the County chooses not to install a submeter, the Water Works may bill the County for its electrical consumption on a quarterly basis,

7) To amend the generator language so that the Water Works will continue to provide a Water Works shared generator for the County Equipment with the County having the right at its cost and expense and in its sole discretion to install a County generator and load bank for just the County Equipment or replace the Water Works shared generator with a County generator and load bank for the combined equipment,

(8) To amend the Agreement so that upon 30 days notice the County may terminate the Agreement, as amended, for convenience,

(9) To amend the Agreement so that the Water Works may terminate the Agreement, as amended, for breach if the County fails to cure the breach within sixty (60) days,

(10) To amend the Agreement so that the Water Works may terminate the Agreement, as amended, upon 18 months notice if the County Equipment will adversely or detrimentally interfere with Water Works use and enjoyment of its equipment,

(11) To amend the Agreement so that the County will have the right to sub-license all or a portion of its specified ground space to the Town of Mamaroneck, the Village of Mamaroneck, and/or the Village of Larchmont, and

(12) To amend the Agreement so that the parties agree that, by letter, they will establish and abide by a procedure to be followed for the cessation of radio transmission by the County Equipment on the top of the Water Tank in the event non-County personnel need to access the top of the Water Tank; and be it further

**RESOLVED**, that all other terms and conditions of the Agreement shall remain unchanged and in full force and effect; and be it further

**RESOLVED**, that the County is authorized to enter into a letter agreement for the parties to agree to a procedure to be followed for the cessation of radio transmission by the County Equipment on the top of the Water Tank in the event non-County personnel need to access the top of the Water Tank; 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.

Account to be  
Charged/Credited (Agreement No. IT-1685)

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

Budget Funding Year(s): NA Start Date: NA End Date: NA  
(must match resolution)

Funding Source NA Tax Dollars: NA  
(must match resolution) State Aid: \_\_\_\_\_  
Federal Aid: \_\_\_\_\_  
Other: \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/25/2022 - RAYMOND SCULKY, SECRETARY