

109779

DATE: September 25, 2024

TO: Board of Acquisition and Contract

FROM: Marguerite Beirne
Chief Information Officer

RE: Resolution authorizing the County of Westchester to amend a license agreement (IT-724) with the Bedford Central School District for use of property owned by the School District located in Mount Kisco, New York, for the placement of County-owned radio antennas and related equipment at the site in order modify the equipment at the site, permit the installation of radio equipment in the County facilities at the site by the Bedford Police Department, and authorize the County to trim trees at the site.

The County of Westchester (the “County”) operates DES and DPS radio systems used by first responders. As part of this system, the County installed multiple radio antennas and related equipment on property owned by the Bedford Central School District (the “School District”) and located at Fox Lane Road and South Bedford Road in Mount Kisco, New York (the “Site”).

By resolution approved on June 16, 2005 (the “June 16th Resolution”), your Honorable Board authorized the County to enter into a license agreement (the “Original Agreement”) with the School District for use of the Site for placement of the equipment for a term of five (5) years with an option to extend the term of the agreement for an additional five (5) year period upon the consent of both parties. The June 16th Resolution further provided that in consideration for the grant of license, the County would 1) pay the School District an annual license fee of \$1.00; 2) relocate the School District’s school bus radio to a new location; and 3) defend and indemnify the School District against any and all claims that may arise out of the agreement. The Original Agreement was subsequently executed, and thereafter expired on September 6, 2010.

By resolution approved on November 18, 2010 (the “November 18th Resolution”), your Honorable Board authorized the County to extend the term of the Original Agreement for an additional five (5) years commencing on September 7, 2010 (the “First Amendment”). The November 18th Resolution further provided that in consideration for extending the term of the Agreement, the County would continue to 1) pay the School District an annual license fee of \$1.00; and 2) defend and indemnify the School District against any and all claims that may arise out of the agreement. The First Amendment was subsequently executed and thereafter expired on September 6, 2015.

By a resolution approved on February 18, 2016, your Honorable Board authorized the County to extend the Original Agreement, as amended, for an additional five years commencing retroactive to September 7, 2015 and continuing through September 6, 2020 (the "Second Amendment"). The Second Amendment was subsequently executed on March 25, 2016.

By a resolution approved on June 18, 2020, you Honorable Board authorized the County to further amend the Original Agreement as follows:

- (i) modify the space, facilities and equipment at the Site, including, but not limited to, the replacement of certain equipment and the installation of new equipment;
- (ii) extend the term of the Agreement to December 31, 2040 with the County having the option to renew the Agreement upon the same terms and conditions for an additional ten (10) year renewal period upon ninety (90) days prior written notice;
- (iii) modify the interference provisions so that, if interference occurs or the County is unable to eliminate interference, the School District, rather than having the right to terminate the Agreement, may request the County cease operating any interfering equipment (except intermittent testing) until such interference is resolved;
- (iv) permit the County to sublicense space within the County equipment shelter to third parties provided that such use is for public safety radio communication purposes only;
- (v) provide the County with the right to terminate the Agreement on six (6) months written notice if it is in its best interest and provide the School District with the right to terminate the Agreement on six (6) month written notice if it is in its best interest;
- (vi) amend the time period for the removal by the County of any liens of mechanics or materialmen on the site or facilities from ten (10) days to forty-five (45) days;
- (vii) amend the time period for the County to cure a delinquency in the payment of an electricity invoice from five (5) days to thirty (30) days;
- (viii) amend the School District's right to terminate in the event of a delinquency by the County in the payment of an electricity invoice so that the School District may terminate the Agreement if the County fails to make payment for utilities within the thirty (30) day period for two (2) consecutive months in any given calendar year upon ninety (90) days' notice to the County; and
- (ix) remove the reference to the Bedford Police Department in the Agreement because the Bedford Police Department's equipment is no longer in the County equipment shelter.

(the "Third Amendment"). The Third Amendment was subsequently executed March 23, 2022.

The Original Agreement, First Amendment, Second Amendment and Third Amendment are collectively referred to as the "Agreement".

Authority is now requested to further amend the Agreement (the “Fourth Amendment”) as follows:

(i) to modify the designated space and facilities at the Site to be utilized by the County for the installation, modification, operation and maintenance of equipment at the Site, including but not limited to (i) the installation of two (2) additional microwave dishes, (ii) the removal of two (2) antennas, and (iii) the replacement of one (1) antenna,

(ii) to permit the installation of radio equipment utilized by the Bedford Police Department in the County facilities at the Site, and

(iii) to grant to the County the right to trim the trees within the designated tree trimming areas upon the County providing at least 10 days’ notice written notice to the School District prior to each trimming.

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

The public purpose of the Fourth Amendment is the continued operation and improvement of County radio communication systems which are used by first responders, such as police, fire, and EMS agencies, and by the County bus transportation system, the Department of Emergency Services, and the Department of Public Safety. County staff will monitor the operation of the equipment on a regular basis.

The proposed Fourth Amendment will benefit the public as it will improve the reliability of the radio systems used by first responders and the Bee Line bus system and other government officials during both routine and emergency situations.

The goals and objectives of the Fourth Amendment are to continue to operate critical County first responder and public transportation radio systems, which require the use of antennas and equipment placed at strategically located sites that best cover Westchester County.

The Fourth Amendment is exempt from the operation of the Westchester County Procurement Policy pursuant to Section 3(b) thereof.

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

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RESOLUTION

Upon a communication from the Chief Information Officer, be it hereby

RESOLVED, that the County of Westchester (the "County") is authorized to amend a license agreement with the Bedford Central School District (the "School District"), dated September 7, 2005, for the use of property owned by the School District and located at Fox Lane Road and South Bedford Road in Mount Kisco, New York (the "Site") for the placement of County owned radio antennas and related equipment, as amended by the First Amendment, dated April 6, 2011, the Second Amendment, dated March 25, 2016, and the Third Amendment dated March 23, 2022 (collectively referred to as the "Agreement"), as follows:

(i) to modify the designated space and Facilities at the Site to be utilized by the County for the installation, modification, operation and maintenance of equipment at the Site, including but not limited to (i) the installation of two (2) additional microwave dishes, (ii) the removal of two (2) antennas, and (iii) the replacement of one (1) antenna,

(ii) to permit the installation of radio equipment utilized by the Bedford Police Department in the County facilities at the Site, and

(iii) to grant to the County the right to trim the trees within the designated tree trimming areas upon the County providing at least 10 days' notice written notice to the School District prior to each trimming; and be it further

RESOLVED, that all other terms and conditions of the Agreement to remain the same; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions necessary to implement this Resolution.

Account to be
Charged/Credited
(IT-724)

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
NA	NA	NA	NA	NA	\$0.00

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

Funding Source	Tax Dollars:	<u>\$0.00</u>
	State Aid:	<u>\$0.00</u>
<u>\$0.00</u>	Federal Aid:	<u>\$0.00</u>
(must match resolution)	Other:	<u>\$0.00</u>