

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive recommending approval of an Act which will authorize the County of Westchester (“County”) to enter into a lease agreement (“Agreement”) with the City of Mount Vernon (“Mt. Vernon”), whereby the County will lease to Mt. Vernon certain vehicles (“Vehicles”), as identified in Schedule “A” attached to the proposed Act submitted herewith and made a part hereof, for use by the Mt. Vernon Police Department in its daily patrol operations.

Your Committee has been advised that the Department of Public Safety Services (“Department”) has determined that these Vehicles are no longer necessary to meet the operational demands of the Department. Additionally, your Committee has been advised that the Vehicles are still in good working order and would benefit the Mt. Vernon Police Department for use in connection with its daily patrol operations. Mt. Vernon is not able to purchase new vehicles at the present time due to budgetary constraints and is requesting this accommodation. As such, your Committee recommends that the Vehicles be leased to Mt. Vernon for use by the Mt. Vernon Police Department for its daily patrol operations. This Agreement will allow for the strategic placement and operation of the Vehicles for the benefit of the residents of both the Westchester County and the City of Mount Vernon.

Under the proposed Agreement, the County will lease the Vehicles in “AS IS” condition. In consideration for the use of the Vehicles, Mt. Vernon will pay the County the sum of One and 00/100 (\$1.00) Dollar. As additional consideration, Mt. Vernon will operate, repair and maintain the Vehicles as required to perform its daily patrol operations within Mt. Vernon, and as otherwise determined by the Commissioner/Sheriff of the Department.

Mt. Vernon will register the Vehicles and maintain insurance naming the County as additional insured. Mt. Vernon will also indemnify, hold harmless and defend the County against any claims resulting from Mt. Vernon’s use and/or maintenance of the Vehicles. Title to the Vehicles will remain with the County. The Agreement will be for a term of five (5) years, commencing retroactively on April 15, 2021 and expiring on April 14, 2026. At the expiration of the Agreement, the Vehicles will be returned to the County.

The Planning Department has advised that based on its review, the proposed Agreement constitutes a "Type II" action under the State Environmental Quality Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR Part 617.5(c)(31), regarding the transfer of surplus government property, and that no further environmental review is required, as indicated in the annexed SEQRA documentation. Your Committee concurs with this conclusion.

It should be noted that an affirmative vote of a majority of the voting strength of your Honorable Board is required in order to adopt the proposed Act. Your Committee has carefully considered the annexed proposed Act and recommends its adoption.

Dated: April 26, 2021
White Plains, New York

Kathy Swill
Benjamin Boyfurst

Benjamin Boyfurst
Colleen Boyfurst

COMMITTEE ON

C: CMC 04.15.2021

Public Safety

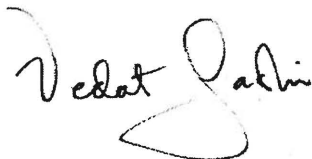


Budget & Appropriations

Dated: April 26, 2021
White Plains, New York


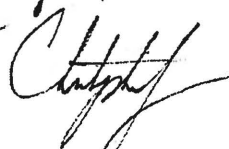
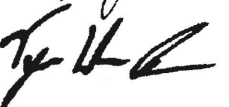
The following members attended the meeting remotely, as per Governor Cuomo's Executive Order 202.1 and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

Budget & Appropriations


Margaret A. Cunzio
Nancy E. Barr
Kamron R. Maher
Ruth Walker
Alfreda Willis


David S. Jabrot

Public Safety


Margaret A. Cunzio
Mary Jane Skimsky
Nancy E. Barr



FISCAL IMPACT STATEMENT

SUBJECT: VEHICLE LEASE TO MT. VERNON

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ 1

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: An Act authorizing the County to lease four (4) vehicles to Mt. Vernon Police

Department for a term of five (5) years.

Potential Related Operating Budget Expenses: Annual Amount \$0.00

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$0.00

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \$0.00

Next Four Years: \$0.00

Prepared by: Siva Gopalkrishna

Title: Supervisor-Fiscal Operations

Department: Department of Public Safety

Date: April 20, 2021

Reviewed By: 

Budget Director

Date: 4/20/21

TO: Carla Chaves, Assistant County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM
Director of Environmental Planning



DATE: April 15, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR LEASE OF
POLICE VEHICLES TO THE CITY OF MOUNT VERNON**

PROJECT/ACTION: An intermunicipal agreement with the City of Mount Vernon, whereby the County of Westchester will lease several decommissioned, but still operable vehicles for use by the City of Mount Vernon Police Department in its daily patrol operations for a term of 5 years.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c)(31):**
purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials.

COMMENTS: Although not a permanent conveyance, the action involves a transfer of surplus government property, which would be classified as a Type II action, pursuant to the section above.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Norma Drummond, Commissioner
Tami Altschiller, Assistant Chief Deputy County Attorney
Claudia Maxwell, Associate Environmental Planner

ACT NO. 2021 - 69

AN ACT authorizing the County of Westchester to lease vehicles to the City of Mount Vernon for use by the Mount Vernon Police Department in its daily patrol operations.

BE IT ENACTED by the Board of Legislators of the County of Westchester, as follows:

Section 1. The County of Westchester (“County”) is authorized to enter into a lease agreement (“Agreement”) with the City of Mount Vernon (“Mt. Vernon”), whereby the County shall lease to Mt. Vernon certain vehicles (“Vehicles”), as identified in Schedule “A” attached hereto and made a part hereof, for use by the Mt. Vernon Police Department in its daily patrol operations.

§2. The County shall lease the Vehicles in “AS IS” condition. In consideration for the use of the Vehicles, Mt. Vernon shall pay the County the sum of One and 00/100 (\$1.00) Dollar. As additional consideration, Mt. Vernon shall operate, repair and maintain the Vehicles as required for its daily patrol operations within Mt. Vernon, or as otherwise determined by the Commissioner/Sheriff of the Westchester County’s Department of Public Safety Services. Mt. Vernon shall register the Vehicles and maintain insurance naming the County as additional insured. Mt. Vernon shall also indemnify, hold harmless and defend the County against any claims resulting from Mt. Vernon’s use and/or maintenance of the Vehicles. Title to the Vehicles shall remain with the County.

§3. The Agreement shall be for a term of five (5) years, commencing retroactively on April 15, 2021 and expiring on April 14, 2026. At the expiration of the Agreement, the Vehicles shall be transferred back to the County.

§4. The County Executive or his authorized designee is hereby authorized and empowered to execute any and all documents and take all actions necessary and appropriate to effectuate the purposes hereof.

§5. This Act shall take effect immediately.

THIS AGREEMENT ("Agreement"), made this _____ day of _____ ,
2021, by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (hereinafter referred to as the "County")

and

CITY OF MOUNT VERNON, a municipal corporation of the State of New York having an office and place of business at One Roosevelt Square, Mount Vernon, NY 10550 (hereinafter referred to as the "Mt. Vernon")

WITNESSETH:

WHEREAS, the County is the owner of certain vehicles (hereinafter, the "Vehicles"), which are no longer necessary to meet the operational demands of the County;
and

WHEREAS, Mt Vernon is not able to purchase new vehicles at the present time due to budgetary constraints and has requested that the County lease the Vehicles to Mt. Vernon for use by the Mt. Vernon's Police Department during its daily patrol operations; and

WHEREAS, the Vehicles are still in good working order and would benefit the Mt. Vernon Police Department for use in connection with its daily patrol operations; and

WHEREAS, this Agreement will allow for the strategic placement and operation of the Vehicles for the benefit of the citizens of both the City of Mount Vernon and Westchester County.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto covenant and agree as follows:

1. **VEHICLES LEASE**: The County hereby leases to Mt. Vernon, and Mt. Vernon hereby leases from the County, the Vehicles, as more particularly described in Schedule "A" attached hereto and made a part hereof.

2. **CONSIDERATION**: In consideration for the lease of the Vehicles to Mt. Vernon, Mt. Vernon agrees to pay the County the sum of One (\$1.00) Dollar. As additional consideration for the lease of the Vehicles to Mt. Vernon, Mt. Vernon agrees to operate, repair and maintain the Vehicles as required to perform its daily patrol operations within the City of Mount Vernon, and as otherwise determined by the Commissioner/Sheriff of the Department ("Commissioner" or "DPS Commissioner"). Such assistance will enhance the overall safety and security of the residents of both the City of Mount Vernon and Westchester County.

3. **STORAGE**: Mt. Vernon agrees to store the Vehicles at its facilities in Mt. Vernon. Mt. Vernon shall notify the County of the location at which the Vehicles are garaged.

4. **TITLE**: The County has furnished to Mt. Vernon documentation of the County's title to the Vehicles. Title shall remain in the name of the County. The Vehicles shall be registered in Mt. Vernon's name during the entire term of this Agreement. The County may place, or cause to be placed upon the Vehicles, identification symbols denoting ownership by the County. Such marking shall be affixed in accordance with the County's directions and which shall not be removed by Mt. Vernon.

Mt. Vernon shall execute, or cause to be executed, any documents deemed necessary by the County including, but not limited to, Uniform Commercial Code and release of lien forms to enable the County to file, register or record this lease or any other document deemed desirable by the County to protect the County's title to the Vehicles. Mt. Vernon shall keep the Vehicles free and clear of all levies, liens and encumbrances.

5. **DISCLAIMERS**: The County makes no warranties of any kind, either directly or indirectly, express or implied, as to the condition of the Vehicles or any part thereof, including but not limited to, the Vehicles' durability, merchantability or fitness for any particular purpose, except that the County warrants that it has title to the Vehicles at the time of delivery. Mt. Vernon accepts the Vehicles "AS IS" in all respects.

6. **TERM:** The term of this Agreement shall be for five (5) years, commencing retroactively on April 15, 2021 and expiring on April 14, 2026. Upon expiration or termination of this Agreement, Mt. Vernon will take all action appropriate and necessary to immediately return the Vehicles to the County in a timely fashion.

7. **EXTERIOR AND INTERIOR ADVERTISING:** No exterior or interior advertising may be placed upon the Vehicles. Mt. Vernon may apply lettering and/or insignia to the Vehicles with the prior written approval and sign-off on design sketch by the Commissioner of the County's Department of Public Works and Transportation or his/her duly authorized designee (the "DPWT Commissioner").

8. **CHARGES, FEES AND EXPENSES:** Mt. Vernon shall be responsible for the payments for any charges, inspection fees, or other costs, including gross receipts taxes, highway use taxes, or vehicle excise taxes imposed upon the Vehicles or the operation thereof, whether such taxes, charges, fees or other costs are levied against Mt. Vernon or the County. In addition, Mt. Vernon shall pay all expenses, except titling, in connection with the use and operation of the Vehicles during the term of this Agreement including, but not limited to, fuel, oil, grease, repairs, maintenance, or other expenses thereof.

9. **INSPECTION/ACCESS:** The County shall have the right to inspect the Vehicles on two (2) days' notice at a location in the City of Mount Vernon or Westchester County. The County shall make reasonable efforts, however, not to unduly interfere with the operations or maintenance schedules of Mt. Vernon. The County inspectors shall be allowed on the premises where the Vehicles are stored without the necessity of written permission, after identifying to Mt. Vernon their status as the County employees. The making of any inspections shall begin promptly upon presentation of the Vehicles and be carried through to completion as expeditiously as possible. In addition to the County, Mt. Vernon shall also permit any authorized representative of the State, Federal or other governmental agency to inspect the Vehicles as well as all relevant data and records. Mt. Vernon shall also permit the above named persons to audit the books, records and accounts of Mt. Vernon relating to the Vehicles covered by this Agreement, as may be deemed necessary by the aforementioned persons.

The County reserves the right to designate a specific time and place for inspection of the Vehicles in accordance with this Paragraph "9." Mt. Vernon shall comply with any such direction from the County.

10. **REPAIRS, PARTS AND REQUIREMENTS:** Mt. Vernon shall make all necessary repairs to the Vehicles, at its own cost and expense, to ensure, among other considerations, safe operation and continuity of the services contemplated hereunder. The design, quality and component part of repairs will conform to all applicable requirements and to all applicable standards. Rebuilt parts or units must be factory replacement parts, parts purchased from a reputable supply house which deals in replacement parts or rebuilt parts equal to or better than those originally installed in the Vehicles.

11. **MAINTENANCE:** Mt. Vernon, at its own cost and expense, shall maintain the Vehicles in good working order and repair and in accordance with the manufacturer's manual, instructions and/or warranty requirements and as directed by the DPWT Commissioner. In the event of a dispute regarding maintenance, alteration, or repair of the Vehicles, the reasonable and good faith determination of the DPWT Commissioner shall be final. Mt. Vernon shall maintain the Vehicles in a manner whereby the Vehicles shall be kept clean and have exteriors free of grime, cracks and breaks, dents and damaged paint that detract from the overall appearance of the Vehicles. In addition, the interior must be maintained clean and free from torn upholstery or floor covering, damaged or broken seats and sharp edges.

The County shall have the right to inspect the Vehicles and Mt. Vernon's records with respect thereto as shall be reasonably necessary to confirm Mt. Vernon's proper maintenance of the Vehicles, on two (2) days' notice at a location in the City of Mount Vernon or Westchester County. Mt. Vernon shall as promptly as possible correct any unsatisfactory items reported by such inspections. The DPWT Commissioner may reasonably order repairs to be made at any time to ensure that each of the Vehicles is safe and dependable in accordance with the requirements of this Agreement.

Should any of the Vehicles require repair attributable to such circumstances, including, but not limited to motor vehicle accidents, fires or repair attributable to other circumstances, the costs of which are otherwise covered by an insurance policy, Mt. Vernon shall use its best efforts to, within ten (10) days, get such Vehicle(s) inspected by an insurance adjuster. Once the Vehicle(s) have been so inspected, or if the cost of repair is not covered by an insurance policy, Mt. Vernon shall immediately make all necessary repairs, subject to the availability of required materials and supplies, to ensure that the Vehicles are safe and operable.

Mt. Vernon shall not perform any material alterations to any of the Vehicles without the County's prior written consent. All repairs, additions and improvements made to any of the Vehicles, in particular such repairs, additions and improvements which are meant to be permanently affixed to the Vehicles, shall belong to the County and shall become part of the Vehicles. All such repairs, additions and improvements shall be reported to the County. If the County consents, any alterations may be removed from the Vehicles prior to their return to the County upon the termination of this Agreement.

If any of the Vehicles is in any manner improperly maintained, or if Mt. Vernon fails to make necessary repairs as heretofore provided, the County may, in addition to any other rights or remedies it may have now or hereafter existing at law or in equity, repossess the Vehicles with or without a court order or other process of law, wherever they may be located, and effectuate the necessary repairs, provided however, that Mt. Vernon may defeat such right of the County to repossess the Vehicles by curing the default complained of within ten (10) days or, if not within such notice period, by promptly commencing to correct the default and diligently pursuing all necessary and appropriate action to affect such cure. Mt. Vernon waives any and all claims against the County with respect to such taking of possession and agrees to remit the cost of any County repairs within thirty (30) days of receipt of the County claim therefor.

Mt. Vernon will be permitted to operate the Vehicles with retreaded tires and/or batteries, but retreaded tires will not be permitted on the front wheels of the Vehicles under any conditions.

12. **INSPECTIONS AND COMPLIANCE WITH LAW:** Mt. Vernon shall maintain the Vehicles so that it will pass all applicable inspections by the New York State Department of

Transportation, New York State Department of Motor Vehicles and the Federal government or agencies authorized by those governments to make such inspections. Mt. Vernon shall be responsible for all costs incurred in enabling the Vehicles to successfully pass each inspection. Mt. Vernon shall comply with all governmental laws, regulations and rules with respect to the use, maintenance and operation of the Vehicles. In case any part of such unit shall be required to be changed or replaced, or in a case any additional or other part is required to be installed on such unit in order to comply with laws, regulations, requirements and rules, Mt. Vernon agrees to make such changes, additions and replacements; and Mt. Vernon agrees to maintain the Vehicles in full compliance with such laws, regulations, requirements and rules during the term of this Agreement. The provisions of this Agreement and all rights and obligations hereunder shall be governed by and construed in accordance with the Laws of the State of New York and applicable Federal laws, including without limitation, certification and assurance requirements of the Federal Transit Administration.

Mt. Vernon shall ensure that any persons authorized to drive the Vehicles are properly licensed in accordance with applicable law.

13. **REPORTS:**

(a) Mt. Vernon shall prepare and deliver to the DPS Commissioner at least annually, or as requested by the County, all information which is needed by the County to prepare any reports required to be filed with any Federal, State or other regulatory authority or agency by reason of the ownership by the County of the Vehicles or the leasing of the Vehicles to the Mt. Vernon or operation of the contracted service. Such information shall include, without limitation, the mileage of the Vehicles and the number of passengers using the Vehicles.

(b) Mt. Vernon shall maintain reports of all maintenance and repairs performed on the Vehicles in accordance with Paragraphs 11 and 12 hereof, and such reports shall be available and subject to inspection by the County upon the County's request, within two (2) days of such request.

(c) Mt. Vernon shall conform its reports to any format reasonably requested by the DPS Commissioner.

14. **INDEMNIFICATION AND INSURANCE:** In addition to and not in limitation of the insurance provisions contained in Schedule "B" attached hereto and made a part hereof, Mt. Vernon agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the sole negligence of the County, Mt. Vernon shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the use and/or maintenance of the Vehicles by Mt. Vernon or third parties under the direction or control of Mt. Vernon; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

(c) In the event Mt. Vernon does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then Mt. Vernon shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

For the duration of this Agreement, Mt. Vernon shall provide the County Director of Risk Management with proof of payment for any and all insurance policies required pursuant to Schedule "B" and Section 19.

15. **ASSIGNMENT:** Mt. Vernon shall not assign, transfer or encumber its leasehold interest in the Vehicles under this Agreement without the prior written consent of the County. Mt. Vernon shall not, without the prior written consent of the County, surrender possession or control of, or suffer or allow the Vehicles to pass out of its possession or control, except for the purpose of performing repairs and maintenance.

16. **TERMINATION:** (a) In the event Mt. Vernon defaults in the performance of any term, condition or covenant herein contained, The County at its option and in addition to any other

remedy it may have to seek damages, judicial enforcement or other lawful remedy, may terminate this Agreement upon ten (10) days written notice to Mt. Vernon, provided however, that Mt. Vernon may defeat such termination notice by curing the default complained of within such notice period or, if not within such notice period, by promptly commencing to correct the default and diligently pursuing all necessary and appropriate action to affect such cure. Upon a second default by Mt. Vernon, the County at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this Agreement upon written notice to Mt. Vernon.

(b) Either party, upon forty-five (45) days' notice to the other party, may terminate this Agreement in whole or in part when it deems termination to be in its best interest.

Upon termination, all right of Mt. Vernon to the use of the Vehicles shall absolutely cease and terminate as though this Agreement had never been made, but Mt. Vernon shall remain liable as hereinafter provided; and thereupon the County may, by its agents, enter upon the premises where any of the Vehicles may be and take possession of all or any such Vehicles and thenceforth hold, possess and enjoy the same free from any right of Mt. Vernon or its successors or assigns, to use the Vehicles for any purposes whatsoever; but the County shall, nevertheless, have the right to recover from Mt. Vernon any damages and expenses in addition thereto, including reasonable attorneys' fees, which the County shall have sustained by reason of the breach of any covenant of this Agreement. The County shall take immediate possession of the Vehicles leased hereunder, wherever found, with or without process of law, and the County shall not be responsible for any damage which Mt. Vernon sustains by virtue of said act.

17. **REPOSSESSION:** Immediately upon expiration or termination of this Agreement, Mt. Vernon will, at its sole cost and expense, at the request of the County, deliver possession of the Vehicles to the County at any location within Westchester County, as the County may designate whereupon. Mt. Vernon shall affect such delivery within twenty-four (24) hours of receipt of such designation in writing from the County to Mt. Vernon. For the purpose of delivering possession of the Vehicles to the County as above required, Mt. Vernon shall, at its own expense and cost:

(a) Forthwith deliver the Vehicles to a location within Westchester County as the County may designate; and

(b) Mt. Vernon is hereby obligated to deliver the Vehicles in complete and operable condition as set forth in Paragraph "18;" and

(c) If Mt. Vernon fails to deliver the Vehicles, the County has the right to repossess the Vehicles without notice or demand, with or without a court order or other process of law, wherever it may be located and Mt. Vernon waives all claims against the County with respect to such taking of possession.

"Possession" in this Paragraph is defined to include both the taking of the Vehicles into the County's physical custody, and/or the mailing and/or personal delivery to Mt. Vernon of a notification in writing that the County elects to take constructive possession of the Vehicles wherever located.

18. **WEAR AND TEAR:** On expiration or termination of this Agreement, Mt. Vernon shall deliver the Vehicles in accordance with Paragraph "17," complete and operable, excepting normal wear and tear.

19. **LOSS, THEFT, DAMAGE OR DESTRUCTION AND SETTLEMENT:** Mt. Vernon shall bear all risks of damage, loss, theft, or destruction, partial or complete, of the Vehicles or any portion, thereof, including acts of its employees and servants. Any resultant replacement, repairs, or substitution of parts of the Vehicles, shall be at the sole cost and expense of Mt. Vernon. In the event of any loss, theft, or destruction of any of the Vehicles or damage thereof, Mt. Vernon shall promptly notify the DPWT Commissioner both by phone and in writing and dispose of any of the Vehicles and records in accordance with instructions from the County. In all instances, Mt. Vernon shall either repair any of the Vehicles to the same standard or condition required under this Agreement, or, subject to prior written approval of the County, replace any such entire Vehicle with other vehicle of comparable condition and specifications which is acceptable to the DPWT Commissioner.

Replacement of any such entire Vehicle shall be at the County' sole discretion. Should the County instruct Mt. Vernon to replace the Vehicle lost, stolen, damaged or destroyed, Mt. Vernon shall do so at its sole expense. Upon acceptance and placing in service of the replaced Vehicle by Mt. Vernon, title to said replacement unit(s) shall be vested in the County. Should the County elect not to have a Vehicle replaced by Mt. Vernon, the County shall be entitled to any settlement proceeds that Mt. Vernon may receive, including but not limited to insurance proceeds plus Mt. Vernon's insurance policy deductible amount and salvage value, if any. Said proceeds shall be made payable to the County either by credit against any claims due and owing Mt. Vernon or by a direct payment, at the County's sole option. Mt. Vernon shall not accept such settlement proceeds without first giving the County an opportunity to have the Vehicle inspected by its own adjuster and without first obtaining the County's prior written consent to such settlement amount.

In addition to the insurance provisions contained in Paragraph "14" hereof, Mt. Vernon shall obtain, pay for, and maintain comprehensive and collision insurance against all risks or damage, loss, theft, or destruction, partial or complete of the Vehicles or any portion, including acts of its employees and servants, for the duration of this Agreement or any renewal thereof. Mt. Vernon shall furnish the County with written evidence from its insurer of the within described insurance coverage satisfactory to the County which will include the County and any other party in interest designated as an additional insured, and no cancellation or material change, including, without limitation, a reduction in coverage, in any of the insurance required under the terms of this Agreement shall be effective except upon thirty (30) days advance written notice to the County from the insurer. Mt. Vernon shall not take any action to cancel or materially change, including, without limitation, any reduction in coverage, any of the insurance required under this Agreement without the County's prior written approval of such cancellation or change. The maintenance of insurance under this Paragraph shall not relieve Mt. Vernon of any liability under this Paragraph where damage, loss or destruction is greater than the insurance coverage. The County shall not be liable for any special, incidental or consequential damages or for loss, damage or expense directly or indirectly arising from Mt. Vernon's use of or inability to use the Vehicles, or for personal injury or loss or destruction of other property, or from any other cause connected with this Agreement whatsoever.

20. **NO CLAIMS FOR INTERRUPTED SERVICE:** Mt. Vernon shall not make any claims against the County whatsoever, including, without limitation, by reason of damage to or loss of any of the Vehicles or any part(s) thereof, or by reason of any interruption, from whatever cause, in the use, operation or possession of any of the Vehicles or any part(s) thereof.

21. **NON-WAIVER:** The remedies in this Agreement provided in favor of the County shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor provided by law. The failure of the County to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

22. **NOTIFICATION:** Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this Agreement to be made upon, given, furnished or filed with a party by another party shall be in writing and shall be delivered by hand or sent by registered or certified mail postage prepaid, to the respective address as set forth below, or to such other address as the respective parties hereto may designate in writing:

To the County: Commissioner
Westchester County Department of Public Works and Transportation
148 Martine Avenue
White Plains, NY 10601

and Commissioner
Westchester County Department of Public Safety
Saw Mill River Parkway
Hawthorne, NY 10532

with a copy to: Office of the County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

With a copy to the following address regarding all notices related to insurance matters:

Westchester County
Department of Law - Risk Management
Michaelian Office Building, Room 241
148 Martine Avenue

White Plains, New York 10601

To Mt. Vernon: City of Mount Vernon Police Commissioner
Mount Vernon Civic Center
Two Roosevelt Square North
Mount Vernon, NY 10550

City of Mount Vernon Corporation Counsel
One Roosevelt Square, Suite 111
Mount Vernon, NY 10550

Notices shall be effective on the date of receipt. Either party to the Agreement may redesignate the recipient or change the address of the recipient of notification hereunder by written notification to the other party to this Agreement of such change.

23. **NON-DISCRIMINATION:** Mt. Vernon expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. Mt. Vernon acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

24. **SEVERABILITY:** This Agreement embodies the entire agreement between the parties. It may not be modified or terminated except as provided herein or by other written agreement. If any provision herein is invalid, it shall be considered deleted herefrom and shall not invalidate the remaining provisions.

25. **ENFORCEMENT:** This Agreement shall not be enforceable until signed by the parties and approved by the Office of the County Attorney.

26. **GOVERNING LAW:** This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that for any cause of action arising out of this Agreement shall be brought in the County of Westchester.

[NO FURTHER TEXT/SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

THE COUNTY OF WESTCHESTER:

By: _____
Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works
and Transportation

By: _____
Thomas A. Gleason
Acting Commissioner of Public Safety

THE CITY OF MOUNT VERNON:

By: _____
Name:
Title:

Approved by the Westchester County Board of Legislators by Act No 2021 - _____, at a meeting duly held on the _____ day of _____, 2021.

Approved as to form and
manner of execution:

Assistant County Attorney
County of Westchester
MountVernon.PDVehicle.Agree.cmc.04.26.2021v1.docx

DRAFT

ACKNOWLEDGMENT

STATE OF NEW YORK }
COUNTY OF WESTCHESTER } ss.

On the _____ day of _____ in the year 2021 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: _____

Notary Public

DRAFT

SCHEDULE "A"

DESCRIPTION OF VEHICLES TO BE LEASED

Fleet #	Year/Make	Model	Color	Mileage	VIN#
1612	2011 Ford	Crown Vic	Red	115,500	2FABP7BVIBX155950
1614	2011 Ford	Crown Vic	Gold	100,800	1FM5K8AR2GGB89114
1605	2010 Ford	Crown Vic	Black	122,000	2FABP71BV3AX135159
1448	2008 Ford	Crown Vic (K9)	White	78,000	2FAHP71VX8X115558

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SCHEDULE "B"

STANDARD INSURANCE PROVISIONS
(Municipality)

1. Prior to commencing work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). Municipality shall provide to the Director evidence of policy renewals for each year during the term of the Agreement within ten (10) days of such renewal. The policies or certificates thereof shall provide that thirty (30) days prior to cancellation or material change in the policy, including but not limited, to a reduction in coverage, the insurance company shall provide notice of same to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. The policies or certificates thereof shall also provide that in the event that any policy is not renewed, the insurance company shall notify the Director. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
 - i. Premises - Operations.
 - ii. Broad Form Contractual.
 - iii. Independent Contractor and Sub-Contractor.
 - iv. Products and Completed Operations.
- c) Commercial Umbrella/Excess Insurance: \$5,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 combined single limit for bodily injury and property damage

unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 69 - 2021, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on April 26, 2021, and approved by the County Executive on April 29, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 5th day of May, 2021.

Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

