

RESOLUTION NO. - 2021

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. 2021-_____ entitled "A LOCAL LAW authorizing the County of Westchester to amend the lease agreement with the Village of Mount Kisco, dated July 13, 2017, for real property owned by the Village and located at Mountain Avenue to permit the installation, operation and maintenance of additional equipment by the County, including radio transmission lines and supporting hardware, to connect the County's radio equipment to the Village antenna and Village transmission line and supporting hardware located on the Property."

The public hearing will be held at _____ m. on the _____ day of _____, 2021 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive recommending approval of a local law, which, if adopted, would authorize the County of Westchester (the "County") to amend its lease agreement, dated July 13, 2017, (the "Lease Agreement") with the Village of Mount Kisco to permit the installation, operation and maintenance of additional equipment by the County, including radio transmission lines and supporting hardware, (the "Equipment") to connect the County's radio equipment to the Village antenna and Village transmission line and supporting hardware located on the Property.

Your Committee is advised that the Village antenna is located on a shared mast with a County antenna, and each antenna is connected to its own transmission line. The proposed amendment would also provide that, at the expiration or termination of the Lease Agreement, the shared mast, the antennas on the shared mast (e.g., the Village antenna and the County antenna) and the Village and County transmission lines would not be removed from the Property, and ownership of such equipment would pass to the Village.

Your Honorable Board on May 22, 2017 by Local Law No. 5-2017 authorized the County to enter into the Lease Agreement for the purpose of installing, maintaining and operating County radio communications and other equipment on the Property for a term of five (5) years with the County having three additional five (5) year options to extend the term of the Lease Agreement on prior written notice to the Village.

Your Committee is advised that installation of the Equipment and connection to the Village antennas and Village transmission line will enable the County to provide backup radio coverage and multiagency interoperability in the Village for the County police servicing the Village pursuant to a Police Service Agreement with the Village. As you may recall, on December 3, 2019, your Honorable Board approved Act No. 244-2019, which authorized the County, acting through the Department of Public Safety, to enter into an intermunicipal agreement with the Village for the County to provide additional general police services to the Village for a term commencing on January 1, 2020 and expiring December 31, 2024 (the "Police Service Agreement"). The Police Service Agreement is a continuation of the prior police service agreement, which was approved by your Honorable Board on May 11, 201 by Act No. 72-2015 and expired on December 31, 2019.

In addition, your Committee is advised that, pursuant to a resolution approved on October 22, 2020 by the County Board of Acquisition and Contract, the County entered into a one-year license agreement, dated November 4, 2020, (the "License Agreement") with the Village whereby the County was granted permission to install the Equipment in time for the backup radio coverage to be tested as part of the County's F1 and F3 coverage drive tests being performed by the County's vendor as part of the County Voice Radio Communications System Replacement Project. The County and Village agreed that, during the term of the License Agreement, they would seek the necessary legal approvals to amend the Lease Agreement to add the Equipment to the Lease Agreement.

A copy of the proposed amendment to the Lease Agreement is being transmitted herewith. All other material terms and conditions of the Lease Agreement will remain unchanged.

The proposed amendment to the Lease Agreement will benefit the public as it will improve the reliability of County's radio communications system by providing backup radio coverage and multi-agency interoperability in the Village for the County police serving the Village.

The Planning Department has advised that based on its review the Lease Agreement was previously reviewed by your Honorable Board and classified as an "Unlisted" action under the State Environmental Quality Review Act ("SEQR"). In accordance with SEQR, a Short Environmental Assessment Form was prepared, and, on May 22, 2017, a Negative Declaration was issued by your Honorable Board via Resolution 68-2017. Since the action essentially involves disconnecting the existing Village antenna and transmission line from the Village's radio equipment and connecting it to the existing County's radio equipment at the site, there are no new physical impacts on the environment. The original Negative Declaration remains valid, and no further environmental review is required. Your Committee concurs with this conclusion.

Your Committee has been advised that, pursuant to Section 104.11(5)(e) of the Laws of Westchester County, authorization of this amendment to the Lease Agreement requires passage of a local law. Also attached is a Resolution authorizing a Public Hearing as required by §209.141(4) of the Laws of Westchester County. It should be noted that an affirmative vote of two-thirds of all members of this Honorable Board is required in order to adopt the proposed local law.

Based upon the foregoing, your Committee believes that the proposed amendment to the Lease Agreement is in the best interest of the County. Therefore, your Committee recommends the

favorable action of your Honorable Board on the annexed proposed legislation.

Dated: September 20, 2021
White Plains, New York

Benjamin S. ...
Ruth Weber
Vedat Jabli

Budget & Appropriations

Benjamin S. ...
Vedat Jabli
K. J. ...

Legislation

Benjamin S. ...
Ruth Weber
Vedat Jabli
K. J. ...

Public Works & Transportation

COMMITTEE ON

Dated: September 20, 2021
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 417 of New York State Laws of 2021, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

Budget & Appropriations

Legislation

**Public Works &
Transportation**

Margaret A. Cunzio
Nancy E. Dunn
Tye H. [Signature]
David A. Jablonski
Kasson R. Mah
Catherine F. Parker

Nancy E. Dunn
Colin J. [Signature]
Mary Jane Skimsky
[Signature]

Mary Jane Skimsky
Tye H. [Signature]
David A. Jablonski
Catherine F. Parker

TO: Rachel Noe, Associate County Attorney
Department of Law

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

DATE: June 22, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR MOUNT KISCO
MOUNTAIN AVENUE LEASE AMENDMENT**

Pursuant to your request, the Planning Department has reviewed the above referenced action with respect to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 (SEQR).

The action involves amending an existing agreement between the County of Westchester and the Village of Mount Kisco, whereby the County leases space at Village-owned property located at Mountain Avenue for the purposes of locating and operating radio equipment at the site in order to make public safety radio communications in the Village and surrounding area more seamless. The amendment will add to the agreement the County's use of the Village's antenna and transmission line, which the Village no longer needs for its police patrols since it now contracts with the County for police services, in order to provide backup radio coverage and multi-agency interoperability in the Village for the County police servicing the Village.

The original lease agreement was previously reviewed by the Westchester County Board of Legislators and was classified as an Unlisted action under SEQR. In accordance with SEQR, a Short Environmental Assessment Form was prepared and, on May 22, 2017, a Negative Declaration was issued by the Board of Legislators via Resolution 68-2017. Since the action essentially involves disconnecting the existing Village antenna and transmission line from the Village's radio equipment and connecting it to the existing County's radio equipment at the site, there are no new physical impacts on the environment. The original Negative Declaration remains valid and no further environmental review is required.

Please do not hesitate to contact me if you have any questions regarding this matter.

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

LOCAL LAW INTRO NO. ____-2021

A LOCAL LAW authorizing the County of Westchester to amend a lease agreement with the Village of Mount Kisco, dated July 13, 2017, for real property owned by the Village and located at Mountain Avenue to permit the installation, operation and maintenance of additional equipment by the County, including radio transmission lines and supporting hardware, to connect the County's radio equipment to the Village antenna and Village transmission line and supporting hardware located on the Property.

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

Section 1. The County of Westchester (the "County") is hereby authorized to amend the lease agreement with the Village of Mount Kisco (the "Village"), dated July 13, 2017, pursuant to which the County leases a portion of real property owned by the Village and located at Mountain Avenue (the "Property") to permit the installation, operation and maintenance of additional equipment by the County, including radio transmission lines and supporting hardware, to connect the County's radio equipment to the Village antenna and Village transmission line and supporting hardware located on the Property, and similar to the form of agreement annexed hereto and made a part hereof.

§2. The lease amendment shall also provide that, at the expiration or termination of the Lease Agreement, the shared mast, the antennas on the shared mast (e.g., the Village antenna and the County antenna) and the Village and County transmission lines shall not be removed from the Property, and ownership of such equipment shall pass to the Village.

§3. Except as modified herein, all terms, covenants and conditions of the Lease Agreement shall continue in full force and effect.

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

§5. This Local Law shall take effect immediately.

This **FIRST AMENDMENT** to the Lease Agreement (the "First Amendment") made this _____ day of _____, 2021, by and between:

THE VILLAGE OF MOUNT KISCO, a municipal corporation of the State of New York, having an office and place of business located at 104 Main Street, Mount Kisco, New York 10549 (hereinafter referred to as the "Village" or "Lessor"),

and

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" or "Lessee"),

(The "Lessor" and "Lessee" may be referred to collectively as the "Parties" or individually as a "Party.")

WITNESSETH:

WHEREAS, the Village is the owner of real property located at Mountain Avenue, Village of Mount Kisco, New York and further identified on the assessment roll of the Village of Mount Kisco as Section 69.56, Block 4, Lot 7 (the "Site"); and

WHEREAS, on or about June 16, 2015, the County and the Village entered into an agreement whereby the County agreed to provide additional general police services to the Village (the "Police Services Agreement"); and

WHEREAS, on July 13, 2017, the County and the Village entered into a lease agreement wherein the Village leased space at the Site to the County and granted to the County the right to install and operate radio communications and other equipment at the Site pursuant to the terms of the Police Services Agreement in order to make radio communications in the Village and the surrounding area more seamless (the "Lease Agreement"); and

WHEREAS, the complete dual feed assembly consisting of the Village antenna on the shared mast with the County antenna is identified in Schedule "A" of the Lease as being a Comprod 882-70/872-70TM, with the 882-70 component of the assembly being the Village antenna (the "Village Antenna") and the 872-70 component of the assembly being the County antenna (the "County Antenna"), and with each of the antennas being connected to its own 1/2" transmission line (the "Village Transmission Line" and the "County Transmission Line" respectively); and

WHEREAS, on November 4, 2020, the County and the Village entered into a license agreement wherein the Village granted to the County a license to disconnect the Village Antenna and Village Transmission Line from the Village radio equipment and connect the County radio equipment to the Village Antenna and Village Transmission Line in order to provide backup radio coverage in the Village for the County police servicing the Village; and

WHEREAS, the County currently utilizes and operates its radio equipment and the Village Antenna and Village Transmission Line at the Site in order to provide radio coverage for County police servicing the Village; and

WHEREAS, the Parties wish to amend the Lease Agreement to include the County's use of the Village Antenna and Village Transmission Line as set forth herein.

NOW THEREFORE, in consideration of the terms and conditions contained herein, the Parties agree as follows:

1. Section 1 of the Lease Agreement is amended by deleting the following phrase from the second sentence:

“and (v) install a backup power generator to be situated on a concrete pad (collectively the “Equipment”).”

And insert in its place the following:

“(v) install a backup power generator to be situated on a concrete pad, and (vi) install equipment, including radio transmission lines and supporting hardware, to connect the County radio equipment to the Village Antenna and Village Transmission Lines, and supporting hardware (collectively the “Equipment”).”

2. Section 1 of the Lease Agreement is amended by inserting the following sentence at the end of the Section 1.

“The Village acknowledges and agrees that while the County utilizes the Village Antenna and Village Transmission Line for the purpose of operating the Equipment, the Village will not be able to utilize the Village Antenna or Village Transmission Line for any purpose.”

3. Section 8 of the Lease Agreement is amended by deleting the first two paragraph in Section 8 and inserting the following in their place:

8. REMOVAL OF EQUIPEMENT: All Equipment, except the Village Antenna and the Village Transmission Line, shall remain the County's property during the Lease.

Upon expiration or termination of the Lease, all Equipment, except the shared mast, the antennas on the shared mast (e.g., the Village Antenna and County Antenna), the Village Transmission Line and the County Transmission Line, shall be removed from the site in accordance with this Section 8.

Upon expiration or termination of the Lease, ownership of the shared mast, the antennas on the shared mast (e.g., the Village Antenna and County Antenna), the Village Transmission Line and the County Transmission Line shall pass to and vest in the Village.

Within ninety (90) days of the expiration or termination of this Lease, the County may, in its sole discretion and at its sole cost and expense, remove all of the Equipment, except the County shared mast, the antennas on the shared mast (e.g., the Village Antenna and County Antenna), the Village Transmission Line and the County Transmission Line. Any Equipment or other property not removed by the County shall be deemed to be abandoned and may be removed and disposed of by the Lessor, at the County's expense.

4. Except as modified herein, all terms, covenants and conditions of the Lease Agreement shall continue in full force and effect.

5. This First Amendment may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

6. This First Amendment Agreement shall not be enforceable until signed by both Parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the day and year first above written.

THE VILLAGE OF MOUNT KISCO

By: _____
Name: _____
Title: _____

THE COUNTY OF WESTCHESTER

By: _____
Name: _____
Title: _____

Approved on the _____ day of _____, 2021 by the County Board of Legislators by Local Law No. _____.

Authorized and approved by Resolution of the Board of Acquisition and Contract of the County of Westchester at a meeting duly held on the _____ day of _____ 2021.

Authorized and approved by the Village Board of the Village of Mount Kisco at a meeting duly held on the _____ day of _____, 2021.

Approved:

Associate County Attorney
County of Westchester
Legal Files/noe/doi/mountain avenue/lease amendment

WHEREAS, the Parties wish to amend the Lease Agreement to include the County's use of the Village Antenna and Village Transmission Line as set forth herein.

NOW THEREFORE, in consideration of the terms and conditions contained herein, the Parties agree as follows:

1. Section 1 of the Lease Agreement is amended by deleting the following phrase from the second sentence:

“and (v) install a backup power generator to be situated on a concrete pad (collectively the “Equipment”).”

And insert in its place the following:

“(v) install a backup power generator to be situated on a concrete pad, and (vi) install equipment, including radio transmission lines and supporting hardware, to connect the County radio equipment to the Village Antenna and Village Transmission Lines, and supporting hardware (collectively the “Equipment”).”

2. Section 1 of the Lease Agreement is amended by inserting the following sentence at the end of the Section 1.

“The Village acknowledges and agrees that while the County utilizes the Village Antenna and Village Transmission Line for the purpose of operating the Equipment, the Village will not be able to utilize the Village Antenna or Village Transmission Line for any purpose.”

3. Section 8 of the Lease Agreement is amended by deleting the first two paragraph in Section 8 and inserting the following in their place:

8. REMOVAL OF EQUIPEMENT: All Equipment, except the Village Antenna and the Village Transmission Line, shall remain the County's property during the Lease.

Upon expiration or termination of the Lease, all Equipment, except the shared mast, the antennas on the shared mast (e.g., the Village Antenna and County Antenna), the Village Transmission Line and the County Transmission Line, shall be removed from the site in accordance with this Section 8.

Upon expiration or termination of the Lease, ownership of the shared mast, the antennas on the shared mast (e.g., the Village Antenna and County Antenna), the Village Transmission Line and the County Transmission Line shall pass to and vest in the Village.

Within ninety (90) days of the expiration or termination of this Lease, the County may, in its sole discretion and at its sole cost and expense, remove all of the Equipment, except the County shared mast, the antennas on the shared mast (e.g., the Village Antenna and County Antenna), the Village Transmission Line and the County Transmission Line. Any Equipment or other property not removed by the County shall be deemed to be abandoned and may be removed and disposed of by the Lessor, at the County's expense.

4. Except as modified herein, all terms, covenants and conditions of the Lease Agreement shall continue in full force and effect.

5. This First Amendment may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

6. This First Amendment Agreement shall not be enforceable until signed by both Parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the day and year first above written.

THE VILLAGE OF MOUNT KISCO

By: _____
Name: _____
Title: _____

THE COUNTY OF WESTCHESTER

By: _____
Name: _____
Title: _____

Approved on the _____ day of _____, 2021 by the County Board of Legislators by Local Law No. _____.

Authorized and approved by Resolution of the Board of Acquisition and Contract of the County of Westchester at a meeting duly held on the _____ day of _____ 2021.

Authorized and approved by the Village Board of the Village of Mount Kisco at a meeting duly held on the _____ day of _____, 2021.

Approved:

Associate County Attorney
County of Westchester
Legal Files/noe/doit/mountain avenue/lease amendment