

Late item E-7

**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

MEMORANDUM

TO: Ronald W. Belmont, Supervisor
Members of the Town Board

FROM: Fred J. Castiglia, Deputy Town Attorney *FJC*

DATE: November 30, 2012

SUBJECT: Inter-Municipal Agreement between the County of Westchester and Town of Harrison for access to telecommunications services provided by Cablevision Lightpath, Inc.

Attached herewith is a copy of the above referenced Agreement between the County of Westchester and the Town of Harrison for telecommunication services provided by Cablevision Lightpath, Inc. for a five (5) year term commencing on January 1, 2011.

I have reviewed the Agreement, deemed it to be in order, and accordingly, recommend that the Town Board approves the Agreement and authorizes the Supervisor to execute same.

FJC:ap
Attachment

TOWN CLERK
HARRISON, N.Y.

2012 NOV 30 PM 3:35

RECEIVED

INTER-MUNICIPAL AGREEMENT

AGREEMENT made the ____ day of _____, 201__ 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

TOWN/VILLAGE OF HARRISON, a municipal corporation of the State of New York, having an office and place of business at 1 Heineman Place Harrison, New York 10528 (hereinafter referred to as the "Municipality")

WHEREAS, on March 2, 2000, the County entered into an agreement with Cablevision Lightpath, Inc. ("Cablevision") for the provision of full voice, video and data transmission services along a high-speed telecommunications network for a five year term commencing on January 1, 2001 (the "Cablevision Agreement"); and

WHEREAS, on January 5, 2006, the County and Cablevision renewed the Cablevision Agreement for an additional five year term, for the period commencing January 1, 2006; and

WHEREAS, on January 13, 2011, the County and Cablevision renewed the Cablevision Agreement for an additional five year term commencing January 1, 2011 (the "Renewal Cablevision Agreement"); and

WHEREAS, under the terms of the Cablevision Agreement, Cablevision provided to the County a new state-of-the-art, secure, cost effective, and reliable telecommunications network; and

WHEREAS, the Cablevision Agreement also provides that Cablevision will

allow other municipalities in Westchester County to avail themselves of these services under the same terms and conditions; and

WHEREAS, the Municipality is desirous of receiving the aforementioned services from Cablevision under the terms and conditions of the Renewal Cablevision Agreement.

NOW, THEREFORE, in consideration of the mutual representations, covenants and agreements herein set forth, the County and the Municipality, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

FIRST: The Municipality shall receive voice, video and data transmission services from Cablevision pursuant to the terms of the Renewal Cablevision Agreement, which is incorporated herein and made a part hereof by reference.

SECOND: The Municipality shall pay Cablevision directly for any services it may receive. In no event shall the County have any liability for amounts due from the Municipality to Cablevision or for damages, direct or indirect, arising out of the provision of services by Cablevision to the Municipality.

THIRD: The Municipality agrees

(i) that except for the amount, if any, of damage contributed to, caused by or resulting from the sole negligence of the County, the Municipality 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 this Agreement; and

(ii) 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.

FOURTH: This Agreement shall commence on the first day of the month in which the Municipality first receives services pursuant to the Renewal Cablevision Agreement ("Commencement Date") and will expire on the day before the fifth anniversary of the Commencement Date, or the expiration or termination of the Renewal Cablevision Agreement, whichever is earlier.

FIFTH: The County reserves the right to cancel this Agreement upon thirty (30) days written notice to the Municipality.

SIXTH: If the Municipality requests related technical services from the County, the Municipality shall be charged as if it was an internal County department.

SEVENTH: Confidential Information means all, or any part of, and originals or copies of, any information, in whatever form embodied (*e.g.* oral, written, electronic) that the County has identified in writing as confidential at the time of disclosure. Specifically excluded is information (a) that at the time of disclosure was, or becomes, part of the public domain (through a source other than the Municipality); (b) lawfully obtained from a third party that was not under, and did not impose, an obligation of confidentiality with respect to such information; (c) that is independently developed by the Municipality; or (d) that was known by the Municipality prior to disclosure by the County. Confidential Information does not include any ideas, concepts or know-how.

The County and Municipality shall not disclose Confidential Information to third parties without the express written consent of the other. The Municipality agrees not to remove or obscure proprietary rights notices that appear on Confidential Information and copies thereof; and shall return or destroy, as the County may direct, all Confidential Information upon demand. The Parties acknowledge that nothing in this Agreement shall be construed to change the Municipality's obligations under the applicable Freedom of Information Law or any other disclosure obligation imposed upon the Municipality by any applicable local, state, or federal law, rule or regulation that currently exists or is enacted or promulgated during the term of this Agreement, or by the judgment or order of a court or administrative agency or body having jurisdiction over the Municipality.

EIGHTH: This Agreement shall not be enforceable unless signed by the parties and approved by the Office of the County Attorney.

NINTH: All notices given pursuant to this agreement shall be in writing and effective on mailing. All notices shall be sent by registered or certified mail, return receipt requested and mailed to the following addresses:

To The County:

Chief Information Officer
Westchester County
Michaelian Office Building, 9th Floor
148 Martine Avenue
White Plains, New York 10601

With a copy to:

County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To the Municipality:

Town/Village of Harrison
1 Heineman Place
Harrison, New York 10528

or to such other addresses as may be specified by the parties hereto in writing.

TENTH: This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, comments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

ELEVENTH: This Agreement is entered into solely between, and may be enforced only by, the County and the Municipality. This Agreement shall not be deemed to create any rights in third parties, or to create any obligations of a Party to any such third parties.

TWELFTH: Any delegation of duties or assignment of rights under this Agreement, without the prior express written consent of the other party, is void.

IN WITNESS WHEREOF, the County and the Municipality have executed this Agreement in triplicate:

COUNTY OF WESTCHESTER

By: _____

TOWN/VILLAGE OF HARRISON

By: _____

Hon. Ron Belmont
Supervisor/Mayor

Approved by the Board of Legislators of the County of Westchester by Act No. 168-2011.

Approved by the Board of Acquisition and Contract of the County of Westchester on the 01 day of December, 2011.

Approved as to form and
manner of execution:

Associate County Attorney
The County of Westchester
S/Vutera/DIT/77914/Cablevision Lightpath IMA 5-20-11

MUNICIPALITY'S ACKNOWLEDGEMENT

STATE OF NEW YORK)

) ss.:

COUNTY OF WESTCHESTER)

On this _____ day of _____, 201_, before me personally came

_____, to me known, and known to me to be the

_____ of _____,

the municipal corporation described in and which executed the within instrument, who being by me

duly sworn did depose and say that he, the said _____ resides at

_____ and that he is _____ of said municipal corporation.

Notary Public County

CERTIFICATE OF AUTHORITY
(Municipality)

I, _____,
(Officer other than officer signing contract)
certify that I am the _____ of the _____
(Title)

(Name of Municipality)

(the "Municipality") a corporation duly organized in good standing under the

(Law under which organized, e.g., the New York Village
Law, Town Law, General Municipal Law)

named in the foregoing agreement that _____
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution
of the Municipality,

(Title of such person),

that said agreement was duly signed for on behalf of said Municipality by authority of its

(Town Board, Village Board, City Council)

thereunto duly authorized, and that such authority is in full force and effect at the date hereof.

(Signature)

STATE OF NEW YORK)
 ss.:
COUNTY OF WESTCHESTER)

On this _____ day of _____, 201_, before me personally came _____
_____ whose signature appears above, to me known, and know to be the
_____ of _____
(title)

the municipal corporation described in and which executed the above certificate, who being by
me duly sworn did depose and say that he, the said _____
resides at _____, and that he is
the _____ of said municipal corporation.
(title)

Notary Public County