

RESOLUTION NO. 78

DECLARING ALBANY COUNTY PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM PROJECT IMMUNE FROM LOCAL REGULATION

Introduced: 2/9/16

By Mr. Commisso and Public Safety Committee:

WHEREAS, The Albany County Sheriff's Department is developing a 12-site County-wide Public Safety Radio Communications System ("Project") to replace its existing, antiquated public safety radio system with a state-of-the-art 800 MHz public safety radio system; and

WHEREAS, The Albany County Sheriff's Department, through its staff, consultants and agents, performed extensive technological, environmental and siting analyses to achieve a 12-site Project design that uses existing towers and buildings to support Project equipment to the maximum extent practicable and thereby limiting its need for new tower structures to the following three (3) sites:

1. 231 Edwards Hill Road, Town of Rensselaerville;
2. Biers Road, Town of Coeymans; and
3. 28 Jansen Lane, Town of Berne; and

WHEREAS, The Project is needed by the Albany County Sheriff's Department to remedy its existing system's lack of portable coverage in areas of Albany County, and its inability to provide seamless radio coverage to enable public safety agencies at all levels of government to work together to prevent, protect against, respond to, recover from, and mitigate incidents and to reduce loss of life and property, and harm to the environment; and

WHEREAS, The Albany County Sheriff's Department has requested a declaration by the Albany County Legislature that the Project is immune from local regulation based on an analysis of the Project under the balancing of public interests test set forth in the memorandum attached hereto and made a part hereof, now, therefore be it

RESOLVED, that the Albany County Legislature declares that:

(1) The nature and scope of the Albany County Sheriff's Office is to be a conservator of peace in the County under State law (see N.Y. County Law §650), which includes County-wide public safety, emergency response and law enforcement functions. Development of the proposed public safety radio communications system

is integral to the ability of the Albany County Sheriff's Office to fulfill its statutory mission, and

(2) The kind of function or land use involved in the Project is directly related and critical to the Albany County Sheriff's Office's ability to perform its public safety, emergency response and law enforcement functions. Albany County's 12-site County-wide public safety radio communications system will replace its existing, antiquated public safety radio system with a state-of-the-art 800 MHz public safety radio system that meets the current suite of digital radio communication standards, known as Project 25 or "P25," prescribed by the international Association of Public-Safety Communications Officials ("APCO") and nationally adopted by public safety agencies, industry associations and equipment manufacturers to ensure interoperability among public safety radio systems of different public safety agencies. By upgrading to a P25-compliant public safety radio communications system, Albany County's system will become interoperable with other local, State and federal public safety agencies. The interoperability achieved by upgrading the County's system to P25 standards will essentially allow seamless communications between Albany County and other public safety agencies operating on different systems during their basic and emergency operations in Albany County, and

The County-wide public safety radio system also includes a proprietary digital microwave ("MW") system to backhaul its public safety radio communications without the need for or reliance on traditional landline telephone service. The County's MW system is designed with sites that will create a ring of MW paths, which allows for redundancy to avoid loss of communications due to failure of a site in the system. Specifically, if a single site in the ring fails, MW communications can be transmitted back around the ring without any communications loss whatsoever. As such, the Albany County Sheriff's Office new MW system will improve the reliability of its public safety radio system because it will enable the County to maintain basic and emergency communications even when landline telephone service fails due to emergency, weather or other events in the area when public safety services and emergency response are needed most, and

In recent years, there have been a number of well-publicized events that demonstrate the need for and desirability of state-of-the-art County-wide communications systems for public safety entities at all levels of government that may serve the area to better prevent and respond to emergencies and protect the County's residents and the general public. Technological advances make it possible to design and implement a secure wireless radio communications system that both allows local and distant first responders to coordinate their efforts on an as-needed basis in a secure environment, and to serve routine, day-to-day communications needs on a local basis. Although the technology exists to allow such an advanced, secure and reliable system, no such system currently exists in Albany County. Rather, public safety and emergency communications systems in Albany County

have traditionally been provided at the local level. The County's current system uses proprietary hardware and software, much of which is no longer produced or supported by the original manufacturer. The federal, State and local agencies operating in Albany County also employ diverse and incompatible protocols for their respective communications systems. As a result of the age of the Albany County Sheriff's Office's existing public safety communications systems, disparate hardware, inconsistent security, lack of data transmission capability, different protocols and uncoordinated deployment, the ability of public safety agencies to communicate with one another, share information and coordinate efforts both within and between their respective units is severely limited, if not impossible, even though new technology exists to overcome such limitations.

The Project will remedy its existing system's lack of portable coverage, and its inability to provide seamless coverage that allows agencies at all levels of government to work together to prevent, protect against, respond to, recover from, and mitigate incidents and to reduce loss of life and property, and harm to the environment, and

(3) The public interest to be served by Albany County public safety radio communications system is paramount to the provision of public safety, emergency response and law enforcement, the individuals and agencies that provide same and the public that they serve and protect, and

(4) Local land use regulation would negatively impact development of the Project in that it could delay or prohibit development of system infrastructure which, in turn, would deprive Albany County's public safety agencies, law enforcement and emergency first responders of adequate basic and emergency communications. In contrast, affording the Project immunity from local regulation will not correspondingly impact legitimate local interests because, during system development, Albany County will comply with the New York State Environmental Quality Review Act and is participating in local public meetings in each municipality where system infrastructure is proposed. As such, local interests in overseeing environmental review of system infrastructure will be addressed. As for other local interests, Albany County's system will improve public safety and emergency communications thereby positively impacting local interests in protecting the health, safety and general welfare of the public, and

(5) The Albany County Sheriff's Office reviewed alternative locations for system infrastructure sites in consultation with industry professionals. The Albany County Sheriff's Office procured radio coverage studies and MW path studies to evaluate alternatives and, thereafter, secure, design and develop system sites that were both technologically and practically feasible. The Albany County Sheriff's Office also reviewed alternative methods of improving its communications systems, and

(6) The Albany County Sheriff's Office has involved each municipality where system infrastructure is proposed in the development process, including filing applications with affected municipalities and participating in municipal review processes, including duly noticed public hearings, and securing advisory determinations from affected municipalities, and

(7) To subject the Albany County Sheriff's Office's proposed County-wide public safety radio communications system to local regulation would foil the greater public purpose of improving public safety and emergency communications essential to the health, safety and general welfare of the public, and, be it further

RESOLVED, That the Albany County Legislature declares that, based on the foregoing, and consistent with the overwhelming legal precedent holding that governmental communications towers are immune from local regulation, the all towers, antennas and other infrastructure to be installed to develop and support the County-wide public safety radio communications system proposed by the Albany County Sheriff's Office's are immune from local regulation, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County and Municipal Officials.

Adopted by unanimous vote. 2/9/16