

**11677**

May 20, 2010

TO: Board of Acquisition and Contract

FROM: Joseph A. Stout, Commissioner  
Parks, Recreation and Conservation

RE: AUTHORITY TO ENTER INTO A LICENSE AGREEMENT WITH FUNTASTIC AMUSEMENTS, INC., 27 MOHEGAN LANE, RYE BROOK, NEW YORK 10573 FOR THE OPERATION OF A BOARDWALK SOUVENIR STAND, SODA VENDING MACHINES, SUNDRY STAND, A COIN OPERATED GAME KNOWN AS "SPLASH GUNS", DRAGON COASTER, KIDDY COASTER AND LOG FLUME PHOTO BOOTHS AND SEVEN GAME CONCESSIONS AT PLAYLAND PARK, RYE, NY FOR THE TERM COMMENCING MAY 15, 2010 AND TERMINATING SEPTEMBER 30, 2010.

Authority is requested to enter into a license agreement with Funtastic Amusements, Inc., 27 Mohegan Lane, Rye Brook, NY 10573 ("Funtastic") for the operation of a Boardwalk Souvenir Stand, Soda Vending Machines, Sundry Stand, a Coin Operated Game known as "Splash Guns", Dragon Coaster, Kiddy Coaster and Log Flume Photo Booths and Seven Game Concessions at Playland Park, Rye, NY for the term commencing May 15, 2010 and terminating September 30, 2010 (the "License"). As consideration for this license privilege, Funtastic will pay the County of Westchester a license fee of \$251,520, payable in four monthly installments during the 2010 operating season.

The County and Funtastic had entered into negotiations for the repayment by Funtastic of approximately \$200,000, which represents Funtastic's arrears pursuant to License Agreements between the County and Funtastic for the 2009 Playland Park season. Those negotiations have concluded and a proposed Stipulation of Settlement between the County and Funtastic (the "Stipulation") is being separately submitted to the Westchester County Board of Legislators for their approval. The Stipulation provides for repayment of the principal plus 4.5% interest by Funtastic to the County for a term of four years and includes the grant of this License.

The proposed License will provide that it will terminate in the event that either the Westchester County Board of Legislators does not approve the Stipulation, or the Stipulation, along with all related documents (including, but not limited to, a Confession of Judgment), is not executed by Funtastic. In the event that either of these conditions occurs, the License shall be immediately terminated and all license fees due and owing to the County shall be immediately paid to the County on a pro rata basis by Funtastic.

The License is being requested at this time in order to allow the concessions to open and in order for the County to begin receiving license fee payments. The public will benefit from the approval of this License by having the opportunity to enjoy these concessions at Playland Park.

The goal and objective of this agreement is to provide various concession options for Playland patrons. This agreement promotes fiscal responsibility as the County will benefit from the revenue generated by it. If this agreement were not in place, these concessions would not be available and customers accustomed to visiting these concessions would be disappointed. More specifically, if this resolution is not approved, there would be negative consequences to County residents since the less revenue the County generates the greater the burden placed on the taxpayer.

The goal and objectives of this agreement will be monitored using revenue reports and site visits from Playland personnel.

This agreement is exempt from the County's procurement policy pursuant to Section 3 (b).

A Resolution is attached for your favorable consideration.

APPROVED BOARD OF ACQUISITION & CONTRACT - 6-10-2010 - JOMARY MEIRA, SECRETARY

## RESOLUTION

Upon a communication from the Commissioner of Department of Parks, Recreation and Conservation, be it hereby

**RESOLVED**, that the County of Westchester is authorized to enter into a license agreement with Funtastic Amusements, Inc., 27 Mohegan Lane, Rye Brook, New York 10573 (“Funtastic”) for the operation of a Boardwalk Souvenir Stand, Soda Vending Machines, Sundry Stand, a Coin Operated Game known as “Splash Guns”, Dragon Coaster, Kiddy Coaster and Log Flume Photo Booths and Seven Game Concessions at Playland Park, Rye, NY for the term commencing May 15, 2010 and terminating September 30, 2010 (the “License”); and be it further

**RESOLVED**, that for this license privilege, Funtastic will pay the County of Westchester a license fee of \$251,520 for the 2010 operating season; and be it further

**RESOLVED**, that the License will contain a provision requiring that it terminate upon either the failure by the Westchester County Board of Legislators to approve a Stipulation of Settlement between the County and Funtastic for the repayment of approximately \$200,000 by Funtastic to the County of unpaid license fees from the 2009 Playland Park season plus interest payable at the rate of 4.5% for a term of four years, or upon the failure of Funtastic to execute the Stipulation of Settlement along with all related documents (including, but not limited to, a Confession of Judgment); and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby empowered to execute any and all instruments and take such other actions as may reasonably be necessary to effectuate the purposes thereof.

APPROVED BOARD OF ACQUISITION & CONTRACTS - P-2210 JOMAR VIEIRA, SECRETARY

Original Agreement     \$251,520  
 First Amendment       \$  
**This Amendment**       \$  
 TOTAL                     \$251,520

Agreement #

Account to be  
 Charged/Credited

Fund	Dept	Major Program, Program & Phase  Or Unit	Object/ Sub-Object	Trust Account	Dollars
165	42	5520	9205		\$251,520

2010

Budget Funding Year(s) **2010** Start Date **5/15/2010** End Date **9/30/2010**  
 (must match resolution)

Funding Source Tax Dollars \_\_\_\_\_

State Aid \_\_\_\_\_

**\$251,520** Federal Aid \_\_\_\_\_

(must match resolution)

Other \_\_\_\_\_ REVENUE \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 5-10-2010 - JOMARY VIERA, SECRETARY