

37809

Date: January 13, 2014

To: The Honorable Board of Acquisition and Contract

From: Kathleen M. O'Connor
Commissioner of Parks, Recreation and Conservation

Re: **Authorization to amend a December 19, 2013 resolution which authorized the County to enter into a lease agreement with Agricredit Acceptance LLC for the lease of golf cars, in order to authorize the inclusion in the Lease Agreement of various terms, including an indemnification**

Pursuant to a resolution approved on December 19, 2013, your Honorable Board authorized, among other things, the County to enter into a new five-year lease with Agricredit Acceptance LLC ("Agricredit") for the provision of 385 golf cars with Visage GPS displays and full-service maintenance, with the lease commencing upon delivery of all of the golf cars which is anticipated to be on or about March 1, 2014. As part of the negotiated lease terms, Agricredit is requiring the County to indemnify and defend Agricredit in the event of damages arising from the use of the golf cars. Specifically, the Lease clause reads as follows;

"You (the County) are responsible for any losses, damages, penalties, claims, suits and actions, including, without limitation, court costs and attorney's fees, (collectively "Claims"), whether based on a theory of strict liability or otherwise caused by or related to (a) the ownership, operation, use, lease, possession or delivery of the Equipment, (b) any defective condition in the Equipment arising while in Your possession or (c) this Agreement or any Schedule (and any supplements and amendments hereof or thereof). To the maximum extent permitted by applicable law, You agree to reimburse Us for and, if We request, to defend Us against any Claims. This indemnification will continue even after the termination of this Agreement and all Schedules."

The public purpose of the lease agreement is to allow the County to lease golf cars for the convenience and benefit of the public golfer. The goal of this agreement is to provide this important amenity to patrons of County golf courses and provide revenue to the County. The objective of this agreement will be tracked and monitored using financial reports and by site visits by Department of Parks, Recreation and Conservation staff.

Accordingly, I respectfully request that your Honorable Board amend the December 19th Resolution by adding a 'RESOLVED' clause authorizing the County to include the additional terms in the Agreement.

KMO/JC/dm
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/06/2014 - JOMARY VIEIRA, SECRETARY

RESOLUTION

Upon a communication from the County's Commissioner of Parks, Recreation and Conservation, be it hereby:

RESOLVED, that the resolution approved on December 19, 2013, which authorized the County of Westchester (the "County") to enter into to a five-year lease with Agricredit Acceptance LLC for the provision of 385 golf cars with Visage GPS displays and full-service maintenance, with the lease commencing upon delivery of all of the golf cars is hereby amended to add the following clause;

"RESOLVED that the County is authorized to include in the lease the following terms:

"You (the County) are responsible for any losses, damages, penalties, claims, suits and actions, including, without limitation, court costs and attorney's fees, (collectively "Claims"), whether based on a theory of strict liability or otherwise caused by or related to (a) the ownership, operation, use, lease, possession or delivery of the Equipment, (b) any defective condition in the Equipment arising while in Your possession or (c) this Agreement or any Schedule (and any supplements and amendments hereof or thereof). To the maximum extent permitted by applicable law, You agree to reimburse Us for and, if We request, to defend Us against any Claims. This indemnification will continue even after the termination of this Agreement and all Schedules."; and be it further

RESOLVED, that except as specifically amended hereby, all terms and conditions of the December 19th Resolution shall remain the same and in full force and effect; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to execute and deliver any and all documents and to take all action necessary and appropriate to effectuate the purposes hereof.

Original Agreement \$ n/a
 First Amendment \$
This Amendment \$ _____
 TOTAL \$

Agreement #

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
n/a					

Budget Funding Year(s) 2014-2018 Start Date 03-01-14 End Date 2-28-19
 (must match resolution)

Funding Source Tax Dollars _____ n/a _____
 State Aid _____
 \$ _____ Federal Aid _____

(must match resolution)
 Other _____

