

38871

March 4, 2014

To: The Honorable Board of Acquisition and Contract

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

Re: Authority to enter into two Agreements, one with Tough Man Enterprises Corp. and Tough Man Inc. (collectively "Tough Man") and the other with Toughkids, Inc. ("Toughkids"), pursuant to which the County will grant Tough Man and Toughkids revocable Licenses for use of designated areas of Croton Point Park and provide Tough Man and Toughkids with other incidental services in connection with a triathlon event for adults called "The Westchester Toughman 1/2 Ironman", and a triathlon for children called "The Westchester Toughkids Triathlon". Both are competitions consisting of swimming, biking and running, the Toughkids Triathlon to be held, rain or shine, on Saturday, September 6, 2014, Saturday, September 12, 2015, Saturday, September 10, 2016, Saturday, September 9, 2017 and Saturday, September 8, 2018 (the "Kids Event") for a total License Fee of \$49,081; and the Toughman 1/2 Ironman to be held Sunday, September 7, 2014, Sunday, September 13, 2015, Sunday, September 11, 2016, Sunday, September 10, 2017 and Sunday, September 9, 2018 (the "Event") for a total License Fee of \$144,402.

Authority is requested for the County of Westchester, acting by and through the Department of Parks, Recreation & Conservation (the "Department"), to enter into two agreements, one with Tough Man Enterprises Corp. and Tough Man Inc., both of 63 South Ridge Street, Rye Brook, New York 10573, and the other with Toughkids Inc., 63 South Ridge Street, Rye Brook, New York 10573 ("Toughkids"). Tough Man Enterprises Corp. and Tough Man Inc., (collectively "Tough Man"), will be held jointly and severally liable pursuant to the License. In the first agreement the County will grant Tough Man a revocable License for use of designated areas of Croton Point Park to hold a triathlon event for adults called "The Westchester Toughman 1/2 Ironman" (the "Agreement"), a competition consisting of swimming, biking and running, to be held, rain or shine, on Sunday, September 7, 2014, Sunday, September 13, 2015, Sunday, September 11, 2016, Sunday, September 10, 2017 and Sunday, September 9, 2018 (the "Event"). In each year of the Agreement, Tough Man will be granted access to the Park on two weekend days in August to conduct race clinics for Event participants; in the second agreement the County will grant Toughkids a revocable License for use of designated areas of Croton Point Park to hold a triathlon event for children

called “The Westchester Toughkids Triathlon”, a competition consisting of swimming, biking and running, to be held, rain or shine, on Saturday, September 6, 2014, Saturday, September 12, 2015, Saturday, September 10, 2016, Saturday, September 9, 2017 and Saturday, September 8, 2018 (the “Kids Event”). In each year of the Agreement, Toughkids will be granted access to the Park on one weekend day in August to conduct race clinics for Event participants. The Kids Event will consist of separate age divisions: 4 - 6 year olds; 7 – 10 year olds and 11 – 14 year olds.

In addition to granting a License for use of designated portions of Croton Point Park, the County will provide Tough Man and Toughkids with Department staff, County Police, EMS Services, Port-O-Sans, use of designated areas for overnight camping and other incidental services for the Event.

In consideration of the granting of the License, and for the additional services described above, Tough Man will pay the County a license fee of \$26,134 in 2014, \$27,440 in 2015, \$28,812 in 2016, \$30,252 in 2017 and \$31,764 in 2018, for a total License Fee of \$144,402 and Toughkids will pay the County a license fee of \$8,883 in 2014, \$9,327 in 2015, \$9,793 in 2016, \$10,282 in 2017 and \$10,796 in 2018, for a total license fee of \$49,081.

The term of the Agreements will commence August 1, 2014 and terminate September 10, 2018.

The objective of these Agreements is to offer Westchester residents an opportunity to compete locally in a triathlon event, complimenting the County’s goal of a more active and healthier Westchester County under the “Be Fit” Westchester umbrella. Additionally, they promote our facility and increase revenue to the County. Department of Parks, Recreation and Conservation personnel will track and monitor the production of the events through frequent site visits.

The proposed Agreements are exempt from the Westchester County Procurement Policy pursuant to Section 3(b) thereof.

As these are revenue-producing contracts for the County, I respectfully request the approval of the annexed resolution.

RESOLUTION

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

RESOLVED, that the County of Westchester, acting by and through the Department of Parks, Recreation & Conservation (the "Department"), is hereby authorized to enter into an agreement with Tough Man Enterprises Corp. and Tough Man Inc., both of 63 South Ridge Street, Rye Brook, New York 10573, pursuant to which the County will grant Tough Man a revocable License (the "Agreement") for use of designated areas of Croton Point Park to hold a triathlon event for adults called "The Westchester Toughman ½ Ironman", (the "Event"), a competition consisting of swimming, biking and running, to be held, rain or shine, on Sunday, September 7 2014, Sunday, September 13, 2015, Sunday, September 11, 2016, Sunday, September 10, 2017 and Sunday, September 9, 2018, with access being given to the Park to the Licensee on two weekend days, to be determined, in August of each year to conduct race clinics for Event participants and at the specific dates and times enumerated in the Agreement. Tough Man Enterprises Corp. and Tough Man Inc., (collectively "Tough Man"), will be held jointly and severally liable pursuant to the License; and be it further

RESOLVED, that the County is further authorized to enter into an agreement with Toughkids, Inc., 63 South Ridge Street, Rye Brook, New York 10573 ("Toughkids") pursuant to which the County will grant Toughkids a revocable License (the "Kids Agreement") for use of designated areas of Croton Point Park to hold a triathlon event for children called "The Westchester Toughkids Triathlon" (the "Kids Event"), a competition consisting of swimming, biking and running, to be held, rain or shine, on Saturday, September 6, 2014, Saturday, September 12, 2015, Saturday, September 10, 2016, Saturday, September 9, 2017 and Saturday, September 8, 2018, with access being given to the Park to the Licensee on one weekend day, to be determined, in August of each year to conduct race clinics for Event participants. The Kids Event will consist of separate age divisions: 4 - 6 year olds; 7 - 10 year olds and 11 - 14 year olds; and be it further

RESOLVED, that the Agreements will also provide Tough Man and Toughkids with Department staff, County Police, EMS Services, Port-O-Sans, use of designated areas for overnight camping and other incidental services for the Event; and be it further

RESOLVED, that the term of the Agreements shall commence on August 1, 2014 and shall terminate on September 10, 2018; and be it further

RESOLVED, that as payment for the License and all services related to the Event and the Kids Event, as provided in the Agreements, Tough Man shall pay the County a License fee of \$26,134 in 2014, \$27,440 in 2015, \$28,812 in 2016, \$30,252 in 2017 and \$31,764 in 2018, for a total fee of \$144,402 and Toughkids shall pay the County a License fee of \$8,883 in 2014, \$9,327 in 2015, \$9,793 in 2016, \$10,282 in 2017 and \$10,796 in 2018 for a total License Fee of \$49,081; and be it further

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

Agreement \$144,402
 Kids Agreement \$ 49,081
 TOTAL \$193,483

Account to be
 Charged/Credited

| Fund | Dept | Major Program, Program & Phase Or Unit | Object/ Sub- Object | Trust Account | Dollars | |
|------|------|--|------------------------|------------------|----------|------|
| 165 | 42 | 4100 | 9553 | | \$26,134 | 2014 |
| 165 | 42 | 4100 | 9553 | | \$8,883 | 2014 |
| 165 | 42 | 4100 | 9553 | | \$27,440 | 2015 |
| 165 | 42 | 4100 | 9553 | | \$9,327 | 2015 |
| 165 | 42 | 4100 | 9553 | | \$28,812 | 2016 |
| 165 | 42 | 4100 | 9553 | | \$9,793 | 2016 |
| 165 | 42 | 4100 | 9553 | | \$30,252 | 2017 |
| 165 | 42 | 4100 | 9553 | | \$10,282 | 2017 |
| 165 | 42 | 4100 | 9553 | | \$31,764 | 2018 |
| 165 | 42 | 4100 | 9553 | | \$10,796 | 2018 |

Budget Funding Year(s) 2014-18 Start Date 8/1/2014 End Date 9/10/2018

(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

\$ 193,483

Federal Aid _____

(must match resolution)

Other _____ Revenue _____