

41766

DATE: August 13, 2014

TO: Honorable Members of the Board of Acquisition & Contract

FROM: Robert P. Astorino
County Executive

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

RE: Resolution authorizing the County of Westchester to enter into a Management Agreement with Playland Ice Casino, LLC (a wholly owned subsidiary of American Skating Entertainment Centers, LLC) for a ten-year term commencing upon execution.

Authority is requested for the County of Westchester (the "County"), acting by and through its Department of Parks, Recreation & Conservation, and/or the Department of Public Works and Transportation, as appropriate, to enter into a management agreement with Playland Ice Casino, LLC (a wholly owned subsidiary of American Skating Entertainment Centers, LLC) (the "Ice Casino Manager") a for-profit corporation located in Elmsford New York, whereby the Ice Casino Manager will: (i) manage, operate, maintain, make non-structural repairs, and also make restorations, renovations and improvements to the Ice Casino; and (ii) be responsible for all activities and operations of any kind and nature whatsoever conducted within the Ice Casino, including but not limited to learn-to-skate and learn-to-play hockey classes, public skating, in-house ice hockey programs, kids first hockey program, travel and high school hockey, freestyle skating, summer camps, concessions, special events and seasonal activities, and sponsorships.

BACKGROUND:

Playland Park is a public park located within Westchester County, in Rye, New York. Since 1928, the focal point of the property has been an Amusement Park, which today has 50 major rides and attractions. In addition to the Amusement Park, Playland is also the home of the Playland Ice Casino. Built in 1929, the Ice Casino originally contained a main ice rink as well as a full dance floor on the second floor that functioned as a dance hall through the 1940s and '50s. A renovation in the 1970s added a kiddie rink as well as a mid-sized ice rink.

In August 2010, in an effort to maximize the potential for this valuable County resource, reduce Park expenses and explore potential public/private partnerships, the County issued a Request for

Proposals ("RFP") seeking proposals to reinvent Playland Park for the 21st Century. The County received 12 proposals in response to the RFP, including a proposal from American Skating Entertainment Centers to operate the Ice Casino. In furtherance of these efforts to revitalize Playland, authorization is being sought to enter into an agreement with the Ice Casino Manager that will improve revenue generation, reduce expenses and positively impact visitor experience.

PROPOSED AGREEMENT OVERVIEW OF TERMS AND CONDITIONS:

The proposed Agreement will take effect on the date that it is fully executed by the parties and continue for a period of ten (10) years. The parties will have a mutual option to renew the Agreement for an additional ten (10) years, subject to necessary legal approvals. Ice Casino operations under the Agreement shall commence September 1, 2014.

The Ice Casino Manager shall pay the County Three Hundred Thousand Dollars (\$300,000.00) payable as follows: (i) Fifty (50%) percent upon full execution of this Agreement; and (ii) Fifty (50%) percent when the Ice Casino Manager opens the Ice Casino to the general public, but in no event later than September 1, 2014.

Commencing January 1, 2015, the Ice Casino Manager shall pay the County an annual management fee. Such fee shall be Two Hundred Fifty Thousand (\$250,000.00) Dollars for 2015. Starting in 2016 and for each year thereafter, the amount of the annual management fee shall increase by two (2%) percent.

The Ice Casino Manager shall pay the County annual Common Area Maintenance Charges which shall be reasonably determined based on the County's actual common area maintenance costs pro-rated to reflect the Ice Casino's share of such costs. The annual Common Area Maintenance Charges shall not exceed Twenty-Five Thousand (\$25,000.00) Dollars in year one and shall not increase by more than 3% annually thereafter. The Ice Casino Manager will pay Four Hundred Thousand (\$400,000.00) Dollars per year towards utilities in equal monthly installments commencing September 1, 2014.

In addition, the Ice Casino Manager shall pay the County annually, Twenty-five (25%) percent of Gross Revenues (revenues and income of any kind) above One Million Six Hundred Thousand (\$1,600,000.00) Dollars. For the period September 1, 2014 through December 31, 2014, the Ice Casino Manager shall base the Revenue Share on Five Hundred Thirty-Three Thousand (\$533,000.00) Dollars. Commencing January 1, 2015, the Revenue Share shall be based on Gross Revenue above One Million Six Hundred Thousand (\$1,600,000.00) Dollars. At the end of the fifth year of this Agreement, to wit: December 31, 2019, the Parties shall discuss and review in good faith the Revenue Share formula for any potential adjustments.

The Ice Casino Manager shall undertake certain improvements to the Ice Casino at its sole cost and expense, which is anticipated to cost approximately Six Hundred Forty Thousand (\$640,000.00) Dollars. If the work exceeds Six Hundred Forty Thousand (\$640,000.00) Dollars, such excess shall be at the Ice Casino Manager's sole cost and expense. In the event that the work is less than Six Hundred and Forty Thousand (\$640,000.00) Dollars, the Ice Casino Manager shall pay the County the difference as an additional Up-Front Payment which shall be

payable within thirty (30) days of completion of the work items, but in no event later than nineteen (19) months after the Effective Date.

Both parties have the right to terminate the Agreement upon the event of a default. An event of default for the Ice Casino Manager involves: a failure to perform and such failure continues for 30 days, with an opportunity to cure; a failure to maintain required insurance; the Ice Casino Manager abandons the Ice Casino or ceases to manage it, or the Ice Casino Manager's interest in the Agreement or the Ice Casino is taken by execution or other process of law. An event of default for the County involves a failure to perform and such failure continues for 30 days, with an opportunity to cure.

PUBLIC PURPOSE/GOALS AND OBJECTIVES:

The Agreement will serve a public purpose by ensuring the proper development, operation, maintenance, security and administration of the Ice Casino, which is located in one of Westchester County's historic parks. The goals and objectives of the Agreement will be to delegate the responsibility for the development, operation, maintenance, security and administration of the Ice Casino to an organization dedicated to preserving that legacy. The Department's personnel will track and monitor the oversight of the property by the Ice Casino Manager.

For the foregoing reasons, I respectfully request the approval of the annexed proposed Resolution.

RPA/KMO/WMM/TSA

APPROVED BOARD OF ACQUISITION & CONTRACTS 08/21/2014 - JONATHAN WHELAN, SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into a management agreement with Playland Ice Casino, LLC (a wholly owned subsidiary of American Skating Entertainment Centers, LLC) a for-profit corporation located in Elmsford, New York, whereby Playland Ice Casino, LLC will: (i) manage, operate, maintain, make non-structural repairs, and also make restorations, renovations and improvements to the Ice Casino; and (ii) be responsible for all activities and operations of any kind and nature whatsoever conducted within the Ice Casino, including but not limited to learn-to-skate and learn-to-play hockey classes, public skating, in-house ice hockey programs, kids first hockey program, travel and high school hockey, freestyle skating, summer camps, concessions, special events and seasonal activities, and sponsorships ("Agreement"), in a form substantially similar to the one annexed hereto; and be it further

RESOLVED, that the Agreement will take effect on the date that it is fully executed by the parties and continue for a period of ten (10) years. The parties will have a mutual option to renew the Agreement for an additional ten (10) years, subject to necessary legal approvals. Ice Casino operations under the Agreement shall commence September 1, 2014; and be it further

RESOLVED that the obligations of the County to make expenditures or incur any expense or financial liability under the Agreement are subject to annual appropriations by the County Board of Legislators pursuant to the Laws of Westchester County; 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.

Account to be
Charged/Credited

	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
2014	165	42	5540	9205		\$300,000.00
2014	165	42	5540	9219		\$141,666.65 *
2015	165	42	5540	9205		\$250,000.00
2015	165	42	5540	9219		\$425,000.00 *
2016	165	42	5540	9205		\$255,000.00
2016	165	42	5540	9219		\$425,750.00 *
2017	165	42	5540	9205		\$260,100.00
2017	165	42	5540	9219		\$426,522.50 *
2018	165	42	5540	9205		\$265,302.00
2018	165	42	5540	9219		\$427,318.18 *
2019	165	42	5540	9205		\$270,608.04
2019	165	42	5540	9219		\$428,137.73 *
2020	165	42	5540	9205		\$276,020.20
2020	165	42	5540	9219		\$428,981.86 *
2021	165	42	5540	9205		\$281,540.60
2021	165	42	5540	9219		\$429,851.32 *
2022	165	42	5540	9205		\$287,171.41
2022	165	42	5540	9219		\$430,746.86 *
2023	165	42	5540	9205		\$292,914.84
2023	165	42	5540	9219		\$431,669.27 *
2024	165	42	5540	9205		\$199,155.44
2024	165	42	5540	9219		\$288,412.91 *

*Estimated Amount

Budget Funding Year(s): 2014-2024 Start Date: 9/1/2014 End Date: 8/31/2024
(must match resolution)

Funding Source Tax Dollars _____
State Aid _____
\$ 7,221,869.81 Federal Aid _____
(must match resolution) Other Revenue _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/31/2014 - JOMAR VIEIRA, SECRETARY