

**53467**

November 21, 2016

TO: Board of Acquisition and Contract

FROM: Kathleen M. O'Connor, Commissioner  
Parks, Recreation & Conservation

RE: AUTHORITY TO ENTER INTO A LICENSE AGREEMENT WITH  
BROADCAST MUSIC, INC. (BMI), 10 MUSIC SQUARE EAST, NASHVILLE,  
TN 37203 FOR THE NON-EXCLUSIVE LICENSE TO UTILIZE MUSICAL  
WORKS FOR WHICH BMI HAS INTELLECTUAL PROPERTY RIGHTS AT  
THE WESTCHESTER COUNTY CENTER FROM JANUARY 1, 2017  
THROUGH DECEMBER 31, 2021 FOR AN AMOUNT NOT TO EXCEED  
\$100,000.

Authority is requested of this Board for the County of Westchester to enter into a license agreement with Broadcast Music, Inc. (BMI), 10 Music Square East, Nashville, TN 37203 for the non-exclusive license to utilize musical works, for which BMI has intellectual property rights, at the Westchester County Center for the period commencing January 1, 2017 and terminating December 31, 2021.

The County shall pay a license fee based on ticket revenue and seating capacity. This fee will only apply to shows in which the promoter does not have an agreement with BMI. The annual license fee payable shall be calculated and due quarterly. The annual license fee shall not exceed \$20,000 per year or \$100,000 over the five year term of the agreement.

The goal of this agreement is to allow the County to legally secure the use of BMI's copyrighted musical works for the use at the Westchester County Center. This will only apply in cases when a promoter does not have their own agreement with BMI. This agreement promotes fiscal responsibility since the use of copyrighted musical property without permission would result in various fines greater than the license fee.

The goal of this agreement will be monitored through quarterly reporting.

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

A resolution is attached for your favorable consideration.

## R E S O L U T I O N

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

**RESOLVED**, that the County of Westchester is authorized to enter into a license agreement with Broadcast Music, Inc. (BMI), 10 Music Square East, Nashville, TN 37203 for the non-exclusive license to utilize musical works, for which BMI has intellectual property rights, at the Westchester County Center for the period commencing January 1, 2017 and terminating December 31, 2021 and be it further

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**RESOLVED**, that this Agreement is subject to County appropriations; and be it further

**RESOLVED**, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; 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 reasonably be necessary to effectuate the purposes thereof.

Original Agreement	\$100,000
First Amendment	\$
<b>This Amendment</b>	<b>\$</b> _____
TOTAL	\$100,000

Agreement # PRC-1104

Account to be  
Charged/Credited

Fund	Dept	Major Program, Program & Phase  Or Unit	Object/ Sub-Object	Trust Account	Dollars	
165	42	7150	4380		\$20,000	2017
165	42	7150	4380		\$20,000	2018
165	42	7150	4380		\$20,000	2019
165	42	7150	4380		\$20,000	2020
165	42	7150	4380		\$20,000	2021

Budget Funding Year(s) **2017-2021** Start Date **1/1/2017** End Date **12/31/21**  
(must match resolution)

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

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

**\$100,000** Federal Aid \_\_\_\_\_

(must match resolution) Other \_\_\_\_\_

APPROVED BOARD OF ACQUISITIONS & CONTRACT - 1/15/2016 - LISA MRIJAJ, SECRETARY