

65220

September 26, 2018

TO: Board of Acquisition and Contract

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

RE: Authority to terminate the current agreement with Immaculate Concessions Inc. for the food and refreshment concession at Tibbetts Brook Park, Yonkers, New York and enter into a new five-year agreement commencing January 1, 2019 and ending December 31, 2023, with a five-year option at the County's option.

By Resolution dated December 21, 2017, the Board of Acquisition and Contract granted authority for the County of Westchester to assign the license agreement for the food and refreshment concession with Costa Foods, Inc. to Immaculate Concessions Inc., 75 Hyatt Avenue, Yonkers, New York. The agreement will expire on December 31, 2019.

Authority is now requested to terminate the current agreement with Immaculate Concessions Inc. and enter into a new five-year agreement, with Immaculate Concessions Inc. commencing January 1, 2019 and ending December 31, 2023, with a five-year option, at the County's sole option, in order to allow for improvements to be made to the concession operation.

For the privilege of operating the food and refreshment concession, Immaculate Concessions Inc. shall pay to the County a license fee consisting of the greater of a fixed fee or a fee based on the number of bathing tickets sold during each year of the agreement. The license fees shall be:

<u>Period</u>	<u>Fixed Fee</u>
January 1, 2019 through December 31, 2019	\$25,000
January 1, 2020 through December 31, 2020	\$25,500
January 1, 2021 through December 31, 2021	\$26,000
January 1, 2022 through December 31, 2022	\$26,500
January 1, 2023 through December 31, 2023	\$27,000.

The license fee based on the number of bathing tickets sold shall be:

<u>Period</u>	<u>Fee Per Bathing Ticket Sold</u>
January 1, 2019 through December 31, 2019	\$0.45
January 1, 2020 through December 31, 2020	\$0.45
January 1, 2021 through December 31, 2021	\$0.45
January 1, 2022 through December 31, 2022	\$0.45
January 1, 2023 through December 31, 2023	\$0.45.

In addition to the license fees above, Immaculate Concessions Inc. shall undertake the capital improvements on the attached schedule with an estimated value of \$27,000.

The County of Westchester, at its sole option, may extend the License for a period of five years commencing January 1, 2024 through December 31, 2028 and Immaculate Concessions Inc. shall pay to the County the greater of the following annual license fees:

<u>Period</u>	<u>Fixed Fee</u>
January 1, 2024 through December 31, 2024	\$28,000
January 1, 2025 through December 31, 2025	\$28,500
January 1, 2026 through December 31, 2026	\$29,000
January 1, 2027 through December 31, 2027	\$29,500
January 1, 2028 through December 31, 2028	\$30,000.

The license fee based on the number of bathing tickets sold shall be:

<u>Period</u>	<u>Fee Per Bathing Ticket Sold</u>
January 1, 2024 through December 31, 2024	\$0.45
January 1, 2025 through December 31, 2025	\$0.45
January 1, 2026 through December 31, 2026	\$0.45
January 1, 2027 through December 31, 2027	\$0.45
January 1, 2028 through December 31, 2028	\$0.45.

The public purpose of this agreement is to provide food and refreshment service to patrons at Tibbetts Brook Park. The goal of this agreement is to provide revenue to the County, while providing an important amenity to the park.

This agreement will be tracked and monitored by site visits.

This agreement is exempt from the Westchester County procurement policy pursuant to Section 3(b), thereof.

Accordingly, approval of the attached resolution by your Honorable Board is most respectfully requested.

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to terminate the current agreement with Immaculate Concessions Inc. for the food and refreshment concession at Tibbetts Brook Park, Yonkers, New York, effective December 31, 2018 and enter into a new five-year agreement commencing January 1, 2019 and ending December 31, 2023; and be it further

RESOLVED, that as consideration for the privilege of operating the food and refreshment concession, Immaculate Concessions Inc. shall pay to the County a license fee consisting of the greater of a fixed fee or a fee based on the number of bathing tickets sold during each year of the agreement. The license fees shall be:

<u>Period</u>	<u>Fixed Fee</u>
January 1, 2019 through December 31, 2019	\$25,000
January 1, 2020 through December 31, 2020	\$25,500
January 1, 2021 through December 31, 2021	\$26,000
January 1, 2022 through December 31, 2022	\$26,500
January 1, 2023 through December 31, 2023	\$27,000.

The license fee based on the number of bathing tickets sold shall be:

<u>Period</u>	<u>Fee Per Bathing Ticket Sold</u>
January 1, 2019 through December 31, 2019	\$0.45
January 1, 2020 through December 31, 2020	\$0.45
January 1, 2021 through December 31, 2021	\$0.45
January 1, 2022 through December 31, 2022	\$0.45
January 1, 2023 through December 31, 2023	\$0.45; and be it further

RESOLVED, that in addition to the license fees above, Immaculate Concessions Inc. shall complete improvements valued at \$27,000 on the attached schedule; and be it further

RESOLVED, that the County of Westchester, at its sole option, may extend the License for a period of five years commencing January 1, 2024 through December 31, 2028; and be it further

RESOLVED, that if the County of Westchester extends the License for a period of five years, Immaculate Concessions Inc. shall pay to the County a license fee consisting of the greater of a fixed fee or a fee based on the number of bathing tickets sold during each year of the agreement as follows:

<u>Period</u>	<u>Fixed Fee</u>
January 1, 2024 through December 31, 2024	\$28,000
January 1, 2025 through December 31, 2025	\$28,500
January 1, 2026 through December 31, 2026	\$29,000
January 1, 2027 through December 31, 2027	\$29,500
January 1, 2028 through December 31, 2028	\$30,000.

The license fee based on the number of bathing tickets sold shall be:

<u>Period</u>	<u>Fee Per Bathing Ticket Sold</u>
January 1, 2024 through December 31, 2024	\$0.45
January 1, 2025 through December 31, 2025	\$0.45
January 1, 2026 through December 31, 2026	\$0.45
January 1, 2027 through December 31, 2027	\$0.45
January 1, 2028 through December 31, 2028	\$0.45; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments necessary to implement this Resolution.

APPROVED BOARD OF ACQUISITION & CONTRACT - 2018/2018 - LISA MRIJAJ, SECRETARY

Original Agreement \$130,000
 First Amendment \$0
This Amendment
 TOTAL \$130,000

Agreement #

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars	
165	42	4250	9246		25,000	2019
165	42	4250	9246		25,500	2020
165	42	4250	9246		26,000	2021
165	42	4250	9246		26,500	2022
165	42	4250	9246		27,000	2023

Budget Funding Year(s) 2019-2023 Start Date 01-01-19 End Date 12-31-23
 (must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
\$ 130,000 Federal Aid _____
 (must match resolution) Other Revenue _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/E/2018 - USA MARIJAJ, SECRETARY

SCHEDULE OF IMPROVEMENTS

<u>Improvement</u>	<u>Estimated Cost</u>	<u>Completed By</u>
Furnish and install new walk-in freezer which shall become County of Westchester property upon installation.	\$20,000	12/31/2019
Furnish and install new security system with two key pads, motion detectors, heat and carbon monoxide detectors and an exterior siren, to be monitored by central station alarm company at concession operator's sole expense.	\$2,000	12/31/2019
Furnish and install new power line in order to relocate food truck to serve soccer fields.	<u>\$5,000</u>	12/31/2019
Total Food Concession Renovations	\$27,000	

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/25/2018 - LISA MARIJA SECRETARY