

ID 75843

April 8, 2020

TO: Board of Acquisition and Contract

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

RE: AUTHORITY TO AMEND THE RESOLUTION APPROVED ON MARCH 26, 2020 WITH TOLVE AMUSEMENTS, INC., 251 FOREST AVENUE, RYE, NEW YORK 10580 TO OPERATE THE "LAKE BOATING" CONCESSION AT PLAYLAND PARK FOR THE PERIOD OF MAY 1, 2020 THROUGH SEPTEMBER 30, 2021 IN ORDER TO ALLOW FOR CONTINGENCIES RELATING TO THE IMPACT OF THE CORONAVIRUS (COVID-19) ON THE OPERATION AT PLAYLAND PARK.

By resolution approved on March 26, 2020 (the "March 26th Resolution"), your Honorable Board authorized the County of Westchester (the "County"), acting by and through the Department of Parks, Recreation and Conservation (the "Department"), to enter into a license agreement with Tolve Amusements, Inc., 251 Forest Avenue, Rye, New York to operate the "lake boating" concession at Playland Park, for a term commencing May 1, 2020 and terminating September 30, 2021 (the "License Agreement"). The License Agreement has not been executed.

Following the passage of the March 26th Resolution and as a result of recent developments concerning the Coronavirus (COVID-19), Tolve Amusements, Inc. expressed concern about the length of the operating season and the inability to generate revenue in the event Playland Park is not open for the entire 2020 operating season.

Tolve Amusements, Inc. requested that, if the operating season were to be reduced due to COVID-19, the annual minimum license fee in the proposed License Agreement would be reduced by \$73.77 for each day that it was closed.

Tolve Amusements, Inc. requested that the language in the proposed License Agreement be changed to include language similar to the following to alleviate concern about the impact of the Coronavirus on future business operations:

“(a) In the event the Licensee is delayed or prevented by circumstances related to the Pandemic of the Coronavirus, also referred to as COVID-19, or by any other name (“COVID 19”), the Licensee shall be excused from any failure to perform its obligation to open and operate under this License and shall receive a credit in the amount of \$73.77 per day, for each day closed, as against the Annual Licensing Fee of Nine Thousand (\$9,000.00) Dollars. In the event Playland is closed for the Amusement Park Season or any part thereof by order of local, State or Federal directives due to public health and safety concerns or disaster emergency, the Licensee must notify the County promptly if there will be a delay in performance under this subsection.”

Except as amended hereby, all other terms and conditions set forth in the March 26, 2020 Resolution shall remain the same.

Accordingly, a Resolution is attached for your favorable consideration.

KMO/jc

APPROVED BOARD OF ACQUISITION & CONTRACTS 04/09/2020 USMAYAS SECRETARY

RESOLUTION

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

RESOLVED, that the resolution approved by your Honorable Board on March 26, 2020 (the “March 26th Resolution”), which authorized the County of Westchester (the “County”) to enter into a license agreement with Tolve Amusements, Inc., 251 Forest Avenue, Rye, New York to operate the “lake boating” concession at Playland Park, for a term commencing May 1, 2020 and terminating September 30, 2021 is hereby amended to include language similar to the following:

“In the event the Licensee is delayed or prevented by circumstances related to the Pandemic of the Coronavirus, also referred to as COVID-19, or by any other name (“COVID-19”), the Licensee shall be excused from any failure to perform its obligation to open and operate under this License and shall receive a credit in the amount of \$73.77 per day, for each day closed, as against the Annual Licensing Fee of Nine Thousand (\$9,000.00) Dollars, in the event Playland is closed for the Amusement Park Season or any part thereof by order of local, State or Federal directives due to public health and safety concerns or disaster emergency, the Licensee must notify the County promptly if there will be a delay in performance under this subsection.”

and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions set forth in the March 26th Resolution shall remain the same; and be it further

RESOLVED, that the County Executive or his duly 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 \$
 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 |
|------|------|--|------------------------|------------------|---------|
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Budget Funding Year(s) _____ Start Date _____ End Date _____
 (must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ _____ Federal Aid _____

(must match resolution)

Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 04/09/2020 - LISA MRIJAJ, SECRETARY