

ID 77511

Date: June 29, 2020

To: The Honorable Board of Acquisition and Contract

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

Re: **Authority to enter into a license agreement with Ticketmaster L.L.C., to provide box office service at the Westchester County Center for the period August 1, 2020 through July 31, 2025.**

Authority is requested of this Board for the County of Westchester ("the County") to enter into a license agreement with Ticketmaster, L.L.C. ("Ticketmaster") to provide box office service at the Westchester County Center for the term August 1, 2020 through July 31, 2025. Subject to the mutual agreement of both parties, the license agreement may be extended for the period from August 1, 2025 through July 31, 2030, on the same terms and conditions as the initial term. Ticketmaster has been successfully providing this service to the County for over twenty (20) years.

The proposed agreement would enable the County to have tickets for County Center events sold by Ticketmaster through telephone sales and the internet. Ticketmaster will charge the County a credit card processing fee of 3.0% (plus increases due to interbank rate increases charged to Ticketmaster) of the face value of the tickets for tickets sold by Ticketmaster. Convenience charges and processing fees associated with the purchase of tickets through Ticketmaster will be charged to the purchaser of the ticket. Pursuant to this License, consumers will be able to receive tickets through mobile delivery free of charge. Consumers will pay an additional fee to receive tickets through U.S. mail or Will Call.

Ticketmaster will continue to provide the County with the computer hardware and software for the production of tickets for all County Center events. Also, eight ticket scanners are being provided for the County Center. These ticket scanners have help to significantly reduced lines for County Center events by speeding up the ticket validation process. Ticketmaster will also be providing four computers and five printers to the County. This equipment will be provided at no cost to the County.

At the County's option, Ticketmaster will make its subscription based TM1 Engagement software available for County use. This software provides access to a marketing tool based on email and social media data that the County could utilize to drive sales for County Center events. The subscription fees payable by the County shall not exceed \$7,000 in any year of the agreement.

Pursuant to the terms of the Agreement, the County will agree to indemnify Ticketmaster and its parents, subsidiaries, and their officers, directors, employees and agents and their successors and assigns (collectively, for purposes of this Section, "Ticketmaster's Indemnitees") against, and hold Ticketmaster's Indemnitees harmless from, any and all claims, actions, damages, expenses (including court costs), obligations, losses, liabilities and liens, imposed on, incurred by, or asserted against Ticketmaster's Indemnitees occurring as a result of, or in connection with: (i) any Event of Default under this Agreement by the County or any of its officers, directors, employees and agents (collectively, "County's Representatives"); (ii) use of the TM System (including without limitation any customization of County's Website or the Interface Page (if applicable) and any e-mail campaigns or distributions using the TM System) or possession and use of the Hardware (if any) by the County or any of the County's Representatives; (iii) any Attraction held or scheduled to be held at the Facility (including any injuries or deaths occurring at or in connection with any Attraction or the failure of any Attraction to occur or to occur in the manner advertised or promoted); (iv) a claim that Ticketmaster's release of the Purchaser Data to the County violates any applicable law, rule or regulation; (v) the County's use or disclosure of the Purchaser Data; (vi) violations of laws relating to the resale of Tickets; or (vii) any email campaigns or distributions conducted by Ticketmaster on Principal's behalf or conducted by the County including, without limitation, email campaigns or distributions in violation of federal, state or other laws applicable to commercial emails; except, in each case, to the extent that any such claims shall relate to Ticketmaster's negligence or willful misconduct with respect thereto".

It should be noted that Ticketmaster will cross indemnify the County for Ticketmaster's negligence.

The goal of this agreement is to provide a convenient means for the public to purchase tickets to County Center events thereby increasing revenue to the County. If this agreement were not in place, this amenity would not be available to the public and could result in a decline in attendance at these events. The objective of this agreement will be tracked and monitored by the review of financial reports by County Center staff.

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.

KMM/KH/JPG
Attachment

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to enter into a license agreement with Ticketmaster L.L.C., for the provision of box office service at the Westchester County Center for the term commencing August 1, 2020 through July 31, 2025; and be it further

RESOLVED, that subject to the mutual agreement of both parties, the agreement may be extended for the period from August 1, 2025 through July 31, 2030, on the same terms and conditions as the initial term; and be it further

RESOLVED, that Ticketmaster L.L.C. will charge the County a credit card processing fee of 3.0% (plus increases due to interbank rate increases charged to Ticketmaster L.L.C.) of the face value of the tickets for tickets sold by Ticketmaster through telephone sales or the internet; and be it further

RESOLVED, that Ticketmaster, L.L.C. shall provide five printers, four computers and eight hand held scanners and the required software at no cost to the County; and be it further

RESOLVED, that Ticketmaster, L.L.C will make its subscription based TM1 Engagement software available for County use at the County's option. The subscription fees payable by the County shall not exceed \$7,000 in any year of the agreement; and be it further

RESOLVED, that pursuant to the terms of the Agreement, the County will agree to "indemnify Ticketmaster and its parents, subsidiaries, and their officers, directors, employees and agents and their successors and assigns (collectively, for purposes of this Section, "Ticketmaster's Indemnitees") against, and hold Ticketmaster's Indemnitees harmless from, any and all claims, actions, damages, expenses (including court costs), obligations, losses, liabilities and liens, imposed on, incurred by, or asserted against Ticketmaster's Indemnitees occurring as a result of, or in connection with: (i) any Event of Default under this Agreement by the County or any of its officers, directors, employees and agents (collectively, "County's Representatives"); (ii) use of the TM System (including without limitation any customization of County's Website or the Interface Page (if applicable) and any e-mail campaigns or distributions using the TM System) or possession and use of the Hardware (if any) by the County or any of the County's Representatives; (iii) any Attraction held or scheduled to be held at the Facility (including any injuries or deaths occurring at or in connection with any Attraction or the failure of any Attraction to occur or to occur in the manner advertised or promoted); (iv) a claim that Ticketmaster's release of the Purchaser Data to the County violates any applicable law, rule or regulation; (v) the County's use or disclosure of the Purchaser Data; (vi) violations of laws relating to the resale of Tickets; or (vii) any email campaigns or distributions conducted by Ticketmaster on Principal's behalf or conducted by the County including, without limitation, email campaigns or distributions in violation of federal, state or other laws applicable to commercial emails; except, in each case, to the extent that any such claims shall relate to Ticketmaster's negligence or willful misconduct with respect thereto"; 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 \$35,000
 First Amendment \$
This Amendment **\$ _____**
 TOTAL \$35,000

Agreement #PRC-1274

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase	Object/ Sub-Object	Trust Account	Dollars
		Or Unit			
165	42	7150	4380		\$7,000
165	42	7150	4380		\$7,000
165	42	7150	4380		\$7,000
165	42	7150	4380		\$7,000
165	42	7150	4380		\$7,000

Budget Funding Year(s) **2020-2025** Start Date **8/1/2020** End Date **7/31/2025**
 (must match resolution)

Funding Source Tax Dollars X _____

State Aid _____

\$35,000 Federal Aid _____

(must match resolution) Other _____