

ID49037

DATE: October 19, 2015

TO: Board of Acquisition and Contract

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

RE: AUTHORITY TO ENTER INTO A LICENSE AGREEMENT WITH THE WESTCHESTER LLC AND SIMON PROPERTY GROUP, INC. (THE "LANDLORD") FOR THE USE OF THE WESTCHESTER MALL ON TUESDAY AND FRIDAY MORNINGS FOR THE TERM JANUARY 1, 2016 THROUGH DECEMBER 31, 2016 FOR THE OPERATION OF "MALL WALK AT THE WESTCHESTER" AT NO COST TO THE COUNTY AND FOR THE COUNTY TO DEFEND AND INDEMNIFY THE LANDLORD.

Authority is hereby requested for the County of Westchester ("County") acting by and through the Department of Parks, Recreation and Conservation ("PRC") and The Westchester LLC and Simon Property Group, Inc. (the "Landlord") to enter into a license agreement for the use of the Westchester Mall on Tuesday and Friday mornings between 8:00 a.m. and 10:00 a.m. for "Mall Walk at The Westchester" members to walk on site and to provide health talks and related programs in mall common areas for the term January 1, 2016 through December 31, 2016, and for the County to defend and indemnify the Landlord, at no cost to the County.

The Landlord requires the County to indemnify, defend and hold them harmless from and against any and all claims arising from the County's, or "Mall Walk at The Westchester" member's negligence, unless the claim is the result of the landlord's sole negligence.

The goals and objectives of the requested license are to provide recreational opportunities to Westchester residents. This will enable Westchester County Residents to walk in the Westchester Mall, to improve their fitness and well-being. The operation of the proposed License will continually be monitored by PRC staff.

Accordingly, the attached resolution is submitted for your consideration.

RESOLUTION

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

RESOLVED, that the County of Westchester (“the County”) is authorized to enter into a license agreement with The Westchester LLC and Simon Property Group, Inc. (the “Landlord”) for the use of the common areas of the Westchester Mall on Tuesdays and Fridays from 8:00 a.m. to 10:00 a.m. for the Department of Parks, Recreation and Conservation to provide “Mall Walk at The Westchester” for Westchester residents to walk on site and to provide health talks and related programs, for the term January 1, 2016 through December 31, 2016, at no cost to the County; and be it further

RESOLVED, that the license agreement will contain language requiring the County to indemnify, defend and hold harmless the Landlord from and against any and all claims arising from the County’s, or “Mall Walk at The Westchester” Member’s negligence, unless the claim is the result of the landlord’s sole negligence; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to execute and deliver any and all documents and to take all action necessary and appropriate to effectuate the purposes hereof.

Account to be Charged/Credited:

Year	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
n/a						

Budget Funding Year(s): _____ Start Date: January 1, 2016 End Date: December 31, 2016

Funding Source: Tax Dollars: _____

State Aid _____

\$ n/a Federal Aid: _____

(must match resolution)

Other: _____