

January 6, 2010

TO: Board of Acquisition and Contract

FROM: Joseph A. Stout, 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 PUBLICLY PERFORM
MUSICAL WORKS FOR WHICH BMI HAS INTELLECTUAL PROPERTY
RIGHTS AT PLAYLAND PARK FROM JANUARY 1, 2010 THROUGH
DECEMBER 31, 2014 FOR AN AMOUNT NOT TO EXCEED \$40,000.

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 publicly perform musical works at Playland Park for which BMI has intellectual property rights for the period commencing January 1, 2010 and terminating December 31, 2014.

The County shall pay an annual fee based upon a calculation that includes the total attendance, admission fees and the cost of Playland's live music and entertainment. The license fee payable for each of the five years shall be calculated and due at the end of each operating season for an amount not to exceed \$8,000. The total fee payable for the term of the agreement shall not exceed \$40,000.

The goal of this agreement is to allow the County to provide musical entertainment for patrons at Playland. Without this agreement Playland could not have musical entertainment for which BMI has intellectual property rights. The County strongly believes that this service adds to the ambiance of the amusement park. If this resolution is not approved, there would be negative consequences to patrons in that the atmosphere at Playland would be lacking the feel patrons have come to expect.

The goal of this agreement will be monitored through site visits from staff members.

This agreement is exempt from the County's procurement policy pursuant to Section 9, as BMI is the sole source for licensing these intellectual property rights.

A resolution is attached for your favorable consideration.

RESOLUTION

Upon a communication from Joseph A. Stout, Commissioner, 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 publicly perform musical works at Playland Park for which BMI has intellectual property rights for the period commencing January 1, 2010 and terminating December 31, 2014; 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.

Joseph A. Stout, Commissioner
Parks, Recreation and Conservation

