

83260

March 9, 2021

TO: Board of Acquisition and Contract

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

RE: AUTHORITY TO AMEND THE LICENSE AGREEMENT WITH WESTCHESTER SEAFOOD CO., LLC DBA CHARLEY'S PIER RESTAURANT AND TIKI BAR, FOR THE OPERATION OF THE PIER RESTAURANT AND TIKI BAR AT PLAYLAND PARK IN RYE, NEW YORK, IN ORDER TO ADDRESS THE IMPACT OF THE CORONAVIRUS (COVID-19) ON PLAYLAND, AS WELL AS THE IMPACT OF A POSSIBLE AGREEMENT BETWEEN THE COUNTY AND STANDARD AMUSEMENTS LLC FOR THE MANAGEMENT OF PLAYLAND.

By resolution approved on February 27, 2020 (the "February 27th 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 Westchester Seafood Co., LLC DBA Charley's Pier Restaurant and Tiki Bar (the "Licensee"), for the operation of the Pier Restaurant and Tiki Bar at Playland Park in Rye, New York, as well as for the operation of a daily boat parking service utilizing the service dock, ramp and moorings located off the Playland Pier (collectively, the "Tiki Bar"), for a term commencing February 28, 2020 and terminating December 31, 2021.

Following the passage of the February 27th Resolution and as a result of the Coronavirus (COVID-19) pandemic, your Honorable Board approved a resolution on April 16, 2020 (the "April 16th Resolution") amending the February 27th Resolution to allow for contingencies in relation to the impact of COVID-19 on the operation of Playland.

Pursuant to the February 27th Resolution and the April 16th Resolution, the County entered into the license agreement with Licensee, dated June 17, 2020 (the "License").

The Licensee has requested further amendments to the License due to the impact of COVID-19 upon the operation of Playland, as well as the impact of a possible agreement between the County and Standard Amusements LLC for the management of Playland.

The Licensee has requested the County acknowledge that Playland did not open for the 2020 amusement park season and, therefore, the Licensee is relieved from having to pay the minimum annual license fee of \$235,000 to the County for the 2020 amusement park season, and, for the 2021 and the 2022 amusement park seasons, the \$235,000 minimum annual license fee shall be removed from the License, setting the license fee at 9% of gross sales for the 2021 and 2022 amusement park seasons.

The Licensee has also requested the License be amended to reimburse the Licensee \$99,000 for the improvements it completed on the bathrooms at Playland.

Finally, the Licensee has requested that the License be amended to confirm that the Licensee has the right and obligation to operate the Tiki Bar in accordance with the terms of the License, as amended, and that Standard Amusements, LLL does not have a contractual right with the County to operate the Tiki Bar prior to the end of the License. Any right that Standard Amusements may have to operate the Tiki Bar as identified in the Second Restated and Amended Playland Management Agreement between the County and Standard Amusements (the "SRAPMA") does not arise until the end of the License and also only if the SRAPMA becomes a valid and binding agreement.

Except as amended hereby, all other terms and conditions set forth in the License shall remain the same.

Accordingly, a resolution is attached for your favorable consideration.

KMO/ran

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”), acting by and through its Department of Parks Recreation and Conservation (the “Department”), is authorized to amend the license agreement entered into with the Westchester Seafood Co., LLC DBA Charley’s Pier Restaurant and Tiki Bar (the “Licensee”), dated June 17, 2020, (the “License”) for the operation of the Pier Restaurant and Tiki Bar at Playland Park in Rye, New York, as well as for the operation of a daily boat parking service utilizing the service dock, ramp and moorings located off the Playland Pier (collectively, the “Tiki Bar”), to acknowledge that Playland did not open for the 2020 amusement park season and, therefore, the Licensee is relieved from having to pay the minimum annual license fee of \$235,000 to the County for the 2020 amusement park season, and that for the 2021 and 2022 amusement park seasons, the \$235,000 minimum annual license fee shall be removed from the License, setting the license fee at 9% of gross sales for the 2021 and 2022 amusement park seasons; and be it further

RESOLVED, that the County is authorized to amend the License to reimburse the Licensee \$99,000 for the improvements it completed on the bathrooms at Playland; and be it further

RESOLVED, that the County is authorized to confirm that the Licensee has the right and obligation to operate the Tiki Bar in accordance with the terms of the License, as amended, and that Standard Amusements, LLC does not have a contractual right with the County to operate the Tiki Bar prior to the end of the License. Any right that Standard Amusements may have to operate the Tiki Bar as identified in the Second Restated and Amended Playland Management Agreement between the County and Standard Amusements (the “SRAPMA”) does not arise until the end of this License and also only if the SRAPMA becomes a valid and binding agreement; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions set forth in the License 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 \$473,000
 First Amendment \$236,500
 This Amendment \$(335,500)
 TOTAL \$374,000

Agreement #PRC-1244B

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars	
165	42	5520	9205		(235,000)	2020
165	42	5520	9219		(1,500)	2020
165	42	5520	9205		(99,000)	2021

Budget Funding Year(s) 2020-2022 Start Date 02/28/20 End Date 12/31/22

Funding Source Tax Dollars _____

State Aid _____

\$(335,500) Federal Aid _____

(must match resolution)

Other Revenue _____

APPROVED BOARD OF ACQUISITION & CONTRACTS - 03/11/2021 - LISA MRIJAJ, SECRETARY