

**MINUTES OF THE MEETING OF THE
COUNTY OF WESTCHESTER
BOARD OF ACQUISITION AND CONTRACT
HELD ON THURSDAY, MAY 23, 2019 @ 11:00 A.M.**

Deputy County Executive	Ken Jenkins
Vice Chair, Board of Legislators	Alfreda Williams
Budget Director	Larry Soule
Assistant Chief Deputy County Attorney	Tami Altschiller
Deputy Commissioner of Finance	Caesar Vargas
Budget	Pat Haggerty
County Executive's Office	Carl Pagano
Board of Legislators	Jaevon Boxhill
Board of Legislators	Greg Casciato
Board of Legislators	Dennis Power
Mark Lungariello	LoHud
Secretary BAC	Lisa Mrijaj
Assistant Secretary BAC	Valerie Rodriguez

Mr. Jenkins presided.

Mr. Jenkins said, "For the record has the Secretary to the Board gone to the reception area to invite any members of the public who wish to attend today's meeting to come to the conference room?"

Ms. Mrijaj confirmed that she had done so.

Mr. Jenkins said, "I understand that the Budget Director wishes to make a motion."

Mr. Soule said, "On behalf of the Commissioner of Parks, Recreation and Conservation, I move to amend item 1 (OnBase I.D. #69755) on the agenda by replacing that item with this resolution. This is a resolution to enter into a revenue share license agreement with Zamperla, Inc. for it to provide and place the Disk'O 24, Park Model ride at Playland Park. The proposed amended resolution would: (i) revise the proposed term of the Agreement; (ii) revise the proposed revenue share; (iii) modify certain proposed defense and indemnification obligations of the County; and modify the budget box."

Mr. Jenkins seconded the motion and it was unanimously approved.

Mr. Jenkins said "The motion passes. The Secretary to the Board shall amend item #1 by replacing it with the version provided to this Board by the Budget Director."

Ms. Altschiller said, "I would like to make a technical amendment. The Onbase I.D. number for the resolution that was amended is 69757."

Mr. Jenkins said, "That technical amendment of the Onbase ID. The resolution contents are still the same. Everyone have a wonderful holiday weekend and a very Happy Birthday to Alfreda Williams."

Acquisition & Contract. Minutes of the meeting 5/16/19 and the SEQR Review for agenda items.

L. Mrijaj

Mr. Jenkins moved to receive and file the foregoing minutes and SEQR review, which were duly seconded and approved.

1. (69757) **Parks** - Enter into a revenue share license agreement with Zamperla, Inc., to provide and place the Disk'O 24, Park Model ride at Playland Park, for a term of five (5) years commencing upon execution of the agreement and terminating five (5) years thereafter, with a County option to renew the agreement for up to five (5) years on mutually agreed to terms and conditions, for an amount not to exceed \$305,000, comprised of up to \$280,000 for the foundation work and \$25,000 for a flat administration fee, under the listed terms and conditions.

K. O'Connor

Held Over By Board of Legislators – 5/16/19

2. (69715) **County Executive** - Pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, to exempt from procurement an agreement for the operation of the Hudson Valley Region 211 Call Center with the United Way of Westchester and Putnam.

K. Jenkins

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

3. (69716) **County Executive** – Enter into an agreement with the United Way of Westchester and Putnam to operate the Hudson Valley Region 211 Call Center, for the provision of free information and referral services to County residents for a fee not to exceed \$100,000, from 1/1/19 – 12/31/19.

K. Jenkins

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

4. 69725) **County Executive** - Pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, to exempt from procurement an agreement with Leroy Frazer Jr. to provide criminal justice consulting services, from 1/1/19 – 12/31/19.

G. Latimer

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

5. (69462) **County Executive** - Pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, to exempt from procurement an agreement with Vincent Ferrandino & Associates, Inc.

K. Jenkins

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

6. (69463) **County Executive** – Amend an agreement with Vincent Ferrandino & Associates, Inc., to provide consulting services related to the County’s capital program, from 8/1/18 – 7/31/19, in an amount not to exceed \$50,000, in order to extend the agreement for the term 8/1/19 – 12/31/19, and effective as of 3/1/19, increase the amount by \$75,000, for a total amount not to exceed \$125,000.

K. Jenkins

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

7. (69750) **Information Technology** – Amend Agreement IT-1353 with Sprint Solutions, Inc., to provide cellular telephone services, from 2/26/15 and continuing until the sooner of 5/15/19 or the termination date of New York State Office of General Services (“OGS”) Contract Number PS638853, for a total amount not to exceed \$70,000, and in accordance with the terms and conditions of PS63853, by, **1)** extending its term such that its termination date shall match that of PS63853, as the termination date of PS63853 may be modified from time to time by OGS, and **2)** increasing the amount by \$7,000, to a new amount not to exceed \$77,000, in order to provide funding for services through 12/31/19.

M. Beirne

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

8. (69751) **Information Technology** – Amend Agreement IT-1348 with Verizon Wireless, to provide cellular telephone and wireless data services, from 12/3/14 and continuing until the sooner of 5/15/19 or the termination date of New York State Office of General Services (“OGS”) Contract Number PS63766, for a total amount not to exceed \$2,465,000, and in accordance with the terms and conditions of PS63766, by, **1)** extending its term such that its termination date shall match that of PS63766, as the termination date of PS63766 may be modified from time to time by OGS, and **2)** increasing the amount by \$355,000, to a new amount not to exceed \$2,820,000, in order to provide funding for services through 12/31/19.

M. Beirne

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

9. (69465) **County Attorney** - Renew an agreement for “All Risk” Property / Boiler & Machinery Insurance from the New York Municipal Insurance Reciprocal for Hangars “D” & “E” at the Westchester County Airport, from 6/1/19 – 6/1/20, for an amount not to exceed \$88,173.84, under the listed terms and conditions.

J. Nonna

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

10. (69396) **County Clerk** - Enter into a third-party custody agreement with Orange Bank and Trust Company and its custodian bank, Manufacturers and Traders Trust Company related to the deposit of County Funds, with the third-party agreement to contain the following language concerning liability of the Custodian: "The Custodian shall not be held liable for any loss or damage, including counsel fees, resulting from its action or omission to act or otherwise, except for any loss, damage, claim or expense arising out of its own negligence or willful misconduct, and shall have no obligation hereunder for any loss or damage, including counsel fees, which are sustained or incurred by reason of any action or inaction by the Book Entry System or Depository. The Custodian may, with respect to questions of law, apply for and obtain the advice and opinion of competent counsel and shall be fully protected with respect to anything done or omitted by it in good faith and conformity with such advice or opinion."

T. Idoni

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

11. (69472) **Community Mental Health** - Enter into an agreement with Program Design and Development, LLC, to provide planning and management services concerning the Westchester County Continuum of Care Partnership for the Homeless, for an amount not to exceed \$192,000, for the period of 6/1/19 – 5/31/20.

M. Orth

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

12. (69808) **Social Services** – Amend an agreement with LexisNexis Risk Solutions Inc., to provide the County with data solutions for comprehensive background screenings of applicants for, and recipients of, various social service programs, for an amount not to exceed \$25,800, for a period commencing upon the first provision of the services by LexisNexis and continuing for one (1) year thereafter, from 6/1/18 – 5/31/19, thereby, 1) extend the term by one (1) year, to a new termination date of 5/31/20; and 2) increase the amount by \$25,800, to a new total not to exceed amount of \$51,600, to pay for the Services during the first Option Term, under the listed terms and conditions.

K. McGuire

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

13. (69450) **Probation** - Enter into 1) an agreement with the New York State Office of Children and Family Services to accept funding in an amount of \$601,339 to meet the County's obligations under the Supervision and Treatment Services for Juveniles Program, from 10/1/18 – 9/30/19; 2) an agreement with Westchester Jewish Community Services to operate its Linkages program, for an amount not to exceed \$191,339, from 10/1/18 – 9/30/19.

R. Pozzi

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

14. (69495) **Parks** - Enter into a license agreement with the Ecuadorian Civic Committee of Westchester Inc., 780 Old Kensico Road, White Plains, for use of certain areas of Croton Point Park for the purposes of holding a festival celebrating Ecuadorian Heritage, to be held on Sunday August 11, 2019, rain or shine, between the hours of 10:00 am and 7:00 pm, with a per vehicle parking fee of \$10.00 and a license fee of \$27,071.74, under the listed terms and conditions.

K. O'Connor

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

15. (69451) **DPW/Transportation** – Contract No. 17-522-Rev., with Arben Group LLC, for Site Improvements and Building Restoration, Miller House, Town of North Castle, New York. Approved Earth Core Energy Services, LLC, Prospect, CT, as a subcontractor.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

16. (69452) **DPW/Transportation** – Contract No. 17-531 with Bilotta Construction Corp., for Roadway Rehabilitation, Washington Avenue from Grandview Avenue to South Greeley Avenue, A Distance of 1.2 Miles, Village of Pleasantville, New York. Approved the seven (7) listed subcontractors.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

17. (69459) **DPW/Transportation** - Enter into Agreement No. 19-910 with D&B Engineers and Architects, P.C., White Plains, for engineering services in connection with Water and Electric Service Upgrades, George's Island Park, Town of Cortlandt, New York, to provide design services associated with this project, for a total compensation fee of \$185,125, commencing on 6/1/19 – 12/31/23. Approved LynStaar Engineering, P.C., (WBE), White Plains, as a subconsultant.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

18. (69478) **DPW/Transportation** – Contract No. 12-508 with R. Pagni & Sons, Inc., for Site Improvements, District Office Building, Town of Mount Kisco, New York. Completed work and Final Contract Amount of \$253,250.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

19. (69479) **DPW/Transportation** – Contract No. 14-529 with Anjac Enterprises Inc., for Rehabilitation of Administration Building – Phase II, Mamaroneck Wastewater Treatment Plant, Mamaroneck, New York. Completed work and Final Contract Amount of \$1,685,122.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

20. (69499) **DPW/Transportation** – Contract No. 18-527 for Relocation of Overhead Utilities at the Bus Maintenance Area, Central Maintenance Facility, Yonkers, New York. Awarded to Sole Bidder, J&M Heating and Air Conditioning, Inc., Bedford Hills, in the amount of \$1,625,000. Approved B.A.C. Electrical Construction Co., Inc., Thornwood, as a subcontractor.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

21. (69720) **DPW/Transportation** – Contract No. 17-502 for Rehabilitation of Anita Lane Utility Bridge and Stream Bank Improvements, Village of Mamaroneck, New York. Reject All Bids and Re-Advertise as Contract No. 17-502-Rev.

H. Greechan

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

22. (69728) **DPW/Transportation** – Contract No. 15-556 for Main House Rehabilitation, Merestead, Bedford and New Castle, New York. Advertise for bids.

H. Greechan

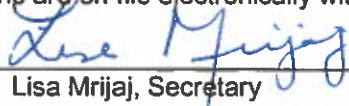
Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

23. (69458) **DEF** - Amend Contract No. EF-1608 with Centrisys Corporation, to provide Annual Inspection and Repair of Centrifuges (Rotation Assemblies) including Gearboxes at the Yonkers Joint Wastewater Resource Recovery Facility, Yonkers, Westchester County, New York, for a three-year (3) period, from 9/26/19 – 9/25/22, at a cost not to exceed \$411,200.

V. Kopicki

Mr. Jenkins moved the resolution, which was duly seconded and unanimously approved.

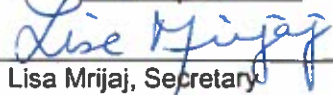
There being no further business, the Chair declared the meeting adjourned. All approved resolutions are on file electronically with the Board of Acquisition and Contract.



Lisa Mrijaj, Secretary

I have reviewed the foregoing minutes and have found them to be correct as written.

Dated, 5/28/19



Lisa Mrijaj, Secretary



Memorandum

Department of Parks Recreation and
Conservation**69757**

TO: Board of Acquisition and Contract

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

DATE: May 23, 2019

SUBJECT: Authority to enter into a revenue share license agreement with Zamperla, Inc. for it to provide and place the Disk'O 24, Park Model ride at Playland Park ("Playland") located in Rye, New York for a term commencing upon execution of the agreement and being for five (5) operating seasons beginning with the 2019 operating season and expiring ninety (90) days after the last day of the 2023 operating season, with a County option to renew the agreement for a term up to five (5) years on mutually agreed to terms and conditions.

The attached Resolution requests authority for the County of Westchester (the "County") to enter into a revenue share license agreement (the "Agreement") with Zamperla, Inc. ("Zamperla") whereby Zamperla will provide and place the Disk'O 24, Park Model ride (the "Ride") at Playland. The term of the Agreement shall commence upon the execution of the Agreement and be for five (5) operating seasons, beginning with the 2019 operating season and expiring ninety (90) days after the last day of the 2023 operating season. The County will have the option to renew the Agreement for a term up to five (5) years on mutually agreed to terms and conditions.

Zamperla also will provide the foundation work necessary for the proper installation of the Ride at Playland ("Foundation Work"). The Foundation Work will be in an amount not to exceed \$305,000, comprised of up to \$280,000 for the foundation work and \$25,000 for a flat administration fee. The cost associated with the Foundation Work shall be reimbursed through the revenue share provided for in the proposed Agreement.

The revenue sharing payments will be based upon a percentage of gross receipts generated from the Ride and shared based upon a fifty percent (50%) Zamperla and fifty percent (50%) County basis as provided for in the Agreement. The County will pay Zamperla fifty percent (50%) of the gross receipts generated by the Ride and of the remaining fifty percent (50%) of the gross receipts generated by the Ride an amount not to exceed \$305,000 will be paid to Zamperla for the Foundation Work, and once the \$305,000 is satisfied, the County shall retain its revenue share of fifty percent (50%) of the gross receipts generated by the Ride, in accordance with the terms set forth in the Agreement.

If the County seeks to exercise its option to renew the Agreement for up to an additional five (5) year period, on mutually agreed to terms and conditions, such option will be subject to the prior approval of your Honorable Board.

Under the Agreement, Zamperla will provide a two (2) year warranty guaranteeing the Ride will be free from defects in structure, materials, parts, operation, workmanship and design (under normal maintenance, operation, installation and proper use). During the two (2) year warranty period, Zamperla will provide all required repairs and parts. In the event the any required repair can be performed by the County in eight (8) or less man-hours, all labor costs shall be at the County's expense. In the event the required repair cannot be completed in eight (8) or less man-hours, Zamperla shall provide, at the County's premises, all necessary assistance to correct said defect and all labor costs shall be Zamperla's responsibility. After the two (2) year warranty, in the event of a failure of any component part of the Ride, the County and Zamperla will share in the cost of any replacement parts and labor in excess of the eight (8) man-hours on an equal basis.

Also, under the Agreement, Zamperla will indemnify the County for, among other things, its performance and failure to perform under the Agreement and for defective design, engineering, ride erection and installation or manufacture associated with the Ride or from defective materials and workmanship incorporated into the Ride.

Authority is being requested for the County to indemnify Zamperla in substantially the following form:

The County will agree, (a) that except for the amount, if any, of damages contributed to, caused by, or resulting from the negligence of Zamperla, the County shall indemnify, defend and hold harmless Zamperla, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, reasonable attorney's fees or loss arising out of the negligent acts or omissions of the County, its officers, employees or agent's in connection with the operation or maintenance of the Ride and (b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action resulting from the negligence of the County arising out of this Agreement and to bear all other costs and expenses related thereto;

and

The County, at its sole expense, shall (i) keep the Ride free from all encumbrances, attachments, levies and executions caused by the actions of the County and filed by a third party against the Ride ("third party claim"); and (ii) give the Owner prompt written notice of any such third party claim against the Ride and indemnify, defend and hold harmless the Owner against any loss or liability caused by such third party claim.

Zamperla also seeks approval to use the following subcontractor to perform foundation work for the Ride: ELQ Industries, Inc.

The Department of Parks, Recreation and Conservation (the "Department") complied with the Westchester County Procurement Policy by soliciting proposals for the Ride. On February 13, 2019, the Department issued the following Request for Proposals ("RFP"):

REQUEST FOR PROPOSAL
PROVIDE A NEW OR RECENTLY USE THRILL RIDE
AT PLAYLAND AMUSEMENT PARK
PLAYLAND PARKWAY
RYE, NEW YORK 10580

Two (2) proposals were received as a result of the RFP. One from Zamperla and one from Ride Plus, Inc. The two (2) proposals were evaluated and Zamperla was the top ranked proposer. The County entered into negotiations with Zamperla and now wishes to enter into the Agreement with Zamperla to provide the Ride at Playland based upon the terms presented herein.

The goals and objectives shall be tracked and monitored by the staff of the Department.

Accordingly, I most respectfully recommend the adoption of the annexed proposed resolution.

KO/RAN/TSA
Attachment

RESOLUTION

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

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into a revenue share license agreement (the "Agreement") with Zamperla, Inc. ("Zamperla") for Zamperla to provide and place the Disk'O 24, Park Model ride (the "Ride") at Playland Park, for a term commencing upon the execution of the Agreement and being for five (5) operating seasons, beginning with the 2019 operating season and expiring ninety (90) days after the last day of the 2023 operating season, with a County option to renew the Agreement for a term up to five (5) years on mutually agreed to terms and conditions; and be it further

RESOLVED, that Zamperla also will provide the foundation work necessary for the proper installation of the Ride at Playland ("Foundation Work"). The Foundation Work will be in an amount not to exceed \$305,000, comprised of up to \$280,000 for the foundation work and \$25,000 for a flat administration fee. The cost associated with the Foundation Work shall be reimbursed through the revenue share provided for in the proposed Agreement; and be it further

RESOLVED, the revenue share will be based upon a percentage of gross receipts generated from the Ride and based upon a fifty percent (50%) Zamperla and fifty percent (50%) County basis as provided for in the proposed Agreement. The County will pay Zamperla fifty percent (50%) of the gross receipts generated by the Ride and of the remaining fifty percent (50%) of the gross receipts generated by the Ride an amount not to exceed \$305,000 will be paid to Zamperla for the Foundation Work, and once the \$305,000 is satisfied, the County shall retain its revenue share of fifty percent (50%) of the gross receipts generated by the Ride, in accordance with the terms set forth in the proposed Agreement; and be it further

RESOLVED, that if the County seeks to exercise its option to renew the Agreement for up to an additional five (5) year period, on mutually agreed to terms and conditions, such option will be subject to the prior approval of the Board of Acquisition and Contract; and be it further

RESOLVED, that the County is hereby authorized to indemnify Zamperla in substantially the following form:

The County agrees, (a) that except for the amount, if any, of damages contributed to, caused by, or resulting from the negligence of Zamperla, the County shall indemnify, defend and hold harmless Zamperla, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, reasonable attorney's fees or loss arising out of the negligent acts or omissions of the County, its officers, employees or agent's in connection with the operation or maintenance of the Ride and (b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action resulting from the negligence of the County arising out of the Agreement and to bear all other costs and expenses related thereto.

And

The County, at its sole expense, shall (i) keep the Ride free from all encumbrances, attachments, levies and executions caused by the actions of the County and filed by a third party against the Ride ("third party claim"); and (ii) give the Owner prompt written notice of any such third party claim against the Ride and indemnify, defend and hold harmless the Owner against any loss or liability caused by such third party claim.

and, be it further

RESOLVED, the following subcontractor is hereby approved as Zamperla's subcontractor to provide the foundation work for the Ride under the Agreement:

ELQ Industries, Inc.

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 be reasonably necessary to effectuate the purposes hereof.

