

HONORABLE BOARD OF LEGISLATORS

THE COUNTY OF WESTCHESTER, NEW YORK

**DRAFT
IMA ON FILE**

Your Committee is in receipt of a communication from the County Executive which, if adopted, would authorize the County of Westchester (the “County”) to enter into an intermunicipal agreement (“IMA”) with the Town of Mount Pleasant (the “Town”) whereby the Town will operate and maintain the facilities of the park known as the Virginia Road Ballfield for municipal recreation purposes. The Virginia Road Ballfield is approximately 1.5 acres and is a portion of Parcel 25 as described on Sheet 29 of the Bronx River Parkway Commission Acquisition Maps (the “Property”).

Since 2007 the Town has used the Property solely for municipal recreation purposes and has kept the Property open to all County residents. The Town’s most recent IMA with the County to operate and maintain the Property expired on March 31, 2022. The term of the new IMA will be for a period of five (5) years commencing retroactively on April 1, 2022 and terminating on March 31, 2027. The Town will continue to utilize the Property as a municipal recreation facility for the benefit of all County residents and pursuant to the terms of the IMA, the Town shall agree to defend and indemnify the County against any claims arising out of the IMA. The Town shall pay the County an annual license fee of \$200, with maintenance and supervision of the Property to be the sole responsibility of the Town.

The Planning Department has advised that, based on its review, this is a “Type II” action under the State Environmental Quality Review Act (“SEQRA”), and its implementing regulations, 6 NYCRR Part 617, which is an action determined not to have a significant effect on the environment and therefore does not require further environmental review. Your Committee has reviewed the annexed SEQRA documentation prepared by the Planning Department and concurs with this conclusion.

It should be noted that approval of the Act authorizing the County to enter into the IMA requires the affirmative vote of a majority of the voting strength of your Honorable Board.

The proposed agreement with the Town will enable the use of an important recreational asset of the County and will benefit both the residents of the Town and the County as a whole. Therefore, your Committee recommends adoption of the annexed Act.

Dated: September 12, 2022
White Plains, New York

[Handwritten signatures]
James Zuccato
Manny Pagan
Cathryn Parker
Vedat J. Aric
David J. Tubito
Colin [unclear]
[unclear]
[unclear]
[unclear]
Budget & Appropriations

[Handwritten signatures]
[unclear]
Manny Pagan
Cathryn Parker
David J. Tubito

Parks & Recreation

COMMITTEE ON

c/jpi:6.16.22

Dated: September 12, 2022
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 1 of New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

**BUDGET & APPROPRIATIONS
COMMITTEE**



PARKS & RECREATION COMMITTEE



TO: John Paul Iannace, Senior County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM
Assistant Commissioner



DATE: June 16, 2022

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR LICENSE
AGREEMENT WITH TOWN OF MOUNT PLEASANT FOR
VIRGINIA ROAD BALLFIELD**

PROJECT/ACTION: A 5-year license agreement that would permit the Town of Mount Pleasant to continue to operate and maintain an approximately 1.5-acre site located on the County's Bronx River Parkway Reservation, known as Virginia Road Ballfield, for municipal recreational purposes from April 1, 2022 to March 31, 2027. The Town has been managing this ballfield since 2007, pursuant to a 15-year license agreement that expired on March 31, 2022.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c)(32):**
license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

COMMENTS: None.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
John Condon, Department of Parks, Recreation & Conservation
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

ACT NO. 113 - 2022

An Act authorizing the County of Westchester to enter into an intermunicipal agreement with the Town of Mount Pleasant whereby the Town shall operate and maintain the facilities of the park known as the Virginia Road Ballfield for municipal recreation purposes.

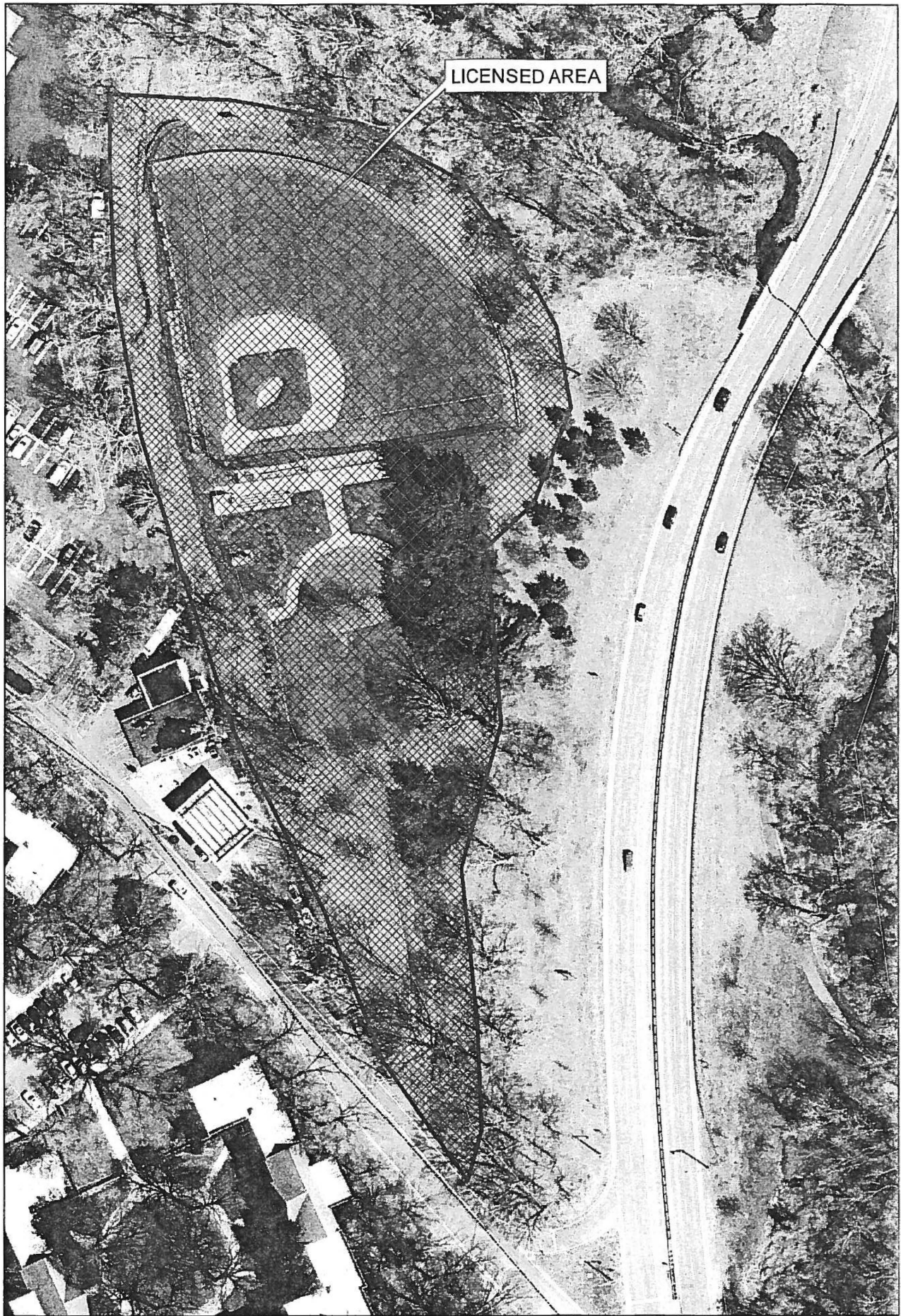
BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County of Westchester is hereby authorized to enter into an intermunicipal agreement (“IMA”) with the Town of Mount Pleasant (the “Town”) whereby the Town will operate and maintain the facilities of the park known as the Virginia Road Ballfield for municipal recreation purposes, which property comprises approximately 1.5 acres and is a portion of Parcel 25 as described on Sheet 29 of the Bronx River Parkway Commission Acquisition Maps.

§2. The term of the IMA shall be for five (5) years commencing on April 1, 2022 and expiring on March 31, 2027. The Town shall use the Virginia Road Ballfield as a municipal recreation facility for the benefit of all County residents, at an annual license fee of \$200 and with maintenance and supervision to be the sole responsibility of the Town.

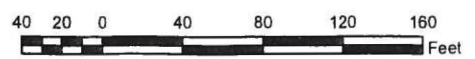
§3. The County Executive or his authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to effectuate the purposes hereof.

§5. This Act shall take effect immediately.



SCHEDULE 'A'
VIRGINIA ROAD BALLFIELD

WESTCHESTER COUNTY
DEPARTMENT OF PARKS, RECREATION AND CONSERVATION



SCHEDULE "B"

PARK MAINTENANCE

The following tasks are required and shall be performed by the Town for the maintenance and operation of a safe and aesthetically pleasing park facility:

Mowing

Grass will be cut weekly from April through October. Litter must be picked up prior to cutting grass.

Trimming

String trimming of site amenities (benches, fences, goals, etc.) will occur weekly from April through October.

Athletic Field Maintenance

Playing surfaces will be level and free of ruts, trash and other related debris associated with activities of the park that take place on the field.

Garbage/Litter Control

An ample amount of garbage cans will be placed out so as to reflect usage of the facility. Litter will be picked up and garbage cans emptied as needed.

Leaf Collection/ Removal

Leaves will be removed from all turf areas and parking lots in the autumn and removed from the site.

Site Amenities

All benches, goal posts, backstops, bridges, fences, etc. will be kept in good order and repair.

Vandalism

All acts of vandalism/graffiti will be repaired and removed in a timely manner.

Snow Removal

Parking lots and walkways will be plowed and cleared of snow once it accumulates greater than a ½ inch. A sand/salt mixture will be spread to alleviate icing conditions on parking lots and walkways. Under no circumstances shall the dumping or storage of snow be allowed within the Licensed Premises for any reason or at any time

Roads/Parking Lots

Roadway and parking lot surfaces will be maintained to be free of sand, gravel, leaves and potholes. Parking lot striping will be visible at all times in order to provide adequate parking spaces.

Trees

All trees in the park will be kept in a safe and aesthetic condition. Hazardous trees be removed in a timely manner for public safety. Invasive vines and vegetation will be removed on a yearly basis as to not effect the health of the trees in the park.

SCHEDULE "C"

STANDARD INSURANCE PROVISIONS (Municipality)

1. Prior to commencing work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2. The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State

Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
 - i. Premises - Operations.
 - ii. Broad Form Contractual.
 - iii. Independent Contractor and Sub-Contractor.
 - iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:
 - (i) Owned automobiles.
 - (ii) Hired automobiles.
 - (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 113 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on September 12, 2022, and approved by the County Executive on September 16, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 19th day of September, 2022.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

