



Legislation Details (With Text)

File #: Res 1855-2021 **Version:** * **Name:** LU 949 - Zoning, Coney Island Amusement Park Project Plan – Third Amendment to the Special Process Agreement, Brooklyn (20225010 RSY)

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In control: Committee on Land Use

On agenda: 12/9/2021

Enactment date: **Enactment #:**

Title: Resolution approving an application submitted by the New York City Economic Development Corporation and New York City Department of Parks and Recreation, Application No. 20225010 RSY (Preconsidered L.U. No. 949), authorizing a third amendment to a previously executed agreement between the Mayor and Council establishing a Special Process for City Council Review and Approval of the “Coney Island Amusement Park Project Plan”, Community Board 13, Council District 47.

Sponsors:

Indexes:

Attachments: 1. Res. No. 1855, 2. Calendar of the Zoning Subcommittee Meeting - December 2, 2021, 3. Calendar of the Subcommittee Meetings and Land Use Meeting - December 7, 2021, 4. December 9, 2021 - Stated Meeting Agenda, 5. December 15, 2021 - Stated Meeting Agenda with Links to Files, 6. Committee Report, 7. Hearing Transcript - Stated Meeting 12-9-21, 8. Hearing Transcript - Stated Meeting 12-15-21, 9. Minutes of the Stated Meeting - December 9, 2021, 10. Minutes of the Stated Meeting - December 15, 2021

Date	Ver.	Action By	Action	Result
12/9/2021	*	Committee on Land Use	Approved by Committee	
12/9/2021	*	City Council	Laid Over by Council	
12/15/2021	*	City Council	Approved, by Council	Pass

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1855**

Resolution approving an application submitted by the New York City Economic Development Corporation and New York City Department of Parks and Recreation, Application No. 20225010 RSY (Preconsidered L.U. No. 949), authorizing a third amendment to a previously executed agreement between the Mayor and Council establishing a Special Process for City Council Review and Approval of the “Coney Island Amusement Park Project Plan”, Community Board 13, Council District 47.

By Council Members Salamanca and Moya

WHEREAS, on August 20, 2009, the Special Process Agreement approved by the Council of the City of New York (the “Council), April 25, 2013 modified as First Amendment, and March 21, 2019 modified as Second Amendment of the Agreement for Special Process between the Mayor of the City of New York and the Council;

WHEREAS, the Plan includes the acquisition of certain parkland and subsequent lease of such parkland to the New York City Economic Development Corporation for the operation of an amusement park, including without limitation amusement park features such as indoor and outdoor rides, arcades, attractions and ancillary

uses, including small-scale retail use;

WHEREAS, it is in the interest of the city for the Council to participate in and play a major role in the selection of the proposed operator/developer for such amusement park;

WHEREAS, the Mayor and the Council agreed that such participation shall be accomplished through the Council’s approval of a “Coney Island Amusement Park Project Plan (CIAPPP)” in the manner set forth in a Coney Island Amusement Park Special Process Agreement (the “Special Process Agreement”) and Agreement for Coney Island Parallel Process (the “Parallel Process Agreement”, collectively the “Agreements”), ;

WHEREAS, the New York City Economic Development Corporation and New York City Department of Parks and Recreation filed with the Council on _____, 2021 its application dated _____, 2021, requesting a proposed Third Amendment to the Special Process Agreement to permit NYCEDC to extend the Interim Leases and the sublease of the Additional Amusement Park Parcels and Additional Parcels to not later than December 31, 2037; authorize the City to enter into a lease extension to not later than December 31, 2037 with NYCEDC for the Additional Amusement Park Parcels; and add the Additional Parcels with a lease term expiring not later than December 31, 2037 to the extended CAI Lease premises;

WHEREAS, on upon due notice, the Council held a public hearing on December 2, 2021 on the Application; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Plan and the Third Amendment to the Special Process Agreement.

RESOLVED:

The Council of The City of New York hereby authorizes the Speaker to execute the Third Amendment to the Special Process Agreement, a copy of which is attached hereto.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on _____, 2021, on file in this office.

.....
City Clerk, Clerk of The Council

THIRD AMENDMENT TO
AGREEMENT
FOR
SPECIAL PROCESS
FOR
NEW YORK CITY COUNCIL REVIEW AND APPROVAL
OF
CONEY ISLAND AMUSEMENT PARK PROJECT PLAN
(“THIRD AMENDMENT”)

THIRD AMENDMENT TO SPECIAL PROCESS AGREEMENT, dated as of the ___ day of _____, 2021, modifying Special Process Agreement approved by the Council of the City of New York (the “Council”) on August 20, 2009, as modified by Amendment dated April 25, 2013 (“First Amendment”), and Second Amendment dated March 21, 2019 (“Second Amendment”) (as amended, the “Special Process Agreement”), between the Mayor of the City of New York (the “Mayor”) and the Council;

WHEREAS, ULURP Application No. C090107MMK designated certain real property within Brooklyn Community Board 13 as parkland to be identified as such on the City map (such parkland the “Coney Island Amusement Park”) and such application was approved, as modified by the July 29, 2009 City Council Resolution 2138 and the December 13, 2010 City Planning Commission Resolution, and Chapter 281 of the

2011 Session Laws was enacted by the New York State Legislature (the “Legislation”);

WHEREAS, it is the intent and purpose of the Special Process Agreement to promote the development and programming of the lands within the Coney Island Amusement Park for amusement purposes, pursuant to the “CIAPPP” described in the Special Process Agreement;

WHEREAS, the Special Process Agreement provides for continuing activity within the Coney Island Amusement Park, pursuant to interim lease, until such time as necessary infrastructure to service the Coney Island Amusement Park, as it will be developed under and pursuant to a CIAPPP, has been completed, and economic conditions support the availability of financing for the project to be built pursuant to the Council approved CIAPPP;

WHEREAS, the Special Process Agreement section 5(b) originally provided for an interim lease term not exceed ten (10) years;

WHEREAS, Central Amusement International, LLC, now Central Amusement International Inc. (“CAI”), was selected as interim lessee of property (“CAI Lease”) owned by the New York City Economic Development Corporation (“NYCEDC”) both inside and outside the Coney Island Amusement Park for the purposes contemplated by the Special Process Agreement for an original term of ten (10) years, expiring on December 31, 2020;

WHEREAS, in 2009, NYCEDC acquired the Seaside Parcel in the Coney Island Amusement Park, as described in the First Amendment, subject to a lease with Seaside Amusement Corp. (“Seaside Lease”) which was assigned by Seaside Amusement Corp. to Vodou Foods Corporation (“Voudou Foods”) and originally to expire on December 31, 2020 (the Seaside Lease and the CAI Lease referred to as “Interim Leases”);

WHEREAS, the First Amendment amended Special Process Agreement Section 5(b) to change ten (10) years to seventeen (17) years, with the resulting Interim Lease expiration date extended to not later than December 31, 2027.

WHEREAS, pursuant to the First Amendment, as well as Mayoral Authorization dated October 17,

2013, the Additional Parcels, as described in the First Amendment were added to the extended CAI Lease premises, by the City's leasing the Additional Parcels to the New York City Land Development Corporation ("NYCLDC"), pursuant to Section 384(b)(4) of the City Charter, and assignment of NYCLDC's interest as tenant under such lease to NYCEDC for sublease to CAI, with a term expiring on December 31, 2027;

WHEREAS, pursuant to a Request for Proposals, CAI was selected to lease and operate the Additional Amusement Park Parcels in the Coney Island Amusement Park, as described in the Second Amendment, for amusement park purposes;

WHEREAS, the Second Amendment authorized the City to enter into a lease with NYCEDC for the Additional Amusement Park Parcels, and required NYCEDC to assign such lease or enter into a sublease with CAI or an affiliate thereof, in furtherance of the purposes and intents of the Legislation, and the City and NYCEDC thereafter entered into such lease and sublease;

WHEREAS, the amusements in the Coney Island Amusement Park and surrounding area were unable to operate at all for the 2020 season due to mandated government closure imposed as a result of the COVID-19 coronavirus and suffered severe financial losses, and the operators under the leases suffered the additional adverse effect of not being able to operate for the full term of their respective leases;

WHEREAS, the City, NYCEDC, CAI, and Voudou Foods wish to extend the term for each of the Interim Leases and the larger CAI Lease premises (i.e. the Additional Parcels and Additional Amusement Park Parcels) for an additional ten (10) years (all such parcels within and outside the Coney Island Amusement Park area depicted in the attached Exhibit 1);

WHEREAS, the parties desire to amend the Special Process Agreement to (i) permit NYCEDC to extend the Interim Leases and the sublease of the Additional Amusement Park Parcels and Additional Parcels to not later than December 31, 2037; (ii) authorize the City to enter into a lease extension to not later than December 31, 2037 with NYCEDC for the Additional Amusement Park Parcels; and (iii) add the Additional Parcels with a lease term expiring not later than December 31, 2037 to the extended CAI Lease premises; and

WHEREAS, the parties understand that the Additional Parcels with such lease term would be added to the extended CAI Lease premises by the City's leasing the Additional Parcels to NYCLDC, pursuant to Section 384(b)(4) of the City Charter, for assignment of NYCLDC's interest as tenant under such lease to NYCEDC, for inclusion of the Additional Parcels in the extended CAI Lease premises;

WHEREAS, it is not economically feasible for any other operator to assume operation of the properties leased under the Interim Leases and the larger CAI Lease premises for the abbreviated period of time that will be remaining in the leases following an extension pursuant to this Third Amendment;

NOW, THEREFORE, the parties hereto agree as follows:

1. Paragraph 5(b) of the Special Process Agreement is hereby amended to change seventeen (17) years to twenty-seven (27) years, and therefore the expiration date of each of the Interim Leases shall not be later than December 31, 2037.
2. The City is authorized to extend the lease with NYCEDC for the Additional Amusement Park Parcels to not later than December 31, 2037.
3. The Additional Parcels with a term expiring not later than December 31, 2037 may be added to the extended CAI Lease premises.
4. NYCEDC is encouraged to use its reasonable efforts to cause the expiration date of each of the Interim Leases and the sublease for the Additional Amusement Park Parcels and the Additional Parcels to be extended to not later than December 31, 2037.
5. The Special Process Agreement shall remain in full force and effect, and is hereby reaffirmed in its entirety, as modified by this Third Amendment.
6. This Third Amendment shall become effective upon the execution hereof by (i) the Mayor; and (ii) the Speaker of the Council upon the adoption by the Council of a resolution approving this Third Amendment.

IN WITNESS WHEREOF, the Mayor and the Speaker have hereunto executed this Third Amendment the

date and year first above written.

Mayor of the City of New York

Speaker of the New York City Council

EXHIBIT 1

INTERIM LEASE AREAS AND CAI EXTENDED LEASE PREMISES IN CONEY ISLAND AMUSEMENT
PARK

(on page following)

