

55761

DATE: March 7, 2017

TO: Board of Acquisition and Contract

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

RE: Authority to amend the License Agreement with Westchester Knicks, LLC to include terms and conditions with respect to the use of five (5) outdoor LED displays on the exterior of the County Center.

On March 6, 2014 your Honorable Board approved a resolution which authorized the County of Westchester ("County"), acting by and through the Department of Parks, Recreation and Conservation, to enter into a license agreement with MSG D-League Team, LLC ("MSG") to use the Westchester County Center for NBA Development League basketball games, and for the use of certain other areas located at the County Center in connection with such use. The Agreement was duly executed on March 6, 2014 (the "Agreement"). Thereafter on November 13, 2014 your Honorable Board approved a resolution which authorized the County to enter into a first amendment to the license agreement with MSG D-League Team, LLC ("MSG") to change the company name to "Westchester Knicks, LLC" ("Licensee"). The First Amendment was duly executed on December 22, 2014.

The parties now desire to enter into a second amendment to the Agreement to include terms and conditions with respect to the use of five (5) outdoor LED displays on the exterior of the County Center as follows:

1. Effective March 15, 2017, the Licensee, during the remaining Term, will be the exclusive sales agent and shall have the right (but not the obligation) to sell all signage, sponsorships or advertising for use on the five (5) outdoor LED displays (the "Outdoor LED Boards") on the exterior of the County Center, provided that the Licensee will ensure that the County has no obligation to display such signage, sponsorships or advertising after the termination or earlier expiration of this Agreement. The Parties agree that with respect to the Outdoor LED Boards only each advertising "loop" shall be two minutes and thirty seconds (2:30) in length and that, notwithstanding the Licensee's

exclusivity set forth above, the County shall be entitled to forty-five seconds (:45) per loop for its promotions, upcoming events and various County messages.

2. For purposes of the second amendment, the Licensee will retain sixty (60%) percent of Net Revenues and pay to the County forty (40%) percent of Net Revenues (as defined below) received from the sale of signage, sponsorships or advertising on the Outdoor LED Boards. For purposes of this Second Amendment, "Net Revenues" shall mean the entire proceeds derived from the sale of any signage, sponsorships or advertising on the Outdoor LED Boards less only (i) the direct costs, including compensation and benefits, of one full-time individual hired by Licensee, pursuant to a mutually agreed upon job description, to operate the Outdoor LED Boards and provide creative services thereto for County events, including Licensee's games, (ii) third party fulfillment costs for services in excess of the mutually agreed upon responsibilities set forth in subsection (i) above, and (iii) outside agency commissions (e.g. advertising agencies or sales agencies, but specifically excluding sales commissions paid by Licensee to its employees).

Based upon the foregoing, approval of the attached resolution by your Honorable Board is most respectfully requested.

KMO/PJT/TSA

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION
03/16/2017
US MARSHAL SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester, (“County”) acting by and through the Department of Parks, Recreation and Conservation, is authorized to amend the license agreement with the Westchester Knicks, LLC (“Licensee”), for the use of the Westchester County Center for NBA Development League basketball games, and for the use of certain other areas located at the County Center in connection with such use, which agreement is dated March 6, 2014, as amended by the First Amendment dated December 22, 2014, to include terms and conditions with respect to the use of five (5) outdoor LED displays on the exterior of the County Center as follows:

1. Effective March 15, 2017, the Licensee, during the remaining Term, will be the exclusive sales agent and shall have the right (but not the obligation) to sell all signage, sponsorships or advertising for use on the five (5) outdoor LED displays (the “Outdoor LED Boards”) on the exterior of the County Center, provided that the Licensee will ensure that the County has no obligation to display such signage, sponsorships or advertising after the termination or earlier expiration of this Agreement. The Parties agree that with respect to the Outdoor LED Boards only each advertising “loop” shall be two minutes and thirty seconds (2:30) in length and that, notwithstanding the Licensee’s exclusivity set forth above, the County shall be entitled to forty-five seconds (:45) per loop for its promotions, upcoming events and various County messages.
2. For purposes of the second amendment, the Licensee will retain sixty (60%) percent of Net Revenues and pay to the County forty (40%) percent of Net Revenues (as defined below) received from the sale of signage, sponsorships or advertising on the Outdoor LED Boards. For purposes of this Second Amendment, “Net Revenues” shall mean the entire proceeds derived from the sale of any signage, sponsorships or advertising on the Outdoor LED Boards less only (i) the direct costs, including compensation and benefits, of one full-time individual hired by Licensee, pursuant to a mutually agreed upon job description, to operate the Outdoor LED Boards and provide creative services thereto for County events, including Licensee’s games, (ii) third party fulfillment costs for services in excess of the mutually agreed upon responsibilities set forth in subsection (i) above, and (iii) outside agency commissions (e.g. advertising agencies or sales agencies, but specifically excluding sales commissions paid by Licensee to its employees); and be it further;

RESOLVED, that except as specifically set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In the event of any conflicts or inconsistencies between the provisions of the Agreement, as amended by the First Amendment, and the provisions of the Second Amendment, the provisions of the Second Amendment shall control with respect to the subject matter contained in the Second Agreement as set forth above; 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.

Account to be Charged/Credited

Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
n/a					

Budget Funding Years _____ Start Date 3/15/17 End Date 4/30/19
 (must match resolution)

Funding Source _____ Tax Dollars: _____
 State Aid: _____
 \$ _____ Federal Aid: _____
 (must match resolution) Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/16/2017 - USA MARIJAJ, SECRETARY