

70277

DATE: June 18, 2019

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 the Westchester Knicks, LLC by modifying certain terms therein.

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 (the "Department"), 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, for an initial term of five (5) years commencing on May 1, 2014 and continuing through April 30, 2019, with MSG having the sole option (the "Option") to extend the Agreement and the license granted thereunder for an additional five (5) year period (the "Agreement"). The Agreement was duly executed on March 6, 2014.

Thereafter on November 13, 2014 your Honorable Board approved a resolution which authorized the County to enter into a first amendment to the Agreement with MSG (the "First Amendment") to change the company name from MSG to "Westchester Knicks, LLC" ("Licensee"). The First Amendment was duly executed on December 22, 2014.

Thereafter, on March 13, 2017, your Honorable Board approved a resolution which authorized the County to enter into a second amendment to the Agreement with Licensee (the "Second Amendment") to include terms and conditions with respect to the use of five (5) outdoor LED displays on the exterior of the County Center. The Second Amendment was duly executed on March 27, 2017.

On October 29, 2018, Licensee notified the Department of its intent to exercise its Option to extend the Agreement for an additional five (5) year term commencing on May 1, 2019 and continuing through April 30, 2024 (the "Option Term").

The parties now desire to enter into a third amendment to the Agreement to modify certain terms therein as follows:

During the Option Term, Section "3" of the Agreement (License Fees) will be modified as follows:

- (a) The Game Day License Fee for the first year of the Option Term will start at \$7,500 and will be increased by three percent (3%) each year thereafter on the anniversary of the first day of the first year of the Option Term.
- (b) The Energy Fee for the first year of the Option Term will start at \$525 with an annual rent escalator of three percent (3%).
- (c) The County will now charge a Facility Fee of \$2.00 per ticket on season tickets. The County will waive its Facility Fee on sales of group plans in connection with school days and camp days and in connection with any tickets issued pursuant to sponsorship arrangements.

During the Option Term, the first full paragraph of subparagraph "iii" of Section "7" of the Agreement (Permanent Building Assets - Signage for all Arena Events), will be modified by changing the revenue split for any amounts in excess of \$100,000 in any given year of the Option Term, from 70% (Licensee share) and 30% (County share), to 60% (Licensee share) and 40% (County share).

During the Option Term, subparagraph "c" of Section "12" of the Agreement (Ticketing), will be modified by changing the normal Box Office business hours from Monday through Friday 9 am – 5 pm and Saturday 9 am – 4 pm, to Tuesday – Friday 10 am-5 pm.

During the Option Term, subparagraph "iii" of Section "15" of the Agreement (Scheduling), shall be deleted in its entirety and shall be replaced with the following:

"Each Season the County will reserve thirteen playoff dates (which number may change based on changes to the NBADL's playoff format) between March 18 and April 30 for NBADL Playoffs. The playoff dates will be identified by Licensee by no later than the July 15 preceding such Season. For any Saturday or Sunday playoff dates reserved but not used by Licensee, Licensee shall pay to Licensor a fee of \$2,000 per date, provided that, no fee shall be due if Licensor licenses the County Center to a third party for such date."

During the Option Term, Section "17" of the Agreement (Locker Rooms), shall be modified by adding the following additional paragraph:

"The County represents that it has approved and will implement a plan (the 'Locker Room Plan') for capital improvements to the home and visitor locker rooms and dressing rooms. The County will prioritize

completing the Locker Room Plan. The County and Licensee acknowledge and agree that the Locker Room Plan is for the benefit of the public purpose of the facility.”

During the Option Term, the third sentence of Section “19” of the Agreement (Parking), shall be deleted in its entirety and replaced with the following:

“Licensee will receive fifty percent (50%) of gross parking revenues on each Event day, not to exceed \$5.00 per car. In addition, Licensee agrees that parking for Events may be increased, at the County’s discretion, to the County’s prevailing parking rate for County Center events, subject to Licensee’s right to receive \$5.00 per car.”

Except as otherwise expressly provided herein, all other terms and conditions of the Agreement, as previously amended, shall remain in full force and effect.

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

KMO/PJT/JPG
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACTS 07/11/2019 - ICA MIRIJAJ, 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 (the “Department”), is authorized to further amend the license agreement (the “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, for an initial five (5) year term commencing on May 1, 2014 and continuing through April 30, 2019, with MSG having the sole option (the “Option”) to extend the Agreement and the license granted thereunder for an additional five (5) year period commencing on May 1, 2019 and continuing through April 30, 2024 (the “Option Term”), which Option Term was duly exercised by Licensee by letter to the Department dated October 29, 2018, by modifying certain terms of the Agreement as follows:

During the Option Term, Section “3” of the Agreement (License Fees) will be modified as follows:

- (a) The Game Day License Fee for the first year of the Option Term will start at \$7,500 and will be increased by three percent (3%) each year on the first day of the first year of the Option Term.
- (b) The Energy Fee for the first year of the Option Term will start at \$525 with an annual rent escalator of three percent (3%).
- (c) The County will now charge a Facility Fee of \$2.00 on season tickets. The County will now waive its Facility Fee on sales of group plans in connection with school days and camp days and in connection with any tickets issued pursuant to sponsorship arrangements.

During the Option Term, the first full paragraph of subparagraph “iii” of Section “7” of the Agreement (Permanent Building Assets - Signage for all Arena Events), will be modified by changing the revenue split for any amounts in excess of \$100,000 in any given year of the Option Term, from 70% (Licensee share) and 30% (County share), to 60% (Licensee share) and 40% (County share).

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During the Option Term, Section “17” of the Agreement (Locker Rooms), will be modified by adding the following additional paragraph:

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“Licensee will receive fifty percent (50%) of gross parking revenues on each Event day, not to exceed \$5.00 per car. In addition, Licensee agrees that parking for Events may be increased, at the County’s discretion, to the County’s prevailing parking rate for County Center events, subject to Licensee’s right to receive \$5.00 per car.”

RESOLVED, that except as specifically set forth herein, all other terms and conditions of the Agreement, as previously amended, shall remain in full force and effect; 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

Budget Funding Years _____ Start Date 5/01/19 End Date 4/30/24
 (must match resolution)

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