

Department of Parks, Recreation
& Conservation

April 30, 2010

TO: Board of Acquisition and Contract

FROM: Joseph A. Stout, Commissioner
Parks, Recreation and Conservation

RE: AUTHORITY TO AMEND A RESOLUTION APPROVED BY THIS BOARD ON APRIL 22, 2010 TO CORRECT THE TERMS OF THE LICENSE FEE PAYABLE BY MGE, INC FOR A CONCESSION RIDE KNOWN AS THE "SKY FLYER".

On April 22, 2010 this Board approved a resolution authorizing the County of Westchester to enter into a license agreement with MGE, Inc., 4 Manhattan Avenue, Rye, New York 10580 for the operation of a concession ride known as the "Sky Flyer" at Playland Park, Rye, New York for a term commencing May 1, 2010 and terminating October 15, 2010. An agreement has not yet been executed.

The amount of the of the licensee fee, "40% of gross receipts", was incorrect in that it reflected the license fee as a set rate. The license fee is actually based upon a revenue scale to protect the concessionaire in the event of a poor weather season. The license fee should be corrected to reflect that MGE, Inc. will pay the County of Westchester a license fee of 40% of gross receipts during the operating season. At the conclusion of each operating season an adjustment will be made, if necessary, to the license fee percentage based upon the end of season gross receipts as follows:

<u>End of Season Gross Receipts</u>	<u>License Fee</u>
If Total Gross Receipts are \$135,000 or less	34%
If Total Gross Receipts are between \$135,001 to \$150,000	38%
If Total Gross Receipts are between \$150,001 to \$185,000	40%
If Total Gross Receipts are between \$185,001 to \$200,000	38%
If Total Gross Receipts are between \$200,001 and over	36%

Authority is now requested of this Board for the County of Westchester to amend this resolution with MGE, Inc., 4 Manhattan Avenue, Rye, New York 10580 for the operation of a concession ride known as the "Sky Flyer" at Playland Park, Rye, New York for a term commencing May 1, 2010 and terminating October 15, 2010 by amending the terms of the license fee payable for the 2010 season.

The goal and objective of this agreement is to provide a safe attraction for Playland patrons and for Westchester County to receive a fair share of the revenue generated by

this ride. If this agreement were not in place, the “Sky Flyer” ride would not be available for patron use. This would result in disappointed customers who have become accustomed to visiting this attraction.

The objective of this agreement will be monitored using inspection and ridership reports.

This agreement is exempt from the County’s procurement policy pursuant to Section 3 (b).

All other terms and conditions of the April 22, 2010 resolution remain unchanged

A resolution requesting authorization to amend the April 22, 2010 resolution is attached for your favorable consideration.

APPROVED BOARD OF ACQUISITION & CONTRACT - 5-20-2010 - JOMARY VIEIRA, SECRETARY

RESOLUTION

WHEREAS, on April 22, 2010, this Board approved a resolution authorizing the County of Westchester to enter into a license agreement with MGE, Inc., 4 Manhattan Avenue, Rye, New York 10580 for the operation of a concession ride known as the “Sky Flyer” at Playland Park, Rye, New York for a term commencing May 1, 2010 and terminating October 15, 2010; and

WHEREAS, the amount of the licensee fee was incorrectly identified as “40% of gross receipts”;

NOW, therefore, be it

RESOLVED, that the resolution of April 22, 2010 is hereby amended to correctly state that MGE, Inc. will pay the County of Westchester a license fee of 40% of gross receipts during the operating season. At the conclusion of each operating season an adjustment will be made, if necessary, to the license fee percentage based upon the end of season gross receipts as follows:

<u>End of Season Gross Receipts</u>	<u>License Fee</u>
If Total Gross Receipts are \$135,000 or less	34%
If Total Gross Receipts are between \$135,001 to \$150,000	38%
If Total Gross Receipts are between \$150,001 to \$185,000	40%
If Total Gross Receipts are between \$185,001 to \$200,000	38%
If Total Gross Receipts are between \$200,001 and over	36%; and be it further

RESOLVED, that all other terms and conditions of the April 22, 2010 resolution remain unchanged; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby empowered to execute any and all instruments and take such other actions as may reasonably be necessary to effectuate the purposes thereof.

APPROVED FOR THE BOARD OF ACQUISITION & CONTRACTS 5-20-2010 - JONATHAN PERA, SECRETARY

Original Agreement \$
 First Amendment \$
This Amendment \$ _____
 TOTAL \$

Agreement #

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase	Object/ Sub-Object	Trust Account	Dollars
		Or Unit			

Budget Funding Year(s) **2010** Start Date **5/1/2010** End Date **10/15/2010**
 (must match resolution)

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

APPROVED BOARD OF ACQUISITION & CONTRACT - 5-28-2010 - JOHANNY VIEIRA, SECRETARY