

**61219**

DATE: February 2, 2018

TO: Board of Acquisition and Contract

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

RE: Authority to enter into a License Agreement with New York Liberty, LLC ("Licensee" or "NYL") to use the Westchester County Center in connection with Women's National Basketball Association ("WNBA") basketball games for the 2018 WNBA season and granting Licensee a one-year option to renew.

---

Authority is hereby requested for the County of Westchester ("County"), acting by and through the Department of Parks, Recreation and Conservation, to enter into a license agreement with New York Liberty, LLC ("Licensee" or "NYL") to use the Westchester County Center ("County Center") for Women's National Basketball Association ("WNBA") basketball games (each, an "NYL Game") and certain other related events, and for use of certain other areas located at the County Center in connection with such games and events, including, locker rooms in accordance with the terms and conditions more fully set forth in the Term Sheet dated February 2, 2018 which is attached hereto and incorporated herein ("Agreement").

The Agreement shall be for the period commencing May 1, 2018 through October 15, 2018. Licensee shall have an option to renew the Agreement for an additional one (1) year period by providing notice to the County no later than October 1, 2018.

The proposed license agreement is exempt from the County's Procurement Policy pursuant to Section 3(b) thereof.

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

## RESOLUTION

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

**RESOLVED**, the County of Westchester ("County"), acting by and through the Department of Parks, Recreation and Conservation, to enter into a license agreement with New York Liberty, LLC ("Licensee" or "NYL") to use the Westchester County Center ("County Center") for Women's National Basketball Association ("WNBA") basketball games (each, a "NYL Game") and certain other related events, and for use of certain other areas located at the County Center in connection with such games and events, including, locker rooms in accordance with the terms and conditions more fully set forth in the Term Sheet dated February 2, 2018 which is attached hereto and incorporated herein ("Agreement"); and be it further

**RESOLVED**, that the Agreement shall be for the period commencing May 1, 2018 through October 15, 2018. Licensee shall have an option to renew the Agreement for an additional one (1) year period by providing notice to the County no later than October 1, 2018; 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.

|                       |                  |
|-----------------------|------------------|
| Original Agreement    | \$114,390        |
| First Amendment       | \$               |
| <b>This Amendment</b> | <b>\$ _____</b>  |
| <b>TOTAL</b>          | <b>\$114,390</b> |

Agreement # PRC-1160

Account to be Charged/Credited

| Fund | Dept | Major Program, Program & Phase Or Unit | Object/ Sub-Object | Trust Account | Dollars   |
|------|------|--|--------------------|---------------|-----------|
| 165  | 42   | 7150                                   | 9107               |               | \$114,390 |

2018

Budget Funding Year(s) 2018 Start Date 5/1/18 End Date 10/15/18  
(must match resolution)

Funding Source Tax Dollars \_\_\_\_\_

State Aid \_\_\_\_\_

\$ 114,390 \* Federal Aid \_\_\_\_\_  
(must match resolution)

Other Revenue \_\_\_\_\_

\*Additional revenue is expected from additional staffing if necessary, ticket sales, concessions, parking, and advertising all as described in the attached term sheet.

**WNBA Proposed License Agreement Terms**  
**February 2, 2018**

This Term Sheet sets forth the material terms of our understanding whereby New York Liberty, LLC (“Licensee” or “NYL”) will license the Westchester County Center (“WCC”) from Westchester County (“County”) for the purpose of staging Women’s National Basketball Association (“WNBA”) basketball games and related events (each a “NYL Game”).

**I. License Agreement Term**

The term of the license agreement shall be from May 1, 2018 – October 15, 2018. Licensee shall have an option to renew the Agreement for an additional one (1) year period by providing notice to the County no later than October 1, 2018.

**II. Game Day License Fee**

The License fee shall be \$7,101 per game for the 2018 Season. If Licensee exercises the Option, the License Fee for the subsequent License Year shall be \$7,315 per game. The License Fee shall be payable at the end of the month that follows the month in which each game was played.

The License Fee includes the following staffing levels (all staff to be in place by no later than one hour prior to scheduled tip-off of each NYL Game):

| <u>Personnel</u>         | <u>Staff Required</u> |
|--------------------------|-----------------------|
| Event Supervisor         | 1                     |
| Maintenance Foreman      | 2                     |
| Box Office Clerk         | 2                     |
| Restroom Attendant       | 1                     |
| Laborer                  | 3                     |
| County Police Supervisor | 1                     |
| County Police Officer    | 3                     |
| Chief Usher              | 1                     |
| Usher                    | 20                    |
| Ticket Taker             | 6                     |
| Parking Attendants       | 5                     |
| <b>Personnel Totals:</b> | <b>45</b>             |

NYL to pay actual incremental out-of-pocket overtime “Next Day Facility Changeover”. A Next Day Facility Changeover is defined as (x) the breakdown of a

previously scheduled event (i.e. scheduled by County prior to NYL reserving the subsequent day) and set up for a NYL Game taking place the following day or (y) the breakdown of a NYL Game and set up of a previously scheduled event (i.e. scheduled by County prior to NYL reserving the previous day). Final levels of staffing for Next Day Facility Changeovers will be based on actual costs, as reasonably determined by the Parks Commissioner, using best efforts to schedule staffing and labor to occur during regular business hours where possible and not incurring overtime costs. NYL shall have no obligation to pay for a Next Day Facility Changeover where a third party is otherwise obligated to pay for same.

NYL to pay to County a \$525 per game energy/utility usage fee. If the County increases such fee in future years, NYL will pay additional sum, provided that any such fee increase is reasonable, established in good-faith and applicable to all WCC licensees. In determining the reasonableness of any potential increase in per game energy/utility usage fee, the parties will consider the annual rent escalator of 3% per year, any changes in County's direct energy/utility costs, and the cumulative effect on NYL when such increase is applied to NYL's 12 or more games per season.

NYL may be subject to relevant state and local taxes, consistent with other arena events, but County will not charge any other arena surcharges. County may charge a Facility Fee on all individual sales of tickets purchased via Ticketmaster, the box office or third party vendors engaged by NYL; County will not be entitled to any other portion of ticket revenue. Facility Fee shall be \$2.50 on tickets that are priced greater than \$15.00 and \$1.50 on tickets priced at \$15.00 or less.

### **III. Ticket back advertising**

NYL shall be entitled to retain 100% of the revenue derived from the sale of ticket back advertising for WNBA Games.

### **IV. Game-Related Arena Sales (i.e. Signage for MSG games only)**

NYL shall retain 100 percent of the revenues from sales of game day signage and promotional activity at WCC, including, but not limited to, the following assets, as

these assets may exist:

- i) Courtside Rotational Signage
- ii) On-Court Logos, Consistent with WNBA Standards
- iii) Game Uniforms
- iv) Ball Racks
- v) Basketball Stanchions
- vi) Logos on Press Row Staff
- vii) Logos on Ball Kid Staff
- viii) Team Gear and Player Uniforms
- ix) Player Bench Areas
- x) Player Chair Backs
- xi) VIP Row Seating Placards/Backs/Covers
- xii) Ticket Back Advertising
- xiii) Event Presentation and Promotion
- xiv) Game Programs and other NYL produced collateral material
- xv) Court Naming rights for Licensee's court
- xvi) Temporary Courtside Clubs and Hospitality Areas
- xvii) Digital and Social Media Rights
- xviii) Arena scoreboard and related electronic marquees
- xix) Exterior electronic marquee, three lobby plasma displays, provided that County shall be allowed to use such inventory during NYL Games for 25% of the time for promotion of upcoming events at the WCC.
- xx) Novelty and promotional give-away items.
- xxi) Sponsorships or advertising on the Arena's electronic marquee, scoreboards and the lobby plasma displays

NYL shall be responsible for 100% of its advertising fulfillment costs.

NYL to afford to County a reasonable amount of time (as determined in NYL's discretion) during WNBA game presentation programming to promote upcoming County events.

#### **V. Television and Radio Broadcast Charges**

Any infrastructure costs for television and radio broadcasts beyond the infrastructure that already exists or for which the County has capital budget money already designated shall be borne by Licensee.

Reasonable event day media accommodations to be

mutually agreed upon.

## **VI. Concessions**

County receives approximately 22% gross concession fees from vendor per game. The gross concession fees owed to County from its vendor shall be defined as "County Concession Share"

For each regular season NYL Game, County will receive the first \$1,000 in County Concession Share from the WCC concessionaire and Licensee will receive all County Concession Share in excess of \$1,000 for each such NYL Game. For preseason and postseason NYL Games, each Party will receive 50% of the County Concession Share.

Licensee will also have the right to non-competitive product placement at existing concession stands, subject to appropriate pricing, and further subject to the Parks Commissioner's approval, such approval not to be unreasonably withheld, conditioned or delayed.

Licensee to pay at contract cost to County, catering for VIP areas, media, staff, players, officials, etc. The County will waive its commission fees on the catering.

## **VII. Ticketing**

Licensee to control all aspects of ticket sales for NYL Games. No convenience charge will be applied to any box office sales, any NYL internal sales, or any online ticket sales of season tickets, partial season tickets and group sales.

Licensee and County to make 30 complimentary tickets per game available to County for customer emergency relocation needs and County use; such tickets may not be resold.

County to provide, at its cost, box office staffing and facilities during normal business hours for sales and inquiries at no additional cost to Licensee. Normal business hours are Tuesday through Friday 10 am – 5 pm. County holidays are not included. Notwithstanding anything to the contrary in this paragraph, County will provide box office services for at least one hour prior to and during all NYL Games.

## **VIII. Merchandise**

Licensee shall have the exclusive right to sell NYL and WNBA-branded merchandise at NYL Games. Licensee will be exclusively responsible for all associated costs

and will pay to County fifteen percent (15%) of all gross revenues (less credit card fees and taxes) derived from the sale of such merchandise at games. NYL to determine merchandise that is for sale, subject to the prior approval of the Parks Commissioner, such approval not to be unreasonably withheld, conditioned or delayed. NYL to securely store its merchandise in the space designated for NYL use pursuant to Section 14 below (Section XIV).

#### **IX. Programs and Novelties**

NYL may produce its own programs and novelties to be sold to or given to attendees and will be responsible for all associated costs and entitled to retain all revenues.

Any use of the County's name and likeness in these materials is subject to the prior approval of the Commissioner of Parks, such approval not to be unreasonably withheld, conditioned or delayed.

#### **X. Scheduling**

With respect to the 2018 WNBA season, the County will provide to Licensee a set of available dates. If Licensee exercises the option prior to October 1, 2018, the County will work with Licensee to identify at least twenty (20) available dates for the ensuing WNBA regular season and Licensee will, on or before the following December 1, select fifteen (15) mutually agreed upon dates. County will make Licensee's court available to Licensee for day of game shootarounds and practices for Licensee or its opponent.

#### **XII. Storage**

The County to provide storage space for basketball court floor and three stanchions (one supplied by Licensee, two supplied by the County).

#### **XIII. Locker Room**

County to provide, on game days, dedicated and primary locker room area for NYL within the existing building footprint. Space to include locker accommodations for all players as well as training room facilities and showers. Space also to include office space for two coaches.

County will also provide a second locker room complex for use by visiting teams on game days, as well as sufficient locker room(s) for referees and other needs.

NYL is aware of the County Capital Plan and has inspected the facility. Capital improvements must come

within the existing capital budget and must be for the benefit of the public purpose of the facility. Any additional costs or requirements to comply with WNBA guidelines must be borne by Licensee; in addition, any expense incurred during NYL Games as a result of the implementation of the County's Capital Plan must be borne by the Licensee.

#### **XIV. Facilities**

Licensee has inspected the facility and has reviewed the County's Capital Plan. Any requirements above those will be the responsibility of Licensee at Licensee's cost. Any additional costs or requirements to comply with WNBA guidelines to be borne by the Licensee.

#### **XV. Parking**

County to provide complimentary parking for up to forty (40) spaces on Event days, including premium parking in close proximity to arena for all players and coaches.

County to provide game-day parking staff at County's expense. Licensee to receive 50% of gross parking revenues on each event day.

Parking revenues are all parking fees collected during the time period commencing 2 hours prior to a game and up to 1 hour after a game. The parties agree that game-day parking shall be \$10, unless the parties mutually agree on alternate pricing. NYL may request that County charge a lower price, but County's share of parking revenues shall equal \$5 per car and this will not decrease.

#### **XVI. Medical Accommodations**

Provision of Medical personnel and EMTs are the responsibility of Licensee.

#### **XVII. Other**

Each party shall have the right to conduct, at the end of each year of the license agreement, an audit of the records of the revenues generated from the NYL Games. Within thirty days after completion of such audit, the parties will undertake a reconciliation, if necessary.

Customary representations, warranties, insurance and indemnification provisions to be mutually agreed upon.