

EXHIBIT “B”

**AGREEMENT FOR
FOOD SERVICE MANAGEMENT AT
THE AMWAY CENTER,
BOB CARR PERFORMING ARTS CENTRE
AND
THE FLORIDA CITRUS BOWL-ORLANDO**

This Agreement ("Agreement") is made this 9th day of July, 2010, by and between the City of Orlando, a municipal corporation existing under the laws of the State of Florida hereinafter referred to as the "City" and Orlando Foodservice Partners, a Florida joint venture, hereinafter referred to as the "Concessionaire" as follows:

WITNESSETH:

WHEREAS, the City owns and operates the Amway Center, the Bob Carr Performing Arts Centre and the Florida Citrus Bowl-Orlando located in Orlando, Florida (collectively the "Venues"), and hereinafter referred to as the "Center", "BCPAC" and the "Citrus Bowl" respectively; and

WHEREAS, sporting events, exhibitions, concerts, banquets, community events, conventions, family shows, and other activities will be conducted in the Venues; and

WHEREAS, the City desires to make food, beverages, candy and similar consumable products available to the patrons of events at the Center, BCPAC and the Citrus Bowl; and

WHEREAS, the Concessionaire desires to manage and to operate selling of food, beverages, candy, and similar consumable products to said patrons according to the terms of this Agreement and has submitted a proposal for those services;

NOW THEREFORE, in consideration of the mutual covenants of the parties hereto, and upon the express terms and conditions hereinafter set forth, it is agreed by and between them as follows:

I. DEFINITIONS

- A. "ACCOUNTING PERIOD" shall refer to each calendar month within each calendar year.
- B. "ACCOUNTING YEAR" shall refer to the period commencing each October 1st, and ending each September 30th, consisting of 12 accounting periods.
- C. "ALCOHOLIC BEVERAGES" shall refer to all alcoholic drinks, beers and wines, regardless of where they are provided, in what packaging or format, or to whom they are provided.

- D. "ALL-INCLUSIVE SALES" shall refer to the direct billing of foodservices on a per-person basis to the City, County, or Magic currently from the Legends Suite, Super Star Club, and the Chairman's Suite. (Such locations may be changed at the City and Magic's reasonable discretion). Such sales are not subject to Commissions, but they are subject to service charges and sales taxes which shall be part of the all inclusive price. The per-person pricing will be negotiated based on menu items reasonably and in good faith agreed upon between the City or the Magic depending on the event and Concessionaire annually, or more frequently as mutually agreed. All food, non-alcoholic beverages, beer and glasses of house wine will be included. The parties acknowledge that there shall be no bottled wine service in any All-Inclusive area. All other Alcoholic Beverage sales shall be charged directly to the customer and reported as part of Gross Receipts.
- E. "BCPAC" shall refer to the Bob Carr Performing Arts Centre at 401 West Livingston Street, Orlando, Florida, 32801.
- F. "BRANDED PRODUCTS" shall refer to those food and beverage items which are advertised, marketed and sold as part of a franchise or license agreement and with respect to which Concessionaire is required to pay royalty fees and/or shared advertising costs to the franchiser in consideration of the right to sell such items in the Venues.
- G. "CATERING" shall refer to any pre-arranged food and beverage function of multiple customers, where payment for the entire function rests with one individual or company.
- H. "CENTER" shall refer to the Amway Center, at 400 West Church Street, Orlando, Florida, 32801.
- I. "CITRUS BOWL" shall refer to the Florida Citrus Bowl-Orlando, located at 1610 West Church Street, Orlando, Florida 32805. For the purposes of this Agreement, the Conference Centre, media dining, press box and the skyboxes located at the Citrus Bowl are not included in this definition.
- J. "CLUB SALES" shall refer to all Concession sales occurring on the Club Level of the Amway Center.
- K. "COMMISSIONS" shall refer to the percentage of Gross Receipts payable by the Concessionaire to the City at all events at the Venues other than Magic events and to the Magic for all Magic events at the Amway Center.
- L. "CONCESSIONS" shall refer to all sales of food and beverages sold from permanent or portable concession stands, bars or roving vendors to individual customers on all concourses including the Club Level.
- M. "DIRECT OPERATING COSTS" are all the costs of the Foodservice operation, which are to be paid by Concessionaire unless otherwise specifically provided herein.

- N. "DIRECTOR" shall refer to the Orlando Venues Executive Director, or his designee. The City authorizes the Director to act on behalf of the City on all matters related to this Agreement.
- O. "EQUIPMENT" shall refer to all Foodservice furniture and machinery, except Smallwares and leasehold improvements, used for the receiving, storing, transportation, preparation, merchandising, selling and accounting of product. Equipment shall not be affixed to the building except by electrical or gas connections.
- P. "FOODSERVICES" shall refer to all food and beverage sales and operations at the Venues, whether Alcoholic Beverages, Branded Products, Catering, Club Sales, Concessions, In-Seat Service, Restaurant, Suites or Vending Machine Sales.
- Q. "GROSS RECEIPTS" shall refer to the total amount of money, gratuities (via cash or credit/debit card) other than non-mandatory, voluntary payments which are not fixed charges placed on the bill by Concessionaire and which are eventually paid directly to the personnel providing the service, service charges, and rental charges received or charged and retained by the Concessionaire or any agent or employee of the Concessionaire for all sales, cash or credit (whether collected or not), made as a result of the service rights granted under the Agreement, excluding only: (i) applicable sales taxes on Foodservices sales; (ii) payments retained by any City-approved Subcontractor; (iii) for Branded Products, franchise fees and royalty fees required by the franchisor as part of the franchise agreement; and (iv) all fees and costs associated with the provision of Vending Machine Sales. Gross Receipts may not be reduced by Direct Operating Costs (other than applicable sales taxes), cash shortages, bad debts, credit card fees, credit card chargebacks, and non-mandatory, voluntary gratuities as set forth above, service charges and administrative charges collected or billed by Concessionaire.
- R. "IN-SEAT SERVICE" shall refer to all food and beverage sales sold and delivered to patrons in the seating bowl by order takers (including orders placed through mobile ordering device systems if delivered to patrons in their seats) and runners currently anticipated in the Courtside Seats, Loge Seats, MVP tables, and the Super Star Seating at the Amway Center, excluding in-seat hawkers or vendors.
- S. "LATE FEE" is the charge assessed to any payments due to any party after the specified date in the Agreement. Late Fees shall be calculated daily based on an annual rate of eighteen percent (18%).
- T. "MAGIC" shall refer to the Orlando Magic, Ltd, the National Basketball Association franchise and Orlando Events Center Enterprises, LLC (OECE) that plays its home games at the Amway Center.
- U. "M/WBE" shall refer to minority business enterprises and women business enterprises, which are certified by the City of Orlando.

- V. "PERMITTEE" shall refer to any person or entity that may from time to time enter into any agreement for the use of the Venues for a particular purpose, including, but not limited to, the Magic.
- W. "PRE-OPENING EXPENSE" shall refer to the Direct Operating Costs incurred by the Concessionaire between execution of the Agreement and the first Accounting Period with Gross Receipts in regards to the Amway Center only. Pre-Opening Expenses at the other venues are excluded from this allowable expense.
- X. "RESTAURANT SALES" shall refer to the food and beverage sales sold at the restaurant (including bars within the restaurant) within the Center. As provided in the definition of Concessions, bars outside of the restaurant, including Sign and Sky Bar, are not included in Restaurant Sales, but are included as part of the Concessions commission category. The parties acknowledge that the Sign and Sky Bar, as well as the outdoor Plaza Area, all shall be operated in a manner similar to Concessions, including without limitation, in each of its staffing, menu, uniforms, and other operational matters.
- Y. "SERVICE AREAS" shall refer to those certain storage, kitchen, pantry, Restaurants, permanent or temporary concession stands, food courts, condiment dispensing areas, common areas immediately surrounding and adjacent to the foregoing.
- Z. "SMALLWARES" shall refer to the serviceware, utensils, crockery, glassware, dishware and cutlery used in the Foodservice operation.
- AA. "SUITE SALES" shall refer to the food and beverages sold at the private boxes at the Amway Center. Food and beverage sales at the Florida Citrus Bowl suites are excluded from this Agreement.
- BB. "UTILITY FEES" shall refer to Accounting Period payment made to the City by Concessionaire equal to 2% of Center Gross Receipts for City Events; provided however, for Magic events, the Utility Fee shall be 2% of Gross Receipts after Commissions paid to the Magic are deducted from Gross Receipts.
- CC. "VENDING MACHINE SALES" shall refer to all food and beverage sales derived from coin operated automatic merchandisers.
- DD. "VENUES" shall refer to the Center, The Bob Carr Performing Arts Centre and the Florida Citrus Bowl-Orlando collectively.

II. ENGAGEMENT

Notwithstanding any provision of this Agreement to the contrary, the parties specifically agree that this paragraph shall supersede and take precedence over any other provision herein, and that the City shall have the right, which right may be exercised by the City at its free and sole discretion, to enter into contracts with Permittees, which contracts may contravene or conflict with provisions for this

Agreement. In such circumstances, the contract provisions established between the City and Permittees shall take precedence over the provisions of this Agreement, and the conflicting provisions of this Agreement shall be deemed amended automatically to conform therewith for purposes of that event.

III. RELATIONSHIP OF THE PARTIES

The City and the Concessionaire have entered into this Agreement for the purpose of establishing an independent contractor relationship between the City and the Concessionaire. It is further understood and agreed by and between the parties that nothing herein shall constitute or be construed to be an employment, co-partnership or joint venture or joint employer relationship between the City and the Concessionaire. The Concessionaire shall, subject to the terms and provisions of this Agreement, have complete and independent control and discretion over the operation of the concessions and catering services contemplated by this Agreement. It is expressly understood that neither Concessionaire nor the City has the right to control, direct or influence the labor relations, policies or activities of the other, and that neither shall be considered to be the labor relations agent or representative of the other. No agent, servant, or employee of the Concessionaire shall under any circumstances be deemed an agent, servant, or employee of the City, and no agent, servant, or employee of the City, County, or Magic shall under any circumstances be deemed an agent, servant, or employee of Concessionaire. The Concessionaire shall be solely liable for, and shall independently undertake to defend, any and all unfair labor practices, charges, grievances, judicial actions, or other employee or union claims based on conduct alleged to have been committed by its employees, agents or superiors at any time. However, the City will cooperate in good faith with the Concessionaire in the investigation of any unfair labor practice charge, grievance, judicial action or other employee or union claim which may be filed against any one of them, jointly or separately.

IV. TERM OF THE AGREEMENT

The term of this Agreement shall commence on June __, 2010, with Foodservices to commence on October 1, 2010 for BCPAC and Citrus Bowl and upon commencement of operations at Amway Center which is expected to be on or about October 1, 2010. This Agreement shall terminate June 30, 2015 unless sooner terminated as provided herein. The Agreement may be extended for up to five one-year renewals upon the mutual agreement of the City and Concessionaire.

In the event that the proposed Dr. P. Phillips Orlando Performing Arts Center, to be located at 29 East South Street, Orlando, Florida, opens in whole or in part during the initial term of this Agreement or any renewal periods, upon written notice, the City may terminate this Agreement with respect to the BCPAC without compensation to Concessionaire for such early termination and without affecting the Agreement or its terms with respect to the remaining Venues. Alternatively, in

such event, the City may elect to assign its rights and obligations under this Agreement with respect to BCPAC to a third party without affecting the Agreement or its terms with respect to the remaining Venues.

The City may terminate this Agreement at any time, without cause, at the City's sole discretion, by giving Concessionaire thirty (30) days written notice. Any termination with or without cause is subject to the buyout provisions detailed in Section XIV of this Agreement, but no other compensation shall be paid to Concessionaire by the City except what has been earned through the date of termination.

In the event bond counsel to the City determines that the amount of space provided to the Concessionaire, the activities of the Concessionaire, or the term of the Agreement may result in the inclusion of interest on the City's bonds issued to finance the Amway Center in gross income of the holders thereof for federal income tax purposes, the City may take one or more of the following actions, as necessary to comply with IRS regulations: 1) reduce such space, 2) prohibit such activities to the extent necessary to prevent such inclusion, and 3) adjust the term of the Agreement. In any or all of the above situations, the parties shall enter into good faith negotiations to restructure the method of compensation.

Notwithstanding anything else contained in this Agreement except for Section V below, if the City permanently reallocates or reconfigures space in the Venues such that five percent (5%) or more of the permanent concession stand locations, Club or restaurant space are unavailable to Concessionaire or its subcontractors for their use in the manner contemplated in the RFP, or as compared to the configuration shown in the RFP, at a particular Venue, then the parties shall enter into good faith negotiations to restructure the method of compensation for the affected sales category at the affected Venue. For purposes of this paragraph, a "permanent reallocation or reconfiguration" shall mean reallocation or reconfiguration for four or more consecutive major events (a multiple run of the same show shall count as one event) made by the City without the prior written agreement of the Director and the Concessionaire's General Manager of the affected Venue. Provided, however for purposes of this paragraph, routine staffing level and venue configuration decisions based on the expected attendance or show requirements shall not under any circumstances constitute a permanent reallocation or reconfiguration. Further, a reallocation or reconfiguration arising from a necessary repair or as the result of a force majeure event shall not be considered a "permanent reallocation or reconfiguration" under any circumstances so long as the City repairs or restores the affected space to its condition prior to the need for repair or the occurrence of the force majeure event. Concessionaire shall give City notice upon permanent reallocation or reconfiguration to enter into good faith negotiations to restructure the method of compensation for the affected sales category at the affected Venue, and if City does not enter into such negotiations, City must return such changed areas to the manner contemplated and use of the RFP.

V. FOODSERVICE RIGHTS

Subject to the provisions of this Agreement, the City shall grant to the Concessionaire the non-exclusive right to manage, operate and sell within the Venues all Foodservices and other similar consumable products as the Director may from time to time approve for sale. In any case, where it is determined by the Director that items other than food and beverages should be sold through the Concessionaire and Concessionaire agrees, the Concessionaire shall conduct such sales. Additional areas of Foodservices in the Venues may be added or deleted at the discretion of the Director. Foodservice exclusions from this Agreement include without limitation:

- A. Parking lots.
- B. Club Membership Dues.
- C. Backstage, athlete, performer and employee dining (unless requested by the City).
- D. Sno-kones, cotton candy, and popcorn at all Feld productions and similar limited non-beverage products at other family shows.
- E. Florida Citrus Bowl skyboxes (although Concessionaire may be requested to provide services to these skyboxes, the Conference Center and media dining).
- F. Florida Citrus Bowl Conference Center.
- G. Florida Citrus Bowl media dining.
- H. All sampling of free distribution of food and non-alcoholic beverage samples by an event sponsor which are the normal sales products of the sponsor or sale of food or beverage products by sponsors for consumption off the Venues premises, regardless of size.
- I. NCAA events and NBA All-Star Game.

Sales rights shall be extended to the sale of Alcoholic Beverages in the appropriate Foodservice areas. The Concessionaire shall be required to obtain and maintain all necessary licenses and permits in connection with the sale of such Alcoholic Beverages. The sale of Alcoholic Beverages shall be permitted in the approved Foodservice only and at such events as are approved in advance by the Director. Notwithstanding the above, and subject to the rules of the NBA, the sale of Alcoholic Beverages for Magic games are hereby approved; provided however, Director has the right to rescind or limit such approval for health and public safety reasons.

All food and beverage products prepared or brought onto the Center, BCPAC and/or the Citrus Bowl premises must remain and be sold exclusively on said premises unless otherwise authorized in advance by the Director. Food and

beverage products prepared at the Center for the purpose of offsite sale, as authorized by the Director, shall be included as part of Gross Receipts.

Unique Catering requirements of the Venue's Permittees, such as Kosher, Indian and other ethnic foods, not regularly prepared by the Concessionaire, may be excluded from these non-exclusive rights, if so directed by the City.

VI. DUTIES OF THE CONCESSIONAIRE

For the non-exclusive sales rights granted in Section V and the financial terms provided for herein in this Agreement, the Concessionaire shall be responsible for providing skillful and commercially effective management and operation of the Foodservices. The Concessionaire shall be responsible for performing satisfactorily all functions, duties, and activities outlined in this Agreement and shall be responsible to indemnify and reimburse the City for any damage to the Venues or Equipment caused by the negligence of the Concessionaire and its agents, subcontractors or employees. The Concessionaire must manage and operate the Foodservices in a professional and efficient manner, which will be conducive to providing first class quality services and products in a clean and appealing environment for patrons of the Venues. Concessionaire shall:

- A. Conduct all of its operations in a first-class, professional, businesslike, and efficient manner consistent with premier events and professional sports venue, collegiate stadium and a performing arts center, such as the Venues. The Foodservices at the Amway Center shall meet or exceed the operation in the following comparable venues: FedEx Forum, Memphis, TN; AT&T Center, San Antonio, TX; Conseco Field House, Indianapolis, IN; and Time Warner Center, Charlotte, NC."
- B. Employ a highly skilled professional on-site management staff, whose selection shall be subject to the approval (such approval not to be unreasonably withheld, conditioned, or delayed) of the Director, who possess the necessary experience and expertise to provide the overall management capability for a first class Foodservice operation. Concessionaire's minimum full time on-site staff at all times (unless permitted below) shall include Amway Center General Manager, Amway Center Assistant General Manager, Citrus Bowl/BCPAC Manager, Catering Sales Manager, Catering Manager, Concessions Manager, Assistant Concessions Manager, Executive Chef, Sous Chef, Controller/Office Manager, and a Human Resources/Training Manager (collectively, "Senior Management"). The Director reserves the right to approve all Senior Management of Concessionaire throughout the term of this Agreement and any changes to the minimum management staffing levels from the RFP response of Concessionaire must be approved (all such approvals not to be unreasonably withheld, conditioned, or delayed) in writing by the Director. The Concessionaire agrees that the Senior Management shall devote their entire productive time, ability and attention

to the Foodservices of the Venues during the term of this Agreement and must maintain an office space at the Venues. The Senior Management shall not directly or indirectly render any services of a business, commercial or professional nature to any other person or organization, whether for compensation or otherwise, without the prior written consent of the Director, such consent not to be unreasonably withheld, conditioned, or delayed.

- C. Employ a Center General Manager, who initially will be Jim Breig, who shall begin full-time work no later than thirty days after execution of this Agreement.
- D. Ensure that all of its full time on-site employees and its subcontractor's full time on-site employees receive the current living wage as set by the City (including tips, if applicable), exclusive of overtime, benefits and taxes.
- E. Provide any additional personnel reasonably requested by the Director, if, in the Director's reasonable discretion, the action is deemed necessary.
- F. Subject to Director reasonable review and approval, develop and implement all necessary policies and procedures for the Foodservices. Such policies and procedures shall not be subject to Director review with respect to labor relations.
- G. Employ and train all employees necessary for the successful operation of the Foodservices. Concessionaire must conduct regularly scheduled training sessions, as reasonably approved by the City, throughout the year, for all personnel. At a minimum, the training will consist of customer service, Magic customer service, alcohol awareness and procedures regarding the adherence to the lawful sale of Alcoholic Beverages, basic knowledge of the Americans with Disabilities Act, first aid techniques, cash controls, skills training for each position, including proper banquet service, buffet set up, merchandising and wine service for all Catering personnel.
- H. Maintain all uniforms in a neat and clean condition. Concessionaire's staff shall be at all times neatly and cleanly uniformed in City approved uniforms and must meet grooming guidelines and appearance standards prescribed for such staff. Initial uniforms at the Center shall be purchased by the City. Upon request, Concessionaire shall design and prepare specifications for the purchase of uniforms for Foodservices staff to be worn at all Center, BCPAC, and Citrus Bowl events, subject to review and approval by the Director, such approval not to be commercially unreasonable, withheld, or delayed. In addition, the identification badge to be worn by the Concessionaire staff and subcontractors is subject to approval by the Director, such approval not to be unreasonably withheld, conditioned, or delayed. Within sponsored zones and branded areas of the

Venues, upon request of the City or Magic (for the Center), Concessionaire shall require its staff to wear uniforms that identify the related sponsor(s). Any costs related to uniform modifications related to such sponsorships, or change in names of the Venues, shall be the responsibility of the requesting party (or the sponsor), and not the responsibility of Concessionaire.

- I. Provide for retail sale of food, beverages, candy and similar consumable products at all appropriate Foodservices areas outlined in Section V hereof. All foods, drinks, beverages, confectionery, refreshments, and the like sold or kept for sale, shall be of first quality, wholesome, and pure and shall conform in all respects to the federal, state, and municipal food and other laws, ordinances, and regulations. No imitation, adulterated, or misbranded article shall be sold or kept for sale, and all product kept on hand shall be stored and handled with due regard for sanitation. Expired product shall not be sold at any time.
- J. Maintain the highest available rating from the applicable Health Department inspections and shall provide inspection reports to the Director upon his request.
- K. Assist the City and Magic as requested by the Director and the Magic with selection, purchase, receipt, inspection and storage of Equipment, rolling stock, small wares and other supplies necessary for the operation of the Foodservices. Concessionaire shall also order, purchase, receive delivery of, and store all consumable supplies and products necessary for the operation of the Foodservices from various sellers and vendors (each, a "Vendor"), but at no time will Concessionaire offer an exclusive contract to any supplier without the prior written approval of the City. In accordance with and subject to the terms of this Agreement, including any reserved rights of reasonable approval by the City, purchases from Vendors shall be made under such terms Concessionaire deems acceptable ("Vendor Terms"). All Vendor Terms are the exclusive obligations and property of Concessionaire. The City does not have any liability under, or any right to, any Vendor Terms, and no Vendor Terms will reduce or otherwise affect the amount or performance of City's obligations. Concessionaire covenants that the Vendor Terms will not: (i) impair the quality of the Food and Beverage Items served by Concessionaire (as compared to comparable items served at other similar venues in which Concessionaire or its affiliates provides food and beverage service), or (ii) increase the costs for such items (as compared to the Concessionaire's pricing for comparable items of similar size served at other similar venues in which Concessionaire or its affiliates provides food and beverage service).
- L. Prepare all products for sale or distribution.
- M. Advise and make recommendations to the Director (and the Magic with respect to Magic Events) concerning all operation phases of the

Foodservices including but not limited to, the kind, quality, brand, and price of and menus for Foodservice products.

- N. Concessionaire may make menu, pricing and portion recommendations based on actual costs and comparable venues. Concessionaire shall consult with the Magic with respect to all menus and pricing structures related to Magic Events prior to implementing such menus and pricing; provided, however all pricing, menus, portions and source of supply is subject to the approval of the Director in accordance with Section VIII below. The initial approved prices, menus, and portions are listed on Exhibit "C". The City may require the Concessionaire to buy products of sponsors purchasing exclusive placement rights, pursuant to a Sponsorship Agreement (as hereafter defined), in accordance with Section IX. E. Currently, products that the City requires the Concessionaire to sell in 2010 include 20 oz. bottled Coca Cola products, including bottled water from 75% of the Citrus Bowl Concession Stands.
- O. Manage cash accounts and accounts receivables in a manner to ensure collection is achieved for all sales and invoices issued by the Concessionaire. Concessionaire shall be able to set its own credit policy for Catering and Suite Sales, which policies the City and Magic acknowledge include no credit extended, and all payments required through a credit card on file. Any bad debts incurred due to the City's or Magic's requirement to issue credit to a customer, may be deducted from City's or Magic's Commissions.
- P. Comply with all existing laws and regulations relating to the preparation and handling, sale and disposal of Foodservices. Procure and maintain at all times the necessary permits and licenses required by any laws and regulations for operations of the Foodservices.
- Q. Repair and maintain all Equipment, leased equipment, uniforms and Smallwares as a Direct Operating Cost.
- R. Replace all Equipment, leased equipment, uniforms and Smallwares if replacement is necessitated due to the Concessionaire's negligence. In all other circumstances for replacement of Equipment, replacement shall be in accordance with Sections (VII) (F) and (G) below.
- S. Subject to prior approval of the Director, provide for necessary promotion, advertising and marketing of Foodservices products and services.
- T. Provide for the necessary levels of financial reporting and accountability for all Equipment, leased equipment, uniforms and Smallwares of the City as outlined in Section XV hereof.

- U. Prepare and submit separate annual projected sales volume budgets per facility as detailed in Section X.D.
- V. Negotiate all collective bargaining agreements relative to the Concessionaire's employees and maintain effective day to day working relationships with appropriate union representatives if and where applicable.
- W. Provide all necessary staging and set up for Foodservice events in the Venues as determined by the Director.
- X. Procure all operating supplies. Director shall have the final right of reasonable approval for all Concessionaire's contracts, purchase orders and suppliers provided that the Director shall in good faith consider product quality, service and price in making such determination. It is the intent of the City for its Concessionaire to utilize Branded Products whenever it is in the best interest of the City. In circumstances where Branded Products are utilized, the City and Concessionaire shall negotiate in good faith reasonable adjustments to menu pricing to account for any increase or decrease in cost to the Concessionaire from the use of such Branded Product. The City strongly encourages the Concessionaire to identify local products and vendors to utilize throughout the Venues, whenever appropriate.
- Y. Acquire and/or qualify for transfer of the City's Alcoholic Beverage licenses and understands that failure to acquire and/or qualify for such licenses and properly maintain said licenses is grounds for termination of this Agreement.
- Z. Maintain, repair and replace a minimum of 750 City-approved placesettings, which shall be provided in the City's initial investment.
- AA. Pay for its own telephone service as a Direct Operating Cost. The telephone system may be provided by the City and invoiced monthly to the Concessionaire. If a specific brand of telephone service is required, such service must be competitively priced.
- BB. Pay to repair or replace any utility service or lines due to Concessionaire's negligence shall be the Concessionaire's expense as a Direct Operating Cost. Concessionaire's sewer lines, directly identifiable with the Foodservices, shall be maintained by the Concessionaire as a Direct Operating Cost. Concessionaire shall take commercially reasonable precautionary measures necessary to assure that grease is not discharged into the sewers.
- CC. Provide Alcoholic Beverages for sale to the extent permitted by applicable state and local laws, and subject to regulations established by the City. In accordance with Section V above, the final decision, as to whether or not

Alcoholic Beverages may be sold at an event, or in any designated area of the Venues, shall be the sole responsibility of the City which retains the right to refuse, rescind or limit the approval of the sale of Alcoholic Beverages at an event for health and public safety reasons. The decision to refuse service of Alcoholic Beverages to any individual shall be the sole responsibility of the Concessionaire. To the extent not in conflict with state and local regulations, Concessionaire shall abide by any rules established by the NBA for Magic events. All licenses and permits required for the sale of Alcoholic Beverages at the Venues shall be held in the name of the Concessionaire. The Concessionaire shall keep the permits in full force and effect and neither party shall take any action which would impair the Concessionaire's ability to hold the permits. The Concessionaire shall prepare, file, and process all applications for renewals of the permits.

- DD. At the termination of the Agreement, surrender all Alcoholic Beverage Licenses for the Venues without compensation.
- EE. Staff its Foodservices operations with only competent, orderly, neat, courteous and competent staff. Whenever the Director notifies the Concessionaire or its manager that any staff is deemed by it to be incompetent, disorderly, discourteous, unclean or unsatisfactory, the Concessionaire will investigate the matter thoroughly, and if cause appears, shall remove such person from the Venues, provided however, that such removal is not in violation of any outstanding union contracts that may be entered into between the Concessionaire and a union or any federal government or State of Florida employment law or regulation.
- FF. Keep accurate records of the names, addresses and other legal identification of those to whom badges are issued to assure proper identification and legal working status of employees at any time required by the City or any other proper agency. Upon reasonable request by the City, the Concessionaire shall immediately dismiss from the Venues, any employee deemed unsuitable for any good faith reason by the City, provided however, that such removal is not in violation of any outstanding union contracts that may be entered into between the Concessionaire and a union or any federal government or State of Florida employment law or regulation. Any employee so dismissed shall never again be employed at the Venues without the prior written consent of the City.
- GG. Provide or modify operations upon the request of the Director, when it has been approved by the City, as in the best interest of the Venues or is necessary to comply with the terms of the contract between the Venues and its Permittees, provided that none of Concessionaire's equipment, employees, or licenses are utilized when Concessionaire is excluded from selling.
- HH. In the event that the City shall seek to bring a major political convention, NCAA tournament, NBA All-Star Game or other similar national or

international events, make such modifications to the Agreement that are required for the City to obtain any such event; provided that Concessionaire shall be paid for its provision of Foodservices unless otherwise agreed by the parties.

- II. Use vending machines only at times and locations prescribed by City.
- JJ. Provide printed and content for electronic menus (after obtaining input from the Magic for its events at Amway Center) approved (such approval not to be unreasonably withheld, conditioned, or delayed) by City, utilizing the Venues' logos and applicable sponsor logos as directed by the City (or the Magic for its events at Amway Center) used exclusively for the Venues, in sufficient quantities for use by City's, Magic's and the Concessionaire's marketing staffs. Any costs related to printed menu modifications related to such sponsorships, or change in names of the Venues, shall be the responsibility of the requesting party (or the sponsor), and not the responsibility of Concessionaire.
- KK. Set rooms with sufficient tables and chairs for each catered function. Concessionaire must provide and set linen, skirting and place settings on a timely basis, as well as removing same, immediately following each catered event.
- LL. Set up Equipment and Smallwares for all Foodservice events. Concessionaire shall be responsible for setting up and tearing down all portable Equipment, including any work tables, if any, supplied by the City.
- MM. Except as otherwise expressly stated herein, pay all operating expenses. Pre-opening Expense budget must be approved (such approval not to be unreasonably withheld, conditioned, or delayed) by the City to be eligible for amortization. Director shall have a minimum of thirty (30) days to review the Pre-opening Expense budget from receipt by the Concessionaire. Concessionaire shall copy the Magic on any pre-opening expense requests at the same time that they are sent to the City. Concessionaire will accrue Pre-Opening Expenses as set forth in Section XIV.

VII. RESPONSIBILITIES OF THE CITY

City shall be responsible for performing the following duties and functions:

- A. The City shall provide the existing furnishings and equipment used during the prior Concession Agreement between the parties for the BCPAC and the Citrus Bowl including its office space, as currently furnished and equipped in "As Is" condition.
- B. The City shall provide fully equipped Foodservice facilities with the Equipment listed on Exhibit "D" (as amended by the construction

documents in place at the time a certificate of occupancy is issued for the Center) at the Center at all times throughout the Term. For BCPAC and the Citrus Bowl, the City is providing existing equipment as listed in the attached RFP.

- C. The City shall furnish the Concessionaire statements of turnstile or estimated attendance for all events at the Center, BCPAC and the Citrus Bowl for which the Foodservice are open to assist the Concessionaire in accomplishing its accounting responsibilities.
- D. The City shall prohibit the selling and distributing of any food or beverage items or services in the Venues and on the premises by anyone except the Concessionaire, subject to the exclusions provided for in this Agreement.
- E. The City shall cooperate with the Concessionaire in obtaining all necessary licenses and permits.
- F. The City shall replace Equipment with a replacement value greater than Two Hundred Fifty Dollars (\$250.00) when repair costs exceed 50% of the item's replacement value, unless the replacement is due to Concessionaire's negligence, in which case Concessionaire shall make such replacement. Concessionaire shall replace Equipment with a replacement value less than Two Hundred Fifty Dollars (\$250.00) when repair costs exceed 50% of the item's replacement value, unless the replacement is due to City's negligence, in which case City shall make such replacement. If Equipment needs to be materially repaired twice within any rolling twelve month period, then the cumulative repair costs for such twelve month period shall be considered in determining whether Equipment will be repaired or replaced.
- G. Unless otherwise provided in this Agreement, the City shall replace Equipment.
- H. The location of all Foodservice areas, whether temporary, portable or permanent shall be reasonably designated by the City. The Concessionaire shall acquire no right to any location once assigned and the City reserves the right to require the Concessionaire to move such operations and Equipment to facilitate the needs of events.
- I. Final decision as to whether or not Alcoholic Beverages may be sold at an event, other than a Magic game, shall be determined by the Director. Subject to the rules of the NBA for the sale of Alcoholic Beverages, at Magic games, the Director and the Magic must agree on whether or not Alcoholic Beverages will be sold, in what locations and for what duration of time.
- J. The City shall have sole and arbitrary discretion to cancel, terminate or interrupt any event, and cause the patrons to be dismissed, or to stop the sale of any Foodservices product by the Concessionaire during any event. The City shall not be liable to the Concessionaire for any loss of the

Concessionaire's revenues occasioned by any such determination or action by the Director taken in good faith for the benefit or protection of the City and the public generally or the Venues.

- K. The City reserves the right to terminate this Agreement for acts of default by the Concessionaire, in accordance with Section XVII hereof.

VIII. POWERS RESERVED TO THE CITY

The Concessionaire shall, subject to the approval (such approval shall not be unreasonably withheld, conditioned, or delayed) of the Director and all of the terms and provisions of this Agreement, have complete control and discretionary authority with respect to the operation of the Foodservices, including the use of the premises, labor relations policies, wage rates, the hiring, promotion and discharge of its employees, the establishment of the wages, hours and other terms and conditions of employment, and with respect to all other phases of operation, except as otherwise herein expressly limited or provided for in this Agreement. In the event of a dispute between the Concessionaire and the City, the decision of the City (acting in a commercially reasonable manner in consideration of the practices at the comparable venues listed in Section VI.A. with similar business arrangements) concerning the operation or management of the Foodservices shall be final and binding on both parties unless otherwise determined by a court of law. By way of illustration and not limitation, the reserved powers of the City, in accordance with the above standards, are as follows:

- A. The Concessionaire shall propose, and the City shall approve (such approval shall not be unreasonably withheld, conditioned, or delayed) as to the acceptability of services rendered, number of Service Areas required, levels of staffing by area, prices, portions, products, and manner of performance. The City shall reasonably decide any and all questions which arise as to the interpretation of the terms and conditions of the Agreement.
- B. The Director may issue commercially reasonable rules and regulations for the operation of the Foodservices, which may be amended from time to time. The City shall have final determination of all such policies, procedures, rules and regulations relative to the operation and management of the Foodservices, which may be amended from time to time at the City's commercially reasonable discretion.
- C. Final Determination on the kind, brands, quality, source of supply and retail prices of all concessions products and services. All product kept for sale shall be subject to inspection and approval (such approval not to be unreasonably withheld, conditioned, or delayed) or rejection by the Director or duly authorized representative at all times. Rejected product shall be removed from the premises and not returned for sale.

- D. Final determination on the design, layout and location of all physical locations and Equipment for the Foodservices operation and any future changes or modifications thereto.
- E. Final determination on the use, number and location of portable Foodservices stands, permanent specialty stands, and other facilities, including vending machines, used in the operation of the Foodservices.
- F. In accordance with Section IX(E) below, final determination on which specific Foodservices products will be sold at particular events at the Venues and at which sales areas.
- G. Approve or disapprove of the on-site management and regional manager provided by the Concessionaire at any time during the term of this Agreement. If so determined by the City, the Concessionaire shall be required to replace any or all such staff within ten (10) days of receipt of written notice by the Director regarding dissatisfaction with the their performance, with a temporary replacement and within fifteen (15) days, provide the City with at least three (3) resumes of suitable permanent replacements. No replacement of the managers shall be made without prior approval of the Director. The Director shall be included in the interviewing process for the on-site manager. At the commencement of this Agreement, the City has approved Concessionaire's on-site general manager, Jim Breig.
- H. The City reserves the right to determine commercially reasonable acceptable levels of performance in striving to achieve the most economical and efficient operation of Foodservices services, consistent with the terms of this Agreement and the opportunities presented to Concessionaire contained herein.
- I. The Concessionaire shall submit all subcontractors to the City for approval prior to the subcontractors commencing work at the Venues. The City shall have the right to approve, disapprove, or withdraw the approval (such approval not to be unreasonably withheld, conditioned, or delayed) of the use of any subcontractor proposed, utilized or under subcontract to the Concessionaire at any time during the term of this Agreement. In addition, the Director has the power to have the subcontractors, through the Concessionaire, immediately remove any of their employees from the Venues, which the Director in good faith deems incompetent, disorderly, discourteous, unkempt or unsatisfactory. All subcontractors utilized by the Concessionaire must be under written agreement with the Concessionaire, first approved by the Director, prior to the initiation of any activities by the subcontractors either on or off the facility site. Each written agreement is to include a compensation provision based on a

percentage of the Gross Receipts, as defined in Section I, collected by the subcontractor, unless otherwise approved by the Director. Failure of subcontractors to remit monies to Concessionaire shall not abrogate the responsibility of the Concessionaire to make commission payments based on the subcontractor sales.

IX. OPERATING REQUIREMENTS

The following terms and conditions shall also apply to the operation of the Foodservices.

- A. On an annual basis prior to May 1, the Concessionaire must provide the City with a written Marketing and Catering sales program with specific financial and operational goals and specific methods for attaining each goal. City, Magic (for its events) and Concessionaire shall reasonably confer to agree upon a mutually agreeable marketing and Catering sales program. Provided however, for the initial year of the Agreement, the written Marketing and Catering sales program will be due thirty (30) days after execution of the Agreement by the parties. After receipt of the City approval of the program, Concessionaire shall forward a copy of it to the Magic.
- B. At the termination of Concessionaire's Agreement, Concessionaire will assign all Catering contracts and Catering deposits, for events that are scheduled to occur after the effective date of termination, to the succeeding Concessionaire.
- C. The Concessionaire shall not interfere with the free distribution of food or non-alcoholic drinks or any other items of any nature whatsoever, where such distribution has been authorized by the City. Free samples may be given away by, or on behalf of, or with permission of any person or organization which has properly engaged the Venues at any event at the discretion of the City. Samples of Alcoholic Beverages shall be permitted if distribution is compliant with applicable laws.
- D. The selling of specialty ethnic foods sold by local charitable organizations at community festivals are excluded from this Agreement.
- E. The City or the Orlando Magic may sell advertising and sponsorship packages for the Venues that require product sales rights, that the Concessionaire must comply with. Concessionaire and City recognize the value of securing sponsorship relationships for the Arena. City or the Magic have the exclusive right to enter into any agreements with corporations with respect to food and/or beverage products that are offered in the Arena ("Sponsorship Agreements"). Notwithstanding anything else contained in this Agreement, if Sponsorship Agreements will require Concessionaire to purchase products at costs that exceed Concessionaire's national pricing, any increased costs for sponsored products required to be used by Concessionaire shall result in a mutually agreeable reasonable price increase (to make Concessionaire whole) to affected menu items.

- F. At City's request, Concessionaire agrees to provide introductions to Concessionaire's food and beverage vendors that may be interested in having their products exclusively served or sold at the Venues in exchange for marketing and/or rights fees. The City and Magic shall control the digital menu board content for their respective events and Concessionaire shall follow such procedures for making menu board changes that the City and Magic may reasonably establish.
- G. Concessionaire retains no advertising rights in this Agreement.
- H. Concessionaire shall collect and promptly disburse all taxes required by federal, state and local authorities, and shall pay any applicable taxes relating to Foodservice sales, operations, employees, Equipment, inventory or permits, as a Direct Operating Cost. The parties acknowledge that as of the date hereof, Florida Statute 212.031(1)(a)10, makes Concessionaire exempt from being required to pay any lease/rent tax on Commissions. If at any time during the Term, such law or similar law is repealed so that Concessionaire could become obligated to pay lease/rent tax associated with the Commissions paid, then the parties agree in good faith to re-negotiate appropriate Commission adjustments.
- I. Concessionaire shall use computerized cash or point-of-sale registers at all sales locations provided by the City at all times throughout the Term. This includes portable and permanent concession stands and Clubs at all Venues and hand-held terminals where provided by the City.
- J. Concessionaire shall at all times comply with all applicable laws, rules, regulations and orders of the Federal Government, State of Florida, County of Orange, and City of Orlando, and also shall abide by all rules, regulations and directives prescribed by the City.
- K. Nothing herein contained shall be held to limit or qualify the right of the City to a free and unobstructed use, occupation and control of the Venues and the Service Areas and ingress and egress for itself, its Permittees, and the public.
- L. Representatives of the City, and the Magic for Magic Events, shall have the right to enter upon and have access to all spaces and Service Areas occupied by the Concessionaire during the time events are in operation.
- M. The Concessionaire agrees to accept the design and construction of the Amway Center as-is in its entirety, with no design modifications permissible without the consent of the City and Magic.
- N. General plastic flatware, to include disposable plates, cutlery and cups, shall be used in media dining, employee dining, the green rooms, in-seat service and concessions. High end plastic flatware, to include disposable plates, cutlery and cups, shall be used in the Super Star Club, Legends Suite, Suites, Loges, and the Club Level Club.

- O. Bunker Suites, Chairman's Suite Catering, and the Restaurant will utilize permanent Smallwares, dishes, glassware and place settings.
- P. The City shall have access to any Foodservice areas at any time.
- Q. Concessionaire represents and warrants that no bonus programs for Concessionaire's employees shall reward cost cutting at the expense of customer service.
- R. The parties recognize and agree that certain facility users and Permittees require as a condition of booking the right to prepare and/or sell their own foods or products. The parties further agree the City shall have reserved to it, the power to grant non-exclusive rights to prepare, sell, distribute or serve such foods to such facility users and Permittees as a means of encouraging facility bookings and that such shall not constitute a breach of this Agreement or interfere with the Concessionaire.
- S. No off-site sales or subcontracted sales are permitted from the Venues without the written approval of the Director. If permitted, such sales shall be included as part of Gross Receipts.
- T. Concessionaire shall not have the right to select a provider, contract for, or retain any revenues from Automatic Teller Machines (ATM) in the Venues.
- U. All club membership fees are the property of the City, the Magic or its tenants and may not be retained by the Concessionaire; provided, however, City and Concessionaire will negotiate a mutually agreeable allocation if there is any foodservice component provided by Concessionaire.

X. RECORDKEEPING AND ACCOUNTABILITY

In providing Foodservices under this Agreement, Concessionaire shall comply with the following requirements.

- A. Concessionaire shall maintain all accounting records for Gross Receipts and records necessary to verify compliance with the Agreement (including Blueprint and WMBE subcontracting and supplier goals), in a format reasonably approved by the City at the on-site office. Such accounting records and other records relating to the performance of this Agreement (but not including expense records except as they relate to the sale of branded products and vending machine sales) of Concessionaire and its subcontractors shall be available for audit by the City at any time throughout the term of the Agreement at the on-site office, and for five (5) years following the term of the Agreement at the Concessionaire's main office.
- B. Concessionaire shall inventory all Equipment, leasehold improvements, uniforms and Smallwares on an annual basis to determine what replacements and repairs are required. Any changes from the previous

year shall be noted with an explanation. The inventory shall be provided to the City for its review and approval no later than end of the Accounting Year. Unless otherwise approved by the Director, Concessionaire shall use City compatible hardware and City-approved accounting software, for all Catering and Suite sales, contracts, invoices, and all accounting functions.

- C. Concessionaire shall submit, for City approval, in a format approved by the City for each Venue, a projection of Gross Receipts and detailed components that are used to formulate Gross Receipts for its operations broken down by category of Foodservice, eight months prior to the beginning of each Agreement Year, for every year during the term of the Agreement. The projection of sales for the Center shall be broken down further for Magic and non-Magic events.
- D. Concessionaire shall provide the City, and the Magic for Magic events, with a preliminary sales report by 10 a.m. on the day following each event. Concessionaire shall provide to the City, and the Magic for Magic events, in a format directed by the City and Magic, a written summary of each event within 72 hours of that event, indicating where appropriate, customer pricing, attendance guarantees, sales by location, sales per point of sale, total inventory sales, total register sales, and cash overages and shortages. Concessionaire shall pay City and Magic all applicable Commission payments within ten (10) days following the close of the preceding Accounting Period. Any past due amounts shall be subject to a Late Fee.
- E. Concessionaire shall attach the corresponding deposit ticket and credit card transmission reports to all daily sales reports.
- F. Concessionaire shall maintain a separate commercial account in the City of Orlando for all sales deposits.
- G. Concessionaire must use the computerized POS system provided by the City that accepts credit/debit and loaded ticket payments. The City shall have access to all such sales and management reports. In connection with the services being provided hereunder, Concessionaire may need to operate certain information technology systems not owned by the City ("Non-City Systems"), which may need to interface with or connect to City's networks, internet access, or information technology systems ("City Systems"). Concessionaire shall be responsible for all Non-City Systems, and City shall be solely responsible for City Systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. If Concessionaire serves as the merchant-of-record for any credit or debit card transactions in connection with any of the services provided hereunder, then Concessionaire will be responsible for complying with all applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data ("Data Protection Rules"). If Non-City Systems interface with or connect to City

Systems, then City agrees to implement forthwith upon request from Concessionaire, at City's own expense, the changes to the City Systems that Concessionaire reasonably requests and believes are necessary or prudent to ensure Concessionaire's compliance with the Data Protection Rules. Subcontractor sales locations will use computerized cash registers that accept credit/debit cards, when provided by the City. City acknowledges that business may dictate additional outlets if approved by the City, from time to time, for which these additional outlets may or may not have cash registers.

- H. An independent audit of Gross Receipts of the Concessionaire's operation at the Amway Center, the BCPAC and Florida Citrus Bowl by an accounting firm approved by the City, must be submitted by the Concessionaire to the City for City events and the Magic for Magic events no later than ninety (90) days after the end of each Agreement Year as a Direct Operating Cost.
- I. In the event the City or the Magic is not satisfied with the statements submitted by the Concessionaire, as provided for herein, the City or the Magic shall have the right to make a special audit by auditors selected by the City or the Magic, of the books and records required to be made and preserved, including all sales by the Concessionaire. If such audit shall show a deficiency in payments by the Concessionaire for any Accounting Period covered, in excess of one percent (1%) of the amount thereof, the amount owed and the Late Fees from the date the error took place and the cost of the audit, shall be paid promptly by Concessionaire to the City or the Magic, as applicable.
- J. Concessionaire shall maintain all sales tax licenses and operating permits necessary for the Foodservice.
- K. Concessionaire shall use and contribute toward the maintenance of the City provided security/time clock system on a mutually agreeable and fair basis, not to exceed two thousand five hundred dollars (\$2500) per year during the initial term.

XI. SANITATION AND EQUIPMENT MAINTENANCE

- A. Concessionaire must, in accordance with all applicable laws, ordinances, rules, and regulations, maintain, as a Direct Operating Cost, all assigned areas of the Venues, including the space within a 25 foot radius (not including public restrooms) of each area, including, but not limited to, Foodservices areas, Service Areas, Concessionaire office space and vending areas in a clean, sanitary, and orderly fashion. Concessionaire shall adhere to a commercially reasonable "green cleaning/housekeeping" program consistent with Amway Center operational requirements.
- B. Concessionaire must provide adequate pest control licensed by the state and approved (such approval not to be unreasonably withheld, conditioned, or delayed) by the City for each assigned area.

- C. Concessionaire shall maintain City-approved, par levels of all Equipment, leasehold improvements, uniforms and Smallwares, including 750 place settings.
- D. Concessionaire shall maintain, as a Direct Operating Cost, all Equipment, leasehold improvements, uniforms and Smallwares used in performance of its duties, including rolling stock, in a clean, sanitary and orderly fashion, in a good state of repair, including maintenance, necessitated by ordinary wear and tear.
- E. Concessionaire shall replace all Equipment, leasehold improvements, uniforms and Smallwares used in performance of its duties, including rolling stock if such replacement is required due to Concessionaire negligence or intentional misconduct.
- F. The City may require the use of its in-house maintenance staff for the repairs and maintenance, if it is in the City's best interest, to be billed to the Concessionaire at commercially reasonable rates.

XII. UTILITIES

- A. The City shall pay for the usage of HVAC, electricity, gas, and water service for the Concessionaire's operation. Concessionaire will utilize prudent energy management. In exchange for these services Concessionaire shall pay the City each Accounting Period the applicable Utility Fees.
- B. The cost of telephone service, internet service, cable and any other utilities not listed in Section XII (A) above shall be a Direct Operating Cost.
- C. The Concessionaire will be responsible for bringing its trash, recyclables and garbage from all Service Areas to a centralized designated dumpster or recycling areas. The removal of the dumpster and recyclables from the Venues will be paid for by the City.
- D. The Concessionaire is responsible for complying with all operational rules, regulations and laws of the City and applicable governmental bodies. The Center is a LEED certified building and Concessionaire shall conduct its operations in a manner that is consistent with maintaining that certification, including, but not limited to, providing for recycling as directed by the City.
- E. Neither the City, Concessionaire, nor the Magic, shall not be liable or responsible for any failure to furnish services, such as electricity, gas, water, or drainage service, which failure is caused or brought about in any manner by strike, act of God or other work stoppage (excluding a work stoppage by Concessionaire's employees), federal, state, or local government action, the breakdown or failure of apparatus, equipment, or machinery employed in its supply of said services, any temporary stoppage for the repair, improvement, or enlargement thereof, or any act or condition beyond its reasonable control. Further, neither the City,

Concessionaire, nor the Magic, shall not be liable or responsible for any consequential economic or property loss or damage caused or brought about by any such occurrence.

- F. The City shall not be responsible for any goods or Equipment stored at the Venues nor will it be responsible for damage resulting from a power failure, flood, fire, explosion and/or other causes.

XIII. FINANCIAL CONSIDERATION

- A. Commissions will be paid at the following rates to the City for City events and the Magic for Magic events at the Center. Commission rates are paid on the incremental Gross Receipts within each category (not retroactive to first dollar), based on the total aggregate combined sales for all City and Magic events. Minimum and Maximum annual Gross Receipts tiers are subject to annual increase or decrease on October 1st of each year of the Agreement (commencing October 1, 2011) based on the change in the Consumer Price Index for all urban consumers (CPI-U) – South Urban, all items, for the most recent twelve month period preceding the date of adjustment for which CPI information is available.

Sales Category	Minimum Annual Gross Receipts	Maximum Annual Gross Receipts	Rate
Concessions, including Hawking, Club Concessions and all Bars	\$0	\$10,000,000.00	51.0%
Concessions, including Hawking, Club Concessions and all Bars	\$10,000,000.01	\$12,500,000.00	55.0%
Concessions, including Hawking, Club Concessions and all Bars	\$12,500,000.01	\$15,000,000.00	58.0%
Concessions, including Hawking, Club Concessions and all Bars	\$15,000,000.01	And Above	60.0%
Branded Products	All Gross Receipts		51.0%
Catering, including all administrative and service	\$0	\$1,000,000.00	25.0%

charges and gratuities ¹			
Catering, including all administrative and service charges and gratuities	\$1,000,000.01	And Above	30.0%
Inseat Services for Loge and Courtside Seats	\$0	\$500,000.00	20.0%
Inseat Services for Loge and Courtside Seats	\$500,000.01	And Above	25.0%
Restaurant Sales	\$0	\$500,000.00	20.0%
Restaurant Sales	\$500,000.01	\$750,000.00	25.0%
Restaurant Sales		And Above	30.0%
Super Star Club (all items and receipts which are not included in approved All Inclusive Pricing, including but not limited to any premium alcoholic beverage sales which are not part of approved All Inclusive Pricing, except for Bottled Wine service)	All Gross Receipts		51%
Suites, including all administrative and service charges and gratuities	\$0	\$3,000,000.00	40.0%
Suites, including all administrative and service charges and gratuities	\$3,000,000.01	\$4,000,000.00	42.0%
Suites, including all administrative and service charges and gratuities	\$4,000,000.01	And Above	45.0%
Subcontractor Fees paid to Concessionaire	All Gross Receipts		51.0%

¹ All references to "gratuities" in this Section XIII shall mean all gratuities (via cash or credit/debit card) other than non-mandatory, voluntary payments which are not fixed charges placed on the bill by Concessionaire and which are eventually paid directly to the personnel providing the service.

Foodservices Agreement at The Amway Center,
The Bob Carr Performing Arts Centre, and the Florida Citrus Bowl, Orlando

Vending Machine Sales	All Gross Receipts		45.0%
All Bottled Wine	All Gross Receipts		35.0%

Commissions will be paid to the City at the following rates for the Bob Carr Performing Arts Centre. Rates are paid on the incremental Gross Receipts within each category, not retroactive to first dollar. Minimum and Maximum annual Gross Receipts tiers are subject to annual increase or decrease on October 1st of each year of the Agreement (commencing October 1, 2011) based on the change in the Consumer Price Index for all urban consumers (CPI-U) – South Urban, all items, for the most recent twelve month period preceding the date of adjustment for which CPI information is available.

Sales Category	Minimum Annual Gross Receipts	Maximum Annual Gross Receipts	Rate
Concessions, including Hawking and all Bars	\$0	\$500,000.00	51.0%
Concessions, including Hawking and all Bars	\$500,000.01	And Above	55.0%
Branded Products	All Gross Receipts		51.0%
Catering, including all administrative, service charges and gratuities	All Gross Receipts		20.0%
Subcontractor Fees paid to Concessionaire	All Gross Receipts		51.0%
Vending Machine Sales	All Gross Receipts		45.0%

Commissions will be paid to the City at the following rates for the Florida Citrus Bowl-Orlando. Rates are paid on the incremental Gross Receipts within each category, not retroactive to first dollar. Minimum and Maximum annual Gross Receipts tiers are subject to annual increase or decrease on October 1st of each year of the Agreement (commencing October 1, 2011) based on the change in the Consumer Price Index for all urban consumers (CPI-U) – South Urban, all items,

for the most recent twelve month period preceding the date of adjustment for which CPI information is available.

Sales Category	Minimum Annual Gross Receipts	Maximum Annual Gross Receipts	Rate
Concessions, including Hawking and all Bars	\$0	\$1,000,000.00	51.0%
Concessions, including Hawking and all Bars	\$1,000,000.01	And Above	55.0%
Branded Products	All Gross Receipts		51.0%
Catering, including all administrative and service charges and gratuities	All Gross Receipts		20.0%
Subcontractor Fees paid to Concessionaire	All Gross Receipts		51.0%
Vending Machine Sales	All Gross Receipts		45.0%

Concessionaire will endow the Community Culinary and Hospitality Training Program 1% of Gross Receipts from all Venues up to maximum of \$125,000 each Agreement Year.

- B. The per-person pricing for All-Inclusive Sales to be invoiced to the City, County, or Magic will be negotiated based on menu items reasonably and in good faith agreed upon between the City or the Magic depending on the event and Concessionaire annually, or more frequently as mutually agreed. City, County, or Magic, as applicable, shall pay Concessionaire the applicable per person price based on the greater of: (i) the number of patrons who actually eat in such area, or (ii) the projected number of patrons provided to Concessionaire. The City, County, or Magic as applicable shall provide a projected number of patrons to Concessionaire at least two (2) days prior to the event.
- C. All Catering events sponsored by the City, Orange County, or the Magic, such as marketing banquets or service to the City's, County's, or Magic's Suite, shall be billed to the party ordering the Catering, by the Concessionaire, at fifty percent (50%) off of the full retail price, with service charge calculated at full retail price, and shall not be included in

Gross Receipts. City, County and Magic must pay all invoices from Concessionaire within 30 days of receiving the invoice, except in the case where the party in good faith disputes the amount of the invoice. Once that amount has been agreed to then payment is due to the Concessionaire thirty (30) days from that amount agreement date. Any past due amounts shall be subject to a Late Fee.

- D. Except as otherwise expressly stated herein, Concessionaire shall pay all Direct Operating Costs and shall not be entitled to reduce Gross Receipts or Commissions by such Direct Operating Costs (other than applicable sales taxes on Foodservices sales). Concessionaire shall be permitted to offset any amounts Concessionaire owes City against amounts City owes Concessionaire, as well as any amounts Concessionaire owes Magic against amounts Magic owes Concessionaire. Provided however, Concessionaire shall not offset amounts which the City or Magic have provided written notice of dispute to Concessionaire. In such cases, the City and Concessionaire shall agree to meet within ten (10) business days of such written notice in an effort to amicably resolve such dispute.
- E. Concessionaire shall pay City and Magic all applicable Commission payments within ten (10) days following the close of the preceding Accounting Period. Concessionaire will prepare a Commission statement, in a format directed by the City, for each Accounting Period and for each Venue and submit that statement to the City and, where applicable, the Magic for the amount of Commissions for each Venue no later than 15 days following the close of the preceding Accounting Period. Any past due amounts shall be subject to a Late Fee.

XIV. CAPITAL IMPROVEMENTS

- A. The Pre-opening Expense budget for the Amway Center must be submitted by the Concessionaire no later than June 1, 2010, and approved (such approval not to be unreasonably withheld, conditioned, or delayed) by the City to be eligible for amortization under paragraph C below. Concessionaire will accrue Pre-Opening Expenses until the first Accounting Period with Gross Receipts in regards to the Center only, at which time the amortization will commence.
- B. With respect to the Venues other than the Center, Concessionaire is required to provide two hundred thousand dollars (\$200,000.00) in capital investment in the aggregate no later than October 1, 2010 unless otherwise approved by the City, to be spent as mutually agreed upon between the City and the Concessionaire. City must approve any additional capital investments at the Venues recommended by the Concessionaire. For all recommended capital investments, including the initial \$200,000.00 investment, Concessionaire shall provide in writing to the City the proposed cost, location, and reasons for such investments.
- C. At the termination of this Agreement, for any reason, the City will purchase or cause to be purchased the Concessionaire's approved capital

investment in Section XIV B above, and approved pre-opening expenses at the unamortized value. Payment of such amounts owed to Concessionaire shall be made within thirty (30) days following the termination of this Agreement for any reason, with a Late Fee assessed if payment has not been made within such time. The Concessionaire will amortize its initial investment as follows, but in all cases the investment will be fully amortized no later than June 30, 2015:

1. Equipment – 57 months, straight line method (assuming an October 1, 2010, start date)
 2. Leasehold improvements – 57 months, straight line method (assuming an October 1, 2010, start date)
 3. Uniforms and Smallwares - 36 months, straight line method
 4. Pre-Opening Expenses – 36 months, straight line method
- D. The Concessionaire will provide all working capital and inventory necessary to effectively manage the Foodservices.

XV. FINANCIAL REPORTING AND ACCOUNTABILITY

The Concessionaire shall maintain at all times accurate computerized accounting records on the operation of the Foodservices. Separate accounting records shall be maintained for each Venue. The form and substance of the accounting system implemented and maintained by the Concessionaire shall be subject to the approval (such approval not to be unreasonably withheld, conditioned, or delayed) of the Director and shall include, but not be limited to, the following:

- A. Complete separation of financial records from those of any other of the Concessionaire's enterprises or business activities at other locations.
- B. A complete financial system which conforms to generally accepted accounting principles and practices and includes annual line item budgeting for expenditures and revenue accounting, account segregation, identifying assets, and liabilities.
- C. Concessionaire must annually replace any shortage of Smallwares and/or Uniforms from the initial level at the start of this Agreement and must maintain, as a Direct Operating Cost, all Smallwares and/or Uniforms of the Foodservice operation in a good state of repair, including maintenance, or repair necessitated by ordinary wear and tear or Concessionaire's negligence or misconduct or unless otherwise required to be paid for herein by a party other than Concessionaire.
- D. Concessionaire shall assure compliance by any of its subcontractors, suppliers, and other such agents with the record keeping requirements of this Agreement. Failure of the Concessionaire to comply with accounting procedures requested by the City or failure of Concessionaire to correct

any accounting deficiency discovered by the City, or failure by the Concessionaire to safeguard, control, and account for funds received or held by it pursuant to this Agreement, shall be grounds for termination of the Agreement by the City pursuant to Section XVII. A. of this Agreement.

- E. The City and the Magic shall have the authority to make copies of all records for the purpose of verifying the accuracy of the Commission payments by the Concessionaire. It shall be the responsibility of the Concessionaire to provide all information reasonably necessary for the audit at no expense to the City or the Magic.
- F. Unless notice of dissatisfaction shall be served by the City on the Concessionaire within three (3) years after the receipt of any statement submitted by the Concessionaire as herein provided, such statement shall be deemed final and binding upon the parties.
- G. Concessionaire shall implement the Blueprint and M/WBE plan contained in its proposal attached hereto as Exhibit "B". Concessionaire shall not deviate from the proposed MBE/WBE participation in Subcontracts set forth in its proposal without reporting such deviation and obtaining the approval for such deviation to the City's M/WBE Office. Concessionaire shall submit such reports regarding compliance and performance related to this plan as required in the Request for Proposal attached hereto as Exhibit "A" or as otherwise requested by the City.
- H. Concessionaire shall not materially alter its joint venture ownership arrangement, including ownership parties and percentages of ownership, without advance notice to the City's M/WBE Office and the prior written approval (such approval not to be unreasonably withheld, conditioned, or delayed) of the City.
- I. The City is committed to equal opportunity in employment and in the awarding of contracts for goods and services. Concessionaire shall develop a written policy statement to inform all employees, job applicants, service recipients, and applicants for services of the Concessionaire's commitment to ensuring equal opportunity. The policy statement must be consistent with the Concessionaire's Corporate Equal Opportunity/Affirmative Action and Non-discrimination Policy Statements. The policy statement shall be signed by the Concessionaire's executive officer, prior to commencement of this Agreement.
- J. Concessionaire is and will require its contractors and subcontractors to comply with all applicable federal, state, and local laws, ordinances, rules, and regulations including, but not limited to, the Americans with Disabilities Act ("ADA") and all regulations promulgated thereunder.
- K. The Concessionaire shall not intentionally discriminate against any employee or applicant for employment or applicant for services because of race, color, ethnic status, religion, sex, sexual orientation, age, national

origin or disability. Upon final, unappealable determination by a tribunal of competent jurisdiction that Concessionaire has discriminated against any employee or applicant for employment or applicant for services because of race, color, ethnic status, religion, sex, sexual orientation, age, national origin, or disability, the Concessionaire may be deemed in default under Section XVII of the Agreement.

- L. Concessionaire shall collect and promptly disburse all taxes required by federal, state and local authorities, and shall pay any applicable taxes relating to Foodservice sales, operations, Equipment, or inventory, as a Direct Operating Cost.
- M. Concessionaire shall use computerized cash or point-of-sale registers at all sales locations (except for the Citrus Bowl). This includes portable and permanent concession stands that are known of as of the date hereof, and the various clubs' foodservices. City acknowledges that business may dictate additional outlets from time to time, where approved in advance by the City, for which these additional outlets may or may not have cash registers. City and the Magic may review and generate reports from the point-of-sale system, provided such complies with all applicable privacy and other laws.

XVI. BONDS/INSURANCE/INDEMNIFICATION

- A. General Requirements. Concessionaire shall not commence any work under this Agreement until it has obtained all of the insurance and bonds prescribed herein, and such insurance and bonds have been approved by the City. Insurance coverage and bonds required by this Agreement must be in force throughout the term of the Agreement, including all extensions ("Agreement Term"). If a Concessionaire fails to provide acceptable evidence of current insurance or bond coverage within three (3) days prior to the expiration date of an insurance policy or bond at any time during the Agreement Term, the City shall have the absolute right to immediately terminate this Agreement without any further obligation to the Concessionaire.
- B. Performance Bond. The provisions of this sub-section shall survive the expiration or early termination of this Agreement. During the Agreement Term, Concessionaire shall maintain one performance bond in the amount of one hundred thousand dollars (\$100,000) payable to either the City or the Magic, as directed, in the event of default by the Concessionaire. Alternatively, during the Agreement, upon terms reasonably acceptable to the City, the Concessionaire may provide and maintain with the City in lieu of a performance bond, a cashier's check, money order, certified check or letter of credit from a bank or equivalent financial institution acceptable to the City in the amount of one hundred thousand dollars (\$100,000) payable to the City or the Magic, as directed, in the event of default by the Concessionaire. For purposes of this Section XVI:

1. A Performance Bond must be in the form of a bond from an established Bonding Agency licensed to do business in the State of Florida.
2. "Performance Bond" means a bond of a Contractor/Vendor in which a surety guarantees to the City and the Magic that the work/services will be performed in accordance with the Agreement.
3. "Surety" means an organization which, for a consideration, promises in writing to make good the debt or default of another. A surety providing a performance bond during the Agreement Term must be named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, U.S. Department of the Treasury, and the Federal Register Effective July 1 annually, as amended. A surety shall also:
 - a. Be authorized and licensed to conduct insurance business in the State of Florida,
 - b. Hold a currently valid certificate of authority by the U.S. Department of Treasury pursuant to 31 U.S.C. §9304-9308, and
 - c. Have no less than an "A-" Financial Rating and a Financial Size Category of "Class IV" or higher according to the most current edition of Best's Insurance Reports.

Notwithstanding the provisions above, an insurer or corporate surety which is not rated by Best's Insurance Reports may be accepted by the City, but only if approved by the City's Risk Manager and the Director following a review or investigation of the insurance company's financial and performance standing, including without limitation, its capital adequacy, assets, earnings, liquidity and such other factors as the City's Risk Manager may deem appropriate in his commercially reasonable discretion.

- C. Required Insurance. During the term, the following insurance coverages shall be kept in full force and effect continually and may be increased as set forth herein to meet the then current needs of the Venues:
1. Commercial General Liability (GL) Insurance, written on an occurrence basis for the Venues, affording protection against liability arising out of personal injury, bodily injury and death, property damage, personal injury and/or advertising injury in connection with the Concessionaire's operation, use or occupancy of the Venues, or the negligent acts or omissions of the

Concessionaire or its employees, agents, partners, independent contractors, invitees and or other persons acting for or under the direction or control of the Concessionaire with a combined single limit for each occurrence of not less than one million and no/100 dollars (\$1,000,000) per occurrence and not less than two million and no/100 dollars (\$2,000,000) in the annual policy aggregate at any time, and containing provisions for severability of interests. The Concessionaire GL Policy shall be in such amount and with such policy limits so that the coverage and limits are adequate to maintain the Concessionaire Excess/Umbrella Policy without gaps in coverage between the Concessionaire GL Policy and the Concessionaire Excess/Umbrella Policy. The Concessionaire GL Policy will include, without limitation, endorsements for: (i) premises and operations coverage with no exclusions for explosion, collapse, or underground property damage, (ii) liquor legal liability coverage, (iii) broad form property damage coverage, (iv) incidental medical malpractice liability coverage, and (v) products/completed operations coverage. Employment Practices Liability insurance with a claims made limit of \$1,000,000.00.

2. Automobile liability coverage (the "Concessionaire Automobile Policy") insuring against liability arising from the maintenance, use, loading and unloading of all Concessionaire's owned, non-owned, hired, leased or rented trucks, and automobiles arising from bodily injury, death or property damage, with a combined single limit of not less than one million and no/100 dollars (\$1,000,000) per occurrence.
3. Blanket Employee Dishonesty with minimum limits of \$100,000 each loss. This coverage shall be extended to provide coverage to funds and/or property held by the Concessionaire on behalf of the City and the Magic.
4. A workers' compensation and employers' liability insurance policy and any and all other similar statutory forms of insurance now or hereafter prescribed by applicable law, providing statutory coverage under the laws of the State of Florida for all persons employed by the Concessionaire at the Venues affording employers' liability insurance protection of not less than one million and no/100 dollars (\$1,000,000.00) for bodily injury by accident (each accident), not less than one million and no/100 dollars (\$1,000,000.00) for bodily injury by disease (each employee), and not less than one million and no/100 dollars (\$1,000,000.00) bodily injury by disease (policy limit). The Concessionaire's Employer's Liability Insurance Policy shall be in such amount and with such policy limits so that the coverage and limits are adequate to maintain the Concessionaire's Excess/Umbrella Policy without gaps in coverage between the

Concessionaire's Employer's Liability Insurance Policy and the Concessionaire's Excess/Umbrella Policy. Concessionaire shall require all subcontractors working at the Venues for Concessionaire to meet these requirements.

5. Personal Property Insurance providing All Risk Coverage in an appropriate limit to cover all Concessionaire's personal property to include furniture, fixtures, equipment, inventory and any other personal property of the Concessionaire.
6. An excess or umbrella liability insurance policy ("Concessionaire's Excess/Umbrella Policy"), written on an occurrence basis, in an amount not less than seventy-five million and no/100 dollars (\$75,000,000) per occurrence and in the aggregate for personal injury, body injury and death and/or property damage liability combined, and including, without limitation, excess or umbrella for liquor legal liability. The Concessionaire's Excess/Umbrella Policy shall be written on an excess basis above the other coverages required of the Concessionaire in this section for general liability, employer's liability and automobile liability and shall specifically schedule or list such underlying policies and shall follow the form of such underlying policies, including recognizing the City, Magic, and Orange County, as additional insureds. Without limiting the Concessionaire's obligations under any other provisions of this Section XVI, each insurance policy that the Concessionaire is required to or does maintain under this section shall be in such amounts and with such policy limits so that the coverage and limits are adequate to maintain full coverage under the Concessionaire's Excess/Umbrella Policy with respect to the acts, omissions or losses to be covered under such other policies and the Concessionaire's Excess/Umbrella Policy.

D. Insurers: Certificate and Other Requirements.

1. Concessionaire shall cause all policies required under this Section XVI to be endorsed to be primary and shall not be considered contributing insurance with any insurance that may be carried by the others.
2. All insurance policies required to be procured under this Section XVI shall be effected under valid policies issued by insurers which have an Alfred M. Best Company, Inc. rating of "A-" or better and a financial size category of not less than "VIII" or, if Alfred M. Best Company, Inc. no longer uses such rating system, then the equivalent or most similar ratings under the rating system then in effect, or if Alfred M. Best Company, Inc. is no longer the most widely accepted rater of the financial stability of insurance companies providing coverage such as that required by this

Agreement, then the equivalent or most similar rating under the rating system of the most widely accepted rater of the financial stability of such insurance companies at the time.

3. Each insurance policy required to be carried under this Section XVI shall provide (and any certificate evidencing the existence of each such insurance policy shall certify) that such insurance policy shall not be canceled or not renewed, or coverage hereunder materially reduced, unless the City and the Magic shall have received written notice of cancellation, non-renewal or material reduction in coverage, in each case (except for notice of cancellation due to non-payment of premiums) by written notice sent to the City not less than thirty (30) days prior to the effective date of such cancellation, non-renewal or material reduction in coverage, as applicable. In the event any insurance policy is to be canceled due to non-payment of premiums, the requirements of the preceding sentence shall apply except that the written notice shall be sent to the City and the Magic on the earliest possible date, but in no event less than ten (10) days, prior to the effective date of such cancellation.
4. Each liability insurance policy required to be carried under subsection C. above shall provide that all defense costs are inside the policy limits.
5. With respect to each and every one of the insurance policies required to be obtained, kept or maintained under the terms of this Agreement, at least twenty (20) days prior to the date on which each such policy is required to be first obtained and at least thirty (30) days before the expiration of any policy required hereunder previously obtained, Concessionaire shall deliver to City and the Magic evidence showing that such insurance is in full force and effect. Such evidence shall include certificates of insurance issued by the issuer of such policies, or in the alternative, an agent authorized to bind the named issuer, setting forth the name of the issuing company, the coverage, limits, deductibles, endorsements, term and termination provisions thereon. By no later than thirty (30) days after the effective date of any insurance policy required under this Agreement, Concessionaire shall provide the City and the Magic with reasonable evidence that premiums have either been paid or are payable in installments. All certificates of insurance shall be in a form reasonably acceptable to the City.
6. Notwithstanding anything to the contrary in this Agreement, Concessionaire shall not be obligated to carry insurance for matters generally subject to exclusions by the insurance industry. These exclusions currently include, but are not limited to, nuclear events and acts of war.

7. The City and the Concessionaire hereby release each other, and the Magic, and their respective employees and agents, but only to the extent of losses coverable under the insurance coverages required to be maintained under this Agreement, from any and all liability or responsibility to the other whatsoever, even if such loss shall be brought about by the fault or negligence of the other party or the Magic, for all claims by the Concessionaire, City or the Magic, as the case may be, or by anyone claiming by, through or under it or them, by way of subrogation or otherwise, for any losses of the releasing party. The City and the Concessionaire shall cause all policies of insurance required to be carried under this Agreement, to be written to permit the insured hereunder to grant the foregoing release and to waive the right of the insurer to be subrogated to the rights of the insured with respect to any claim for losses which the Concessionaire, City or the Magic, as the case may be, may have against the other.
 8. Each of the insurance policies that the Concessionaire is required to maintain under sub-section C. above (except workers' compensation and property insurance) shall (a) list as additional insureds the City, Orange County (as to the Center and Citrus Bowl only), Magic (as to the Center only), the Orange County Civic Facilities Authority (as to the Citrus Bowl only) and such other parties as the City shall designate, and (b) in the case of all liability insurance policies (including the Concessionaire Excess/Umbrella Policy), shall provide coverage for the negligent acts or omissions of (and other matters customarily covered by such policies with respect to) the Concessionaire and its employees, and, in the case of the Concessionaire GL Policy (and the related provisions of the Concessionaire Excess/Umbrella Policy), its employees, agents, partners, independent contractors, invitees and or other persons acting for or under the direction or control of the Concessionaire.
- E. Indemnification. The Concessionaire shall defend (with counsel acceptable to the City, if required by City), protect, indemnify and hold harmless the City, Orange County, Magic, the Orange County Civic Facilities Authority and any of their officials, officers, directors, agents, employees, members, partners, shareholders, and assigns, from and against any and all losses, liabilities, damages, suits, claims, judgments and expenses of any nature (including, without limitation, reasonable attorneys' fees and expenses, whether in actions between the parties or actions brought by third parties) (collectively, "losses"), arising from or relating to any of the following:
1. Concessionaire's operations at the Venues;
 2. the exercise by the Concessionaire or its affiliates of any of the Concessionaire's rights under the Agreement or the performance

(or failure by the Concessionaire to perform) any of its obligations under the Agreement;

3. any negligence, misconduct, act or omission of the Concessionaire or its affiliates in connection with the Venues, and any negligence, misconduct, act or omission of any of its employees, officers, directors, agents, partners, invitees, or subcontractors in each case, in connection with the Venues;
4. any occupational injury or illness sustained by an employee or agent of Concessionaire in furtherance of Concessionaire's services at the Venues; or
5. any material breach of, or material misrepresentation in, the Agreement by the Concessionaire.

For purposes of clarity, the Concessionaire shall not be responsible for acts of City, Magic, or County, or any of their employees, officers, directors, agents, partners, invitees, or subcontractors.

- F. Destruction of Venues. In the event that the Foodservice facilities of any of the Venues are destroyed by an act of God, fire, vandalism, etc., to the extent that continued operation thereof is not feasible as determined by the City, the City will be under no obligation to replace them in whole or in part.
- G. City Maintained Insurance. The City shall insure and/or self-insure all physical facilities and capital equipment located in the Venues and used by the Concessionaire under this agreement. This insurance will not extend to include any personal property owned by the Concessionaire, its agents, employees, or contractors.
- H. Other Insurance. Nothing in this Section shall restrict Concessionaire to its operations from procuring other insurance as it deems necessary at its own expense.
- I. Modification. The terms and requirements of this Section shall be reviewed annually and modified as required in the judgment of the Director.

XVII. BREACH

- A. By Concessionaire.
 1. Material Breach: Any failure by Concessionaire to comply with any provision of this Agreement, including but not limited to, any failure which directly impairs or interferes with the cleanliness, safety, profitability, operational capacity, or

favorable public image or reputation of the City's Venues shall be a material breach and shall entitle the City to place Concessionaire in default of this Agreement by providing Concessionaire with written notice of such breach with sufficient detail to identify the breach. Concessionaire shall then have fifteen (15) days from receipt of written notice to cure such breach (except for breaches for non-payment for which Concessionaire shall have only five (5) days to cure such breaches from receipt of written notice). Notwithstanding the preceding, Concessionaire shall not be entitled to a cure period prior to termination if it is in default for the same or a substantially similar breach for the third or more time within any rolling twelve month period during the Agreement. If Concessionaire fails to cure any breach within the applicable cure period, if any, then City shall have the right to terminate this Agreement upon written notice to Concessionaire. Such notice shall specify the effective date of the termination. Nothing herein shall preclude the City or its agents from taking any immediate necessary action to remedy dangerous or unsafe conditions, regardless of the impact upon the Concessionaire. The parties agree that the City shall retain the right through its Director, to determine (in a reasonable fashion) whether any action or failure of the Concessionaire constitutes a material breach hereunder, and any such determination shall be conclusive and shall be binding upon the parties hereto for the purpose of terminating the Agreement in accordance with the foregoing. Nothing in this subsection A or in this Section XVII shall be construed to limit the City's right to terminate this Agreement for convenience at any time upon thirty (30) days notice in accordance with Section IV of this Agreement, whether or not Concessionaire is then in breach or has cured any prior breaches.

2. Loss of Essential Licenses - Extraordinary Breach: Notwithstanding any provision in this Agreement to the contrary including subsection 1 above, the parties agree that the loss by Concessionaire of any material license or permit (including any necessary alcoholic beverage licenses, occupational licenses, health permits, and any Department of Business and Professional Regulation licenses for any Venue) necessary for the performance of its duties and obligations hereunder shall constitute an extraordinary breach of this Agreement and shall be grounds for immediate termination by the City. This provision shall apply specifically, but not exclusively, to the licenses or permits issued by the State of Florida to allow sale of Alcoholic Beverages under the terms hereof. This provision shall apply

irrespective of the reason for loss or revocation of any necessary license or permit.

3. Unsatisfactory Performance: The parties agree that the City shall retain the right to demand performance satisfactory to it, and that the Director shall retain the right to determine whether performance is or is not satisfactory in accordance the terms and conditions of this Agreement. In the event Concessionaire's performance hereunder is deemed unsatisfactory, the City shall have the right to terminate this Agreement and in accordance with the provisions of this Section XVII, subject to applicable cure periods, if any.
 4. Insolvency: Notwithstanding any provision in this Agreement to the contrary including subsection A above, the parties agree that the City shall have the right to immediately terminate this Agreement if the Concessionaire or any of the Concessionaire's joint venture partners as defined in the Joint Venture Agreement, shall make assignment for the benefit of creditors, or shall file a petition in bankruptcy or shall be adjudged bankrupt, or the interest of the Concessionaire or any of the Concessionaire's partners under this Agreement shall be levied upon and sold upon execution or shall by operation of law become vested in another person, firm or corporation because of the insolvency of the Concessionaire or any of the Concessionaire's partners, or in the event that a receiver or trustee shall be appointed for the Concessionaire or any of the Concessionaire's partners or the interest of the Concessionaire or any of the Concessionaire's partners under this Agreement.
 5. Abandonment: Notwithstanding any provision in this Agreement to the contrary including subsection A above, in the event the Concessionaire shall cease to operate the concessions awarded herein, or shall vacate or abandon said premises, or shall permit the same to remain vacant or unoccupied without the consent of the City, the City shall have the right to immediately terminate this Agreement.
- B. By City. Any actions by City or any failure by City to perform or enforce any material and significant obligation (including, without limitation, payment obligations) hereunder shall be a material breach and shall entitle the Concessionaire to place City in default of this Agreement by providing written notice with sufficient detail of such alleged breach. City shall then have thirty (30) days, from receipt of written notice to cure such alleged breach. If the above does not occur, then City is deemed to be in default of this Agreement and Concessionaire may terminate this Agreement on ninety (90) days written notice.

- C. Termination Accounting: In the event of termination of this Agreement, each party shall have full access to the other's applicable financial records and accounts to facilitate a determination of the financial obligations of each to the other. If the parties cannot agree, they each agree to submit to the jurisdiction of the Courts of Orange County, Orlando, Florida, for such determination. The parties agree that in any event, and regardless of the inability of the parties to agree as to the financial obligations of each to the other, the City shall be entitled to exclusive, free, and unobstructed use and possession of the concessions areas, equipment, and supplies immediately after the period of termination notice as provided for above has passed. Immediately upon notice of termination hereunder, all Equipment for which Concessionaire is entitled to claim for reimbursement shall automatically come into custody and possession of the City, subject only to Concessionaire's right to be reimbursed therefore pursuant to this Agreement.
- D. Notices Related to Breach or Termination: All notices related to breach or termination required or permitted to be given under this Agreement must be in writing and must be delivered to the City or Concessionaire address set forth below (or such other address as may hereafter be designated by such party in writing). The parties' addresses for the delivery of all such notices are as follows:

City: Orlando Venues Executive Director
600 West Amelia Street
Orlando, Florida, 32801
Fax: (407) 849-2329

Concessionaire: Andrew J. Lansing
Levy Restaurants
President/CEO
980 N. Michigan Avenue, Suite 400
Chicago, Illinois 60611
Fax: (312) 664-8505

Arthur J. Lee
Lee, Wesley & Associates
President and CEO
924 N. Magnolia Avenue
Orlando, Florida 32803
Fax: (407) 428-9563

With a copy to: Michael T. Perlberg
Levy Restaurants
Senior Vice President/General Counsel

980 N. Michigan Avenue, Suite 400
Chicago, Illinois 60611
Fax: (312) 664-8505

Notices shall be either: (1) personally delivered (including delivery by Federal Express or other courier service) to the addresses set forth above, in which case they shall be deemed delivered on the date of delivery; (2) sent by certified mail, return receipt requested, in which case they shall be deemed delivered on the date shown on the receipt unless delivery is refused or intentionally delayed by the addressee, in which event they shall be deemed delivered on the date of deposit in the U.S. Mail; or (3) transmitted via telecopier using a telecopier number provided above, if any (or such other number as receiving party may have designated in writing), in which case the delivery shall be deemed to have occurred on the day of the transmission, provided that the day of transmission is a normal business day or, if not, the first normal business day after the transmission.

Except as specifically provided herein, notices regarding the day-to-day operation of Foodservices at the Venues shall be made to the Venues Director and the General Manager of the affected Venue. Such notices may be made either orally or in writing as is reasonable under the circumstance.

XVIII. ASSIGNMENT

Both parties fully understand and agree that the highly skilled and professional management and operation of the concessions in the Venues are of paramount importance and that this agreement would not be entered into by the City except for its confidence in, and assurances provided for, the character, management abilities, and financial stability of both of the Concessionaire's partners (Levy Premium Foodservice Limited Partnership and Lee, Wesley & Associates, Inc.). The Concessionaire's partners, therefore shall not sell, assign, sublet, transfer, or in any manner encumber the rights and privileges granted herein nor allow such assignment, subletting, transfer, or any other encumbrance to occur by operation of law or otherwise without the prior written approval of the Director. This restriction shall include assignments between the current Concessionaire's joint venture partners and each of its owners. If the City does agree to an assignment, that agreement will be contingent upon the assignee's written agreement to be wholly responsible for any and all costs of any transition without reimbursement by the City.

XIX. TIME OF COMPLETION

The parties understand and agree that time is of the essence in the performance of this agreement. The Concessionaire or City, respectively, shall not be liable for any loss or damage, resulting from any delay or failure to perform its contractual obligations within the time specified, due to acts of God, actions or regulations by any governmental entity or representative, strikes or other labor trouble, fire, embargoes, or other transportation delays, damage to or destruction in whole or in part, of equipment or manufacturing plant, lack of or ability to obtain raw materials, labor, fuel or supplies for any reason including default of suppliers or any other causes, contingencies or circumstances not subject to the Concessionaire's or City's control, respectively, whether of a similar or dissimilar nature, which prevent or hinder the performance of the Concessionaire's or City's contractual obligations, respectively. Any such causes of delay, even though existing on the date of the Agreement or on the date of the start of work, shall extend the time of the Concessionaire's or City's performance respectively, by the length of the delays occasioned thereby, including delays reasonably incident to the resumption of normal work schedules, provided however such extension shall not extend the overall term of the Agreement or any extension period. The Concessionaire has a duty to commercially reasonably mitigate any of the above damages with the permission of or reasonable request of the Director.

XX. MISCELLANEOUS PROVISIONS

- A. Under the terms of the City's agreement with Orlando Events Center Enterprises, LLC, an affiliate of the Orlando Magic, Ltd. ("OECE"), OECE shall have the right as a third party beneficiary under this Agreement to directly receive all applicable concessions Commissions due as a result of Magic games and other designated Magic events at the Amway Center. As a third party beneficiary of this Agreement, the Magic are permitted direct communication with Concessionaire and may enforce the terms of this Agreement directly against the Concessionaire to the extent such terms are applicable to Magic Events or relate to rights of, or obligations owed to, the Magic hereunder, including but not limited to the right to receive payment of commissions for Magic Events; provided, however that the Magic may not initiate any termination of this Agreement.
- B. The Concessionaire and City shall comply with all applicable federal, state, local laws, ordinances, rules and regulations pertaining to the performance of work under this Agreement.
- C. No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the City and both of Concessionaire's partners.

- D. The Concessionaire is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required federal, state and local laws, ordinances, rules, and regulations, for the proper execution and completion of the work under this Agreement.
- E. The Concessionaire shall at all times, keep the work area free from accumulation of waste materials or rubbish caused by its operations, and promptly remove any such materials to an approved disposal location.
- F. Concessionaire shall not suffer or permit any mechanic's liens to be filed against the City by reason of work, labor, services or materials supplied or claimed to have been supplied to the Concessionaire or suffer or permit any other lien to attach to the City or any part thereof. Whenever any repairs are arranged by the Concessionaire, all contracts shall contain a clause which provides that the Concessionaire will not perfect a lien against any City property.
- G. The Concessionaire is responsible for all damage or loss by fire, theft or otherwise, to materials, tools, equipment, and consumables, left on City property by the Concessionaire. This Agreement is considered a non-exclusive Agreement between the parties. City and Concessionaire hereby expressly waive any right to seek, claim or collect any punitive, treble, or special damages in connection with, or related to, a breach or violation of this or any other agreement entered into between City and Concessionaire.
- H. This Agreement is deemed to be under and shall be governed by, and construed according to the laws of the State of Florida.
- I. Any litigation arising out of this Agreement shall be had in the courts of Orange County, Florida.
- J. The undersigned hereby certify that this Agreement is made without prior understanding, Agreement or connection with any corporation, firm, person who submitted a proposal for the work covered by this Agreement and is in all respects fair and without collusion or fraud. As to Concessionaire, the undersigned hereby warrants and certifies that he/she is authorized to enter into this Agreement and to execute same on behalf of the Concessionaire as the act of the said Concessionaire.
- K. This Agreement, including all Amendments issued by the City, contains all the terms and conditions agreed upon by the parties. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either party hereto.
- L. Nothing herein shall act as an official designation of Concessionaire with respect to the Center or act as a grant of any right to advertise Concessionaire's association with the Center.

- M. In the unlikely event that the City decides to self-operate Foodservices for the Venues, City agrees that it shall not directly employ any of Concessionaire's Senior Management employees who have worked at the Venues during the twelve (12) month period preceding the date of hire by the City in any capacity relating to foodservice management. In the event of breach of this provision, Concessionaire's sole remedy shall be to obtain an injunction or other equitable relief preventing the City from hiring or continuing to employ the employee.
- N. In accordance with the terms of this Agreement, the Concessionaire is to perform the work as defined in the Request for Proposal ("RFP") and addendums thereto attached as Exhibit "A", the Concessionaire's proposal in response to the Request for Proposal attached as Exhibit "B", each of which documents are incorporated herein by this reference and made a part hereof as fully as if herein set forth. For the resolution and interpretation of any inconsistencies between this Agreement and the documents attached hereto, the precedence of these documents shall be given in the following order:
1. This Agreement;
 2. Addendums to the RFP;
 3. The RFP; and then
 4. The Concessionaire's Proposal.

* * * * *

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

Office of Purchasing and
Materials Management City of
Orlando, Florida

By: Rhonda Scott

Director of Purchasing

Rhonda Scott

Name & Title, Typed or Printed

Date: July 9, 2010

APPROVED AS TO FORM
AND LEGALITY

For the use and reliance of the
City of Orlando, Florida, only.

Date 7/9/10 Ang I Sen

City Attorney of Orlando,
Florida

CONCESSIONAIRE

Orlando Foodservice Partners,

A Florida joint venture

By: Levy Premium Foodservice
Limited Partnership, an Illinois
Limited partnership, venturer

By: M.T. Periberg
Michael T. Periberg

Authorized Signatory/Secretary

By Lee, Wesley & Associates,
Inc,

A Texas corporation, venturer
By: Anthony Lee

Authorized Signatory

President
Mailing Address 600 W. Amelia Street

City, State and Zip Code Orlando, FL 32801

Area Code/Telephone Number

~~Attest: Second Corporate Official~~

~~Signature~~

~~Name & Title, Typed or Printed~~

**FIRST AMENDMENT
TO
AGREEMENT FOR FOOD SERVICE MANAGEMENT AT
THE AMWAY CENTER,
BOB CARR PERFORMING ARTS CENTRE
AND
THE FLORIDA CITRUS BOWL-ORLANDO**

THIS FIRST AMENDMENT to the Agreement for Food Service Management at the Amway Center, Bob Carr Performing Arts Centre and the Florida Citrus-Bowl-Orlando ("Agreement") is made this 14 day of November, 2013, by and between the **City of Orlando**, a municipal corporation existing under the laws of the State of Florida and whose address is 400 S. Orange Ave., Orlando, FL, 32802, hereinafter referred to as the "City" and **Orlando Foodservice Partners**, a Florida joint venture, hereinafter referred to as the "Concessionaire" as follows:

WITNESSETH:

WHEREAS, the City owns and operates the Amway Center, the Bob Carr Performing Arts Centre and the Florida Citrus Bowl-Orlando located in Orlando, Florida (collectively the "Venues"), and hereinafter referred to as the "Center", "BCPAC" and the "Citrus Bowl" respectively; and

WHEREAS, the City issued a Request for Proposal to provide Food Service Management for its Venues for an initial five year term with five one-year optional term extensions; and

WHEREAS, the City Council awarded the contract for such services to Orlando Foodservice Partners on February 22, 2010; and

WHEREAS, as part of its on-going Florida Citrus-Bowl-Orlando renovations, the City desires to make substantial improvements to its food and beverages facilities to enhance the patron experience at the Citrus Bowl; and

WHEREAS, the Concessionaire is willing to invest the Three Million Five Hundred Thousand Dollars (\$3,500,000.00) needed for the Citrus Bowl food service renovations if it has the opportunity to recoup its investment.

NOW THEREFORE, in consideration of the mutual covenants of the parties hereto, and upon the express terms and conditions hereinafter set forth, it is agreed by and between them as follows:

I. TERM EXTENSION OPTION

The City and Concessionaire agree to hereby exercise their mutual option to extend the term of the Agreement for all of the additional five one-year periods through June 30, 2020. All other provisions of Section IV "Term of the Agreement" including the thirty (30) day termination for convenience provision remain in full force and effect. Provided however, any termination with or without cause is subject to the repayment provisions detailed below, but no other compensation shall be paid to Concessionaire by the City except what has been earned through the date of termination or as otherwise expressly provided in the Agreement.

II. CITRUS BOWL CAPITAL CONTRIBUTION

Concessionaire will pay City Three Million Five Hundred Thousand Dollars (\$3,500,000.00) as a capital contribution for the Citrus Bowl renovation project. Concessionaire will make two payments via wire transfer to the Orlando Venues Business Offices with the first payment of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) being made on or before December 1, 2013, and a second payment of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) being made on or before March 31, 2014. Effective November 1, 2014, Concessionaire shall be the exclusive food and beverage service provider for all suites and catering in the Citrus Bowl.

III. EARLY TERMINATION REPAYMENT

If the City terminates the Agreement, as amended, prior to June 30, 2020, for any reason, the City will repay all or a portion of Concessionaire's Three Million Five Hundred Thousand Dollars (\$3,500,000.00) capital contribution in the Citrus Bowl project on the following basis:

1. The capital contribution will be reimbursed on a pro-rata basis based on the number of months of the remaining term as set forth on the Repayment Chart which is attached and incorporated by reference as Exhibit "A."
2. Payment of such amounts owed to Concessionaire shall be made within thirty (30) days following the termination of this Agreement for any reason, with a Late Fee assessed if payment has not been made within such time.

IV. REAFFIRMATION

In all other respects, and except as specifically modified and amended herein, the Agreement, shall continue in full force and effect as written and the parties hereto agree to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

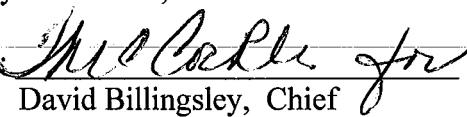
CONCESSIONAIRE

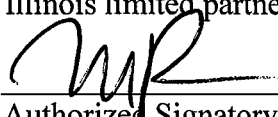
CITY

Orlando Food Service Partners, A Florida
joint venture

Procurement & Contracts Division
City of Orlando, Florida

By: Levy Premium Foodservice LP, an
Illinois limited partnership, venturer

By: 
David Billingsley, Chief
Procurement Officer

By: 
Authorized Signatory

Date: 11-14-13

By: Lee, Wesley & Associates, LLC, a
Florida limited liability company,
venturer

By: 
Authorized Signatory

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the City of Orlando,
Florida only this 14th day of
November, 2013

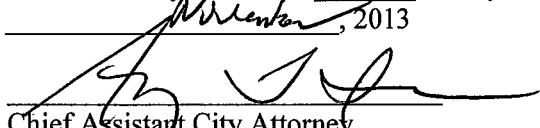

Chief Assistant City Attorney

Exhibit A

Total Months	60	Total number of full months from July 2015 through June 2020						
Contribution	\$ 3,500,000	Total contribution from Orlando Foodservice Partners						
Per Month Amount	\$ 58,333.33	Total contribution divided by total months						
End of Month	Month Count	Pro Rata Balance						
7/31/2015	1	\$ 3,441,666.67						
8/31/2015	2	\$ 3,383,333.33						
9/30/2015	3	\$ 3,325,000.00						
10/31/2015	4	\$ 3,266,666.67						
11/30/2015	5	\$ 3,208,333.33						
12/31/2015	6	\$ 3,150,000.00						
1/31/2016	7	\$ 3,091,666.67						
2/29/2016	8	\$ 3,033,333.33						
3/31/2016	9	\$ 2,975,000.00						
4/30/2016	10	\$ 2,916,666.67						
5/31/2016	11	\$ 2,858,333.33						
6/30/2016	12	\$ 2,800,000.00						
7/31/2016	13	\$ 2,741,666.67						
8/31/2016	14	\$ 2,683,333.33						
9/30/2016	15	\$ 2,625,000.00						
10/31/2016	16	\$ 2,566,666.67						
11/30/2016	17	\$ 2,508,333.33						
12/31/2016	18	\$ 2,450,000.00						
1/31/2017	19	\$ 2,391,666.67						
2/28/2017	20	\$ 2,333,333.33						
3/31/2017	21	\$ 2,275,000.00						
4/30/2017	22	\$ 2,216,666.67						
5/31/2017	23	\$ 2,158,333.33						
6/30/2017	24	\$ 2,100,000.00						
7/31/2017	25	\$ 2,041,666.67						
8/31/2017	26	\$ 1,983,333.33						
9/30/2017	27	\$ 1,925,000.00						
10/31/2017	28	\$ 1,866,666.67						
11/30/2017	29	\$ 1,808,333.33						
12/31/2017	30	\$ 1,750,000.00						
1/31/2018	31	\$ 1,691,666.67						
2/28/2018	32	\$ 1,633,333.33						
3/31/2018	33	\$ 1,575,000.00						
4/30/2018	34	\$ 1,516,666.67						

5/31/2018	35	\$ 1,458,333.33							
6/30/2018	36	\$ 1,400,000.00							
7/31/2018	37	\$ 1,341,666.67							
8/31/2018	38	\$ 1,283,333.33							
9/30/2018	39	\$ 1,225,000.00							
10/31/2018	40	\$ 1,166,666.67							
11/30/2018	41	\$ 1,108,333.33							
12/31/2018	42	\$ 1,050,000.00							
1/31/2019	43	\$ 991,666.67							
2/28/2019	44	\$ 933,333.33							
3/31/2019	45	\$ 875,000.00							
4/30/2019	46	\$ 816,666.67							
5/31/2019	47	\$ 758,333.33							
6/30/2019	48	\$ 700,000.00							
7/31/2019	49	\$ 641,666.67							
8/31/2019	50	\$ 583,333.33							
9/30/2019	51	\$ 525,000.00							
10/31/2019	52	\$ 466,666.67							
11/30/2019	53	\$ 408,333.33							
12/31/2019	54	\$ 350,000.00							
1/31/2020	55	\$ 291,666.67							
2/29/2020	56	\$ 233,333.33							
3/31/2020	57	\$ 175,000.00							
4/30/2020	58	\$ 116,666.67							
5/31/2020	59	\$ 58,333.33							
6/30/2020	60								