

**4R CENTRAL KITCHEN, LLC.**  
**LEASE AGREEMENT FOR CITY HALL RESTAURANT**

This Lease Agreement is made and entered into to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between **CITY OF ORLANDO, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida (City) and **4R CENTRAL KITCHEN, LLC**, a Florida limited liability company ("4R").

**RECITALS**

A. City owns and operates Orlando City Hall located at 400 South Orange Avenue, Orlando, Florida 32801 ("City Hall").

B. City and 4R have agreed to the terms and conditions of a lease for certain space located on the first floor of City Hall for use as a restaurant ("Restaurant").

C. The Restaurant will occupy space in which a café previously conducted business, which must undergo extensive renovations prior to opening for business.

D. 4R is experienced in the creation and operation of restaurants in the Central Florida Area and so is a qualified food-service provider able to operate the Restaurant providing quality food and service at reasonable prices.

E. Although 4R has operated most of its existing restaurants as barbeque smokehouse-style establishments, 4R will modify that approach to provide a wider range of breakfast and lunch choices.

F. City and 4R will enter into a lease ("Lease") of the Premises on the terms and conditions set forth herein.

*NOW THEREFORE*, in consideration of the mutual promises and covenants contained herein, and other valuable consideration, the receipt and sufficiency of which are acknowledged, City and 4R hereby agree as follows:

1. Recitals. The foregoing Recitals are true, correct and are incorporated into and made a part of this Lease as if fully set forth herein.

2. Definitions. The following terms shall have the meanings provided when capitalized in this Lease, except where the context requires to the contrary:

A. "Business Commencement Date" shall mean the final date by which 4R shall open for business as described in **Section 6**.

B. "Commencement Date" shall mean the date on which the Lease commences as set forth in Section 4.

C. "City Event of Default" shall mean as set forth in Section 29. C.

D. "City's PPFF&E" shall mean that portion of the City's existing furniture, fixtures and equipment on the Premises, which 4R elects to retain for use in its business on the Premises.

E. "City's Right to Terminate Lease for Convenience" shall mean the City's right to terminate the Lease as provided in Section 11 hereof.

F. "Expiration Date" shall mean the date the Lease is set to expire listed in Section 4.

G. "Gross Sales" shall mean as contained in Section 4.

H. "Initial Rent Credit" shall mean as contained in Section 9.C.

I. "Intended Use" shall mean as set forth in Section 7.

J. "Lease" shall mean this Lease.

K. "Lease Year" shall mean each one-year period beginning on the Commencement Date and continuing throughout the Term and all renewals or extensions thereof.

L. "Minimum Business Hours" shall mean as set forth in Section 13.

M. "Monthly Base Rent" shall mean that kind of rent described in Section 9.A.

N. "Monthly Percentage Rent" shall mean that kind of rent described in Section 9.B.

O. "Monthly Statement of Gross Sales" shall mean as set forth in Section 9.F.

P. "Net Reimbursement Amount" shall mean as set forth in Section 11.

Q. "Past Due Rate" shall mean eighteen percent (18%) interest or the highest rate allowed by law, whichever is less.

R. "Premises" shall mean the real property described in Section 3.

S. "Rent" shall mean collectively any and all forms of rent to be paid under this Lease including Monthly Base Rent, Monthly Percentage Rent and Additional Rent.

T. "Rent Credits" shall mean the Initial Rent Credits, Subsequent Rent Credits and the amount 4R would have had to, but was not required to pay as Rent during the period beginning on the Commencement Date and ending on the first day of the thirteenth week thereafter.

U. "Rent Commencement Date" shall mean October 1, 2015 as further described in **Section 9.A**

V. "Subsequent Rent Credits" shall mean as described in **Section 9.D**.

W. "Term" shall mean as set forth in **Section 4**.

X. "Transfer" shall mean as set forth in **Section 41**.

Y. "4R Event of Default" shall mean as set forth in **Section 29.A**.

Z. "4R's PPFF& E and Improvements" shall mean the furniture, fixtures, equipment (excluding smallwares) and leasehold improvements 4R provides for use in the Premises as further defined in **Section 9.C**.

AA. "4R's Protected Property" shall mean all items that are indicative of 4R's trademarked business as further described in **Section 14**.

3. Premises. City hereby leases to 4R, and 4R leases the Premises from City. 4R agrees to abide by all terms and conditions of the Lease as tenant in the Premises, which is located on the ground floor of City Hall, consisting of approximately one thousand nine hundred twelve (1,912) square feet more or less, and also an area for storing supplies located in the tunnel connecting City Hall to the City Hall loading dock, all as more particularly described and shown in **Exhibit "A"**, attached hereto and incorporated herein by reference ("Premises"), along with a right of ingress/egress to and from the Premises. An outdoor seating area adjacent to the Premises shall be available for 4R's use; however, that outdoor seating area shall not be part of the Premises.

4. Term of Lease. The term of this Lease shall begin on \_\_\_\_\_, 2015 ("Commencement Date") and end on \_\_\_\_\_, 2020 ("Expiration Date"). TIME IS OF THE ESSENCE. The time period between the Commencement Date and the Expiration Date is sometimes herein referred to as the "Term". To the extent authorized in this Lease the Term may be extended or terminated by such things as the City's Right to Terminate Lease For Convenience described in **Section 11**.

5. Renewal of Lease. Provided 4R is not in breach or default of the Lease (beyond any applicable cure or grace period, 4R shall have the options to renew the Lease for two (2) additional five (5) year periods upon the same terms, covenants, conditions and rental as set forth herein, except as follows:

- (a) During the first year after the beginning of the first renewal option period, Monthly Base Rent shall be One Thousand and No/100 Dollars (\$1,000), to increase annually as provided in **Section 9.A**. Monthly Percentage Rent shall not be owed for any Gross Sales exceeding One Million and No/100 Dollars (\$1,000,000) during all of the years of the first renewal option period.
- (b) During the first year after the beginning of the second renewal option period, Monthly Base Rent shall be One Thousand Five Hundred and No/100 Dollars (\$1,500) to increase annually as provided in **Section 9.A**. Monthly Percentage Rent shall not be owed for any Gross Sales exceeding One Million Two Hundred Thousand and No/100 Dollars (\$1,200,000), during all of the years of the second renewal option period.
- (c) During both renewal option periods, the automatic three percent (3%) increase in Monthly Base Rent provided for in **Section 9.A**. shall continue in effect as well. In other words, upon the first day of the first renewal option period, Monthly Base Rent shall increase to the amount set forth in (a) above; however, there shall not be an automatic increase of three percent (3%) added to that amount. At the beginning of the succeeding years, the three percent (3%) increase shall be imposed. Likewise, the same shall be true during the second renewal option period.

6. Business Commencement Date. Until ready to open for business, 4R shall proceed with all deliberate speed without interruption to obtain the permits and licenses necessary to remodel existing improvements and install any needed new equipment. 4R covenants to open for business within twelve (12) weeks following the Commencement Date ("Business Commencement Date"). The Business Commencement Date may be extended only upon City's written approval; to be determined in its reasonable discretion upon a showing 4R has been continuously and diligently proceeding with construction in the Premises.

7. Intended Use of Premises. 4R shall use the Premises solely for the operation of a restaurant for the sale of food and non-alcoholic beverages. 4R agrees to provide breakfast and lunch, including hot food items, each day City Hall is open for business. 4R agrees to provide a wide variety of high quality food and beverage products. For meals at both breakfast and lunch, 4R will provide a couple of selections for budget-minded patrons and those desiring "healthy choice" meals. 4R may also provide catering services for events within City Hall and at other locations. 4R shall operate and maintain the Premises and restaurant business in a manner comparable to other food service facilities located in "Class 'A'" commercial office buildings in Orlando, Florida. In addition to the Premises, during Business Hours 4R shall have non-exclusive use and shall maintain in a clean manner the adjacent outdoor seating areas for the use of its customers and other persons. Seating areas both within the Premises and outdoors shall be open for use by Restaurant patrons as well as those who are not customers. The foregoing described services to be provided are sometimes herein collectively referred to as the "Intended Use".

8. Improvements & Equipment.

A. City Approval of Plans for Renovations and Equipment. 4R will make renovations to the Premises prior to opening for business, as well as install some new restaurant equipment. 4R shall be solely responsible for payment for all such items, including design and construction costs, permits and impact fees, if any. 4R shall submit to City's Real Estate Division Manager one (1) set of plans and specifications of the proposed present and any future improvements or renovations (the "Plans"), as well as a detailed descriptive list of any new equipment it will use in the Premises.

The Real Estate Division Manager shall have twenty (20) business days from receipt of the Plans and equipment list to approve, deny or request changes, which approval shall not be unreasonably withheld, conditioned or delayed. The review (and approval or denial) of the Plans and equipment list pursuant to this section, are based upon City's ownership of the Premises and this Lease, and shall not be deemed to have been made in City's capacity as a governmental or regulatory body. 4R shall also submit all required documents, drawings, plans, specifications, etc., to, and obtain all required license(s), permit(s), and approval(s) from the appropriate governmental or regulatory authority having jurisdiction, including, but not limited to the City acting in its governmental capacity.

B. Cooperation with City. 4R agrees to consult with the City's Public Arts Coordinator to coordinate any construction or remodeling of the Premises, and to the greatest degree possible, limit any impact upon the adjacent Art Gallery area.

C. Warranty. 4R shall hire a Florida licensed general contractor to construct any renovations or other improvements and shall require the contractor to provide a warranty that all work will be free of defects and non-conformities for a one (1) year period from the date of substantial completion.

D. No Liens Against City Property. 4R acknowledges that under Florida law, City property including but not limited to the Premises is not subject to Florida's Construction Lien Law. 4R agrees to provide written notice to its general contractor and all subcontractors that no one can place a construction lien against the Premises and such parties should protect their interests in the work by other appropriate means.

9. Rent. 4R shall pay Rent and related charges to the extent and in the manner described as follows:

A. Monthly Base Rent. Beginning on October 1, 2015, the Rent Commencement Date, 4R shall pay in advance to City Monthly Base Rent, without prior demand and without deduction or set-off, continuing thereafter for so long as this Lease is in effect, except as otherwise provided herein for Rent Credits. TIME IS OF THE ESSENCE.

Monthly Base Rent shall be Seven Hundred Fifty and No/100 Dollars (\$750.00) per month for one year, until the first anniversary of the Rent Commencement Date. 4R shall

include with each payment of Monthly Base Rent, the applicable Leasehold Tax and Florida State Sales Tax as provided in **Section 12**. On the first anniversary of the Rent Commencement Date, and on each anniversary of the Rent Commencement Date thereafter while this Lease is in effect, Monthly Base Rent will increase three percent (3%) over the Monthly Base Rent charged during the preceding month to the extent described in **Section 5**.

B. Monthly Percentage Rent. In addition to Monthly Base Rent, 4R shall pay to City percentage rent each month in the amount of three percent (3%) of the Gross Sales for that month, but subject to the additional restrictions provided herein. Percentage rent to be paid each month shall be owed only if the calculated payment exceeds the amount due for Monthly Base Rent that month. If the calculation of Monthly Percentage Rent would result in a payment owed of less than the amount to be paid for Monthly Base Rent, no percentage rent will be due. If the calculated amount for percentage rent for any month exceeds the Monthly Base Rent owed for that month, Monthly Base Rent and Monthly Percentage Rent shall be due for that month. Monthly Base Rent and Monthly Percentage Rent shall be paid calculated by first deducting the amount due for Monthly Base Rent for the net amount due for Monthly Percentage Rent for that month. Notwithstanding the foregoing, for the period beginning after December 31, 2015, Monthly Percentage Rent shall not be owed for any Gross Sales exceeding Seven Hundred Thousand and No/100 Dollars (\$700,000.00) in any Lease Year; however, Monthly Base Rent along with the applicable Leasehold Tax and Florida State Sales Tax shall continue to be owed each and every month of each Lease Year. The foregoing percentage rent shall be calculated monthly as provided in this Section and all sums derived in this manner shall be referred to herein as "Monthly Percentage Rent".

Monthly Percentage Rent shall be paid to City no later than twenty (20) days after the end of the calendar month for which Monthly Percentage Rent is due. TIME IS OF THE ESSENCE. Along with Monthly Percentage Rent, 4R shall deliver to City the Monthly Statement of Gross Sales and monthly sales tax report in accordance with **Section 9.G**. below.

There shall be a reconciliation of the total of all Monthly Percentage Rent payments made during the previous Lease Year adjusted upon a final determination of the amount actually due for Monthly Percentage Rent for the previous Lease Year. Within forty-five (45) days after the end of each Lease Year, City will credit toward 4R's future Monthly Base Rent next coming due, any excess Rent 4R paid to City for the previous Lease Year, i.e., the amount 4R previously paid as both Monthly Base Rent and Monthly Percentage Rent in excess of the amount finally determined to be owed for that year, if any. Likewise shall there be a deficiency in the payment of the final amount actually due for the Lease Year, 4R shall remit the additional amount owed within ten (10) days of the date of demand.

C. Rent Credits for Initial 4R's PPFF&E and Improvements. 4R shall provide an Initial Rent Credit for the 4R's PPFF&E and Improvements, which shall mean those items meeting all of the following requirements:

- a. 4R has installed or brought on the Premises such items for use in the operation of the Restaurant;

- b. They are part of the furniture, fixtures, equipment (excluding smallwares) or leasehold improvements;
- c. They were City-approved prior to installation or bringing the items onto the Premises; and
- d. Documentation has been provided evidencing the incorporation or use of the items on the Premises, including not limited to, copies of receipts, paid invoices, etc. satisfactory to City for substantiating the charges:

With respect to 4R's PPFF&E and Improvements installed or brought on the Premises **prior to** the Business Commencement Date, City shall provide a credit against Rent, calculated in the manner provided herein ("Initial Rent Credit"). The Initial Rent Credit shall be calculated based upon a percentage of the cost of the 4R's PPFF&E and Improvements (excluding sales tax). The Initial Rent Credit shall be twenty-five percent (25%) of the cost of the 4R's PPFF&E and Improvements, but for purposes of calculating the Initial Rent Credit the total amount City shall be required to pay 4R's PPFF&E and Improvements shall never exceed Forty-two Thousand and No/100 Dollars (\$42,000).

Prior to execution of the Lease 4R shall inspect and operate the City's PPFF&E and determine whether it is good working order. As to any equipment which is in need of repair, 4R shall present a list of equipment failing the test within ten (10) days after the Commencement Date. City shall repair all such items to 4R's reasonable satisfaction. Thereafter 4R shall be solely responsible for the use and care of all City PPFF&E during the term of the Lease and any extensions thereof.

D. Rent Credits for Subsequent 4R's PPFF& E and Improvements. For 4R's PPFF&E and Improvements installed or brought on the Premises **subsequent to** the Business Commencement Date, City shall provide from time to time at 4R's request rent credits calculated in the manner set forth herein ("Subsequent Rent Credits"). The Subsequent Rent Credits 4R shall receive shall be twenty-five percent (25%) of the cost of the 4R's PPFF&E and Improvements (excluding sales tax) incorporated into or brought on the Premises subsequent to the Business Commencement Date, and the cost of each item for which a Subsequent Rent Credit is requested must also each exceed One Thousand and No/100 Dollars (\$1,000.00).

Except as set forth in **Section 14** below with respect to 4R's Protected Property, all 4R's PPFF&E and Improvements for which 4R receives either an Initial Rent Credit or Subsequent Rent Credits shall remain on the Premises and become the property of City on the Expiration Date or earlier termination of the Lease.

E. Rent Commencement Date Adjustment. In the event 4R fails to open by no later than the Business Commencement Date and City terminates the Lease as a result thereof, for purposes of computation of the final Rent amount due under the Lease, the Rent Commencement Date shall be the date on which the Commencement Date occurred.

F. Gross Sales. "Gross Sales" shall mean the total amount of payments received by 4R, whether in cash or credit, for food, beverage, merchandise sold or other services provided on or from the Premises, excluding sales tax, employee and complimentary meals for marketing purposes, and tips or service charges actually paid to employees. It shall include sales orders secured, received or delivered on or from the Premises whether or not such order is filled or delivered elsewhere. Notwithstanding the foregoing, solely for purposes of calculating Monthly Base Rent and Monthly Percentage Rent, Gross Sales exceeding Seven Hundred Thousand Dollars (\$700,000.00) in any Lease Year shall be excluded from the calculation of Monthly Percentage Rent.

G. Monthly Statement of Gross Sales. Commencing no later than twenty (20) days after the first full calendar month after the Rent Commencement Date, 4R shall include with the payment of Monthly Percentage Rent a certificate provided by the chief financial officer of 4R setting forth (i) the amount of Gross Sales made from the Premises during the preceding calendar month, (ii) all sales tax paid by 4R for the preceding month, (iii) the type and amount of exclusions from Gross Sales taken in accordance with **Section 9. F.** above, (iv) the aggregate amount of Gross Sales made during the Lease Year, including the previous month; and (v) the total Monthly Percentage Rent due for such month ("Monthly Statement of Gross Sales"). At the same time 4R shall also submit to City a copy of the monthly sales tax report submitted by 4R to the Florida Department of Revenue. TIME IS OF THE ESSENCE.

H. Monthly Percentage Rent Confirmation. 4R shall utilize, or cause to be utilized, an accounting system for the Premises in accordance with its usual and customary practices, and in accordance with generally accepted accounting principles, that will accurately record all data necessary to compute Monthly Percentage Rent. 4R shall retain, for at least four (4) years after the expiration of each Lease Year (and in any event until the reconciliation described in **Section 9.B.** for such period has been made), reasonably adequate records conforming to such accounting system showing all data necessary to compute Monthly Percentage Rent for the applicable period. City, at its expense (except as provided herein below), shall have the right from time to time, upon prior written notice to 4R, by its accountants or representatives to audit the information that formed the basis for the data set forth in any certificate required in **Section 9.G.** and, in connection with such audits, to examine all 4R's's records (including supporting data and sales and excise tax returns) reasonably required to verify Monthly Percentage Rent, subject to any prohibitions or limitations on disclosure of any such data as may be allowed by law.

If any audit discloses a deficiency in the payment of Monthly Percentage Rent, and either 4R agrees with the result of such audit or the matter is otherwise determined or compromised, 4R shall forthwith pay to City the amount of the deficiency, as finally agreed or determined, together with interest at the Past Due Rate from the date when the payment should have been made to the date of payment.

As to any audit commenced more than two (2) years after the date Monthly Percentage Rent for a period reported by 4R to City, the deficiency, if any, with respect to such Monthly Percentage Rent shall bear interest at the Past Due Rate only from the date such determination of



deficiency is made unless such deficiency is the result of gross negligence or willful misconduct on the part of 4R, in which case interest at the Past Due Rate will accrue from the date such payment should have been made to the date of payment thereof. If any audit discloses that the Monthly Percentage Rent actually due from 4R for any 4R Fiscal Year exceeds those reported by 4R by more than three percent (3%) percent, 4R shall pay the cost of the audit and examination. Any audits performed shall cover no more than a consecutive two (2) year period. Any proprietary information obtained by City pursuant to the provisions of this Section shall be treated as confidential to the extent allowed by law, except that the information may be used, subject to appropriate confidentiality safeguards, in any litigation between the parties and except further that City may disclose the information to prospective lenders or as required to comply with applicable law, including without limitation, reporting requirements under state and federal securities laws. The obligations of 4R contained in this Section shall survive the expiration or earlier termination of this Lease.

I. Additional Rent. Unless otherwise expressly provided, all monetary obligations of 4R to City under this Lease, of any type or nature, other than Monthly Base Rent and Monthly Percentage Rent, shall be denominated as additional rent ("Additional Rent"). Except as otherwise provided herein, all Additional Rent is due and payable ten (10) days after delivery of an invoice. TIME IS OF THE ESSENCE.

J. Rent Payments. All rental payments shall be made payable to City of Orlando and mailed or hand-delivered to the Real Estate Division Manager, City of Orlando, 7<sup>th</sup> floor, City Hall, 400 S. Orange Avenue, Orlando, Florida 32801.

K. Late Payments. If any Monthly Base Rent or Monthly Percentage Rent payments are not received within five (5) days of the due date each month, a late charge of five percent (5%) of the payment owed shall be imposed. Any late charges coming due under this paragraph shall be added to and paid with the next payment of Monthly Base Rent. Any other late payments shall bear interest from the date owed to the date payment is received at the Past Due Rate. TIME IS OF THE ESSENCE.

L. Returned Check Fee. If any check for payment made to City is returned for insufficient funds, in addition to any other right or remedy available to City, 4R shall pay City an returned check fee of Forty Dollars (\$40.00) to reimburse City for the costs and expenses associated with the returned check.

10. Security Deposit. A Security Deposit shall be required and receipt thereof is acknowledged in the amount of Three Thousand Five Hundred and No/100 Dollars (\$3,500.00). This Security Deposit shall be held by City as security for the performance of all obligations of 4R under this Lease. While City holds the Security Deposit, City shall have no obligation to pay interest thereon, unless required to do so by Florida law, and shall have the right to commingle the Security Deposit with City's other funds. City shall have thirty (30) days after such time when it should be paid, to return the Security Deposit or notify 4R of City's intention to impose a claim against the Security Deposit for damages, unpaid rent or other amounts due under the Lease. However, if the determination of any amount to be paid by 4R to City, or of 4R's pro rata

share of real estate taxes as set forth in this Lease, or the like, is not available at the expiration or earlier termination of the Lease, City may retain such portion of the Security Deposit as City believes in the exercise of City's good faith judgment is an appropriate reserve against such future liability of 4R and return only the balance of the deposit pending the final determination and payment of all amounts owed by 4R to City.

City shall have the right from time to time without prejudice to any other remedy City may have on account thereof to apply the Security Deposit, or any part thereof, to City's damages arising from any default on the part of 4R. If any portion of the Security Deposit is so used, applied, or retained, 4R will, within ten (10) days after written demand, deposit cash with City in an amount sufficient to restore the Security Deposit to its original amount. In no event shall City be obligated to apply the Security Deposit. 4R may not apply the Security Deposit to payment of rent or the performance of other obligations. The Security Deposit will not be deemed a limitation on City's damages or a payment of liquidated damages or a payment of the Rent due for the last month of the term. City shall have the same rights and remedies for the nonpayment by 4R of any amounts due on account of the Security Deposit as City has hereunder for the failure of 4R to pay Rent.

11. City's Right to Terminate Lease for Convenience. Notwithstanding anything to the contrary otherwise stated in this Lease, City, for its convenience and any or no reason, may upon one hundred eighty (180) calendar days prior written notice to 4R terminate this Lease, without liability to 4R, the same as if the termination date contained in the notice were the final Expiration Date of this Lease.

Should City terminate this Lease for convenience and the Termination Date is within the first five (5) years after the Commencement Date, City shall pay 4R for the 4R's PPFF&E and Improvements to the extent provided herein. For purposes of this Lease, "Termination Date" shall mean the final date by which 4R must vacate the Premises, after City has sent a notice of termination to 4R.

From the total documented cost of the 4R's PPFF&E and Improvements shall be subtracted all Rent Credits previously granted 4R. The number derived shall then be multiplied by the fraction the numerator of which shall be the number of months remaining between the Termination Date and the end of the fifth year following the Commencement Date, and the denominator of which shall be sixty (60), the total number of months in the five-year period. (Only if the Termination Date falls on or prior to the fifteenth (15<sup>th</sup>) day of the month shall the entire month shall be included in determining the numerator.) Notwithstanding anything to the contrary herein, the total amount City shall pay to 4R for exercising the right to terminate the Lease for convenience shall never exceed One Hundred Sixty-eight Thousand and No/100 Dollars (\$168,000).

Payment of the Net Reimbursement Amount shall be made within one hundred eighty (180) days of City's receipt of sufficient verifiable documentation evidencing 4R's payment of the cost of the 4R's PPFF&E and Improvements or final vacation of the Premises, whichever comes later.

If this Lease is terminated for City's convenience more than five (5) years after the Commencement Date, City shall not be obligated to provide any reimbursement for the 4R's PPFF&E and Improvements.

12. Taxes.

A. Leasehold Tax. In addition to the Rent, 4R shall also pay to City the Leasehold Tax assessed against the Premises. The Leasehold Tax is an ad valorem tax assessed on the Premises by the Orange County Property Appraiser. The annual Leasehold Tax assessed on the Premises shall be prorated on a monthly basis and paid with the Monthly Base Rent in the amount shown below and held in a separate account by City for payment of 4R's tax obligation at such time prescribed by the Orange County Tax Collector. The amount collected is an estimate of the taxes owed by 4R and is subject to adjustment based upon the actual Leasehold Tax due. In the event the amount of Leasehold Tax paid by the 4R to City exceeds the actual tax liability, the excess tax paid by 4R may be refunded to 4R or retained for the succeeding year tax liability, whichever is deemed appropriate exclusively by City. In the event the amount of Leasehold Tax paid by 4R to City is less than the actual tax liability, 4R shall pay the balance due to City no later than ten (10) calendar days from 4R's receipt of written notice from City that the balance is due. The Prorated Leasehold Tax is calculated as follows, but is subject to change based upon the Property Appraiser's annual assessment:

\$6,000 (Estimated leasehold tax liability) x 12 months = 500.00 per month

B. Florida State Sales Tax. 4R shall be responsible for the payment of any applicable sales and use taxes (or any excise taxes imposed in lieu thereof) which may now or hereafter be levied by the State of Florida or any other governmental unit on all payments due under this Lease that may be classified as rent by such taxing authorities. The taxes shall be paid by 4R to City at the same time that Rent payments are to be made. The current State of Florida sales tax in Orange County is 6.5%.

13. Business Hours. 4R shall operate the Restaurant serving breakfast, lunch, and snacks at a minimum between the hours of 7:00 a. m. and 3:00 p. m., each regular business day(s) that City Hall is open ("Minimum Business Hours"). In order to verify that this time period is appropriate from a commercial standpoint, the parties shall evaluate whether business hours in the afternoon should be shortened. If needed, the appropriate times when the Restaurant should be open shall be re-determined in the reasonable discretion of the parties. The Restaurant shall be closed on Sundays and days that City Hall is closed. The typical days/holidays that City Hall is closed are set forth on **Exhibit "B"** attached hereto.

14. Personal Property, Furniture, Fixtures and Equipment. 4R may utilize City's existing furniture, fixtures and equipment on the Premises ("City's PPFF & E") free of charge, provided that 4R maintains and returns City's PPFF & E to City in similar working order at the expiration or termination of the Lease, normal wear and tear excepted.

4R's PPFF & E and Improvements shall remain the property of 4R during the term of the Lease, but none of it shall be removed without City's written consent, except with City's written consent, those items which shall promptly be replaced with comparable kind and quality. At the expiration or earlier termination of the Lease, all 4R's PPFF& E and Improvements shall belong to City, without further compensation to 4R and shall remain with the Premises, except for compensation to be paid to the extent provided in the event of a City Termination for Convenience in **Section 11**. 4R may remove only its smallware, furniture and decorations not permanently affixed to the Premises and items belonging to unrelated vendors loaned to 4R for use on the Premises.

Notwithstanding anything else herein to the contrary, 4R shall be entitled, at its expense, to "de-identify" the 4R's Protected Property as 4R reasonably believes necessary or appropriate for the protection therein, provided 4R shall repair any damage to the Premises caused by such actions. This right shall only be to remove trademarks, trade names and matters similar thereto. In no event shall the removal process compromise the integrity of the property.

15. Repairs and Maintenance.

A. City shall be responsible for the repair and maintenance of City Hall outside of the Premises and the grounds and landscaping surrounding the Premises.

B. 4R shall be responsible for the cleaning, repair, and maintenance of the interior of the Premises, including, but not limited to, walls, interior paint, wall coverings, ceilings, doors, faucets, fixtures, , interior lighting, carpet/tile/flooring, furniture, appliances, hood system and food and beverage equipment grease traps and all other restaurant-related equipment, including all exterior exhaust fans. 4R shall maintain such items and the Premises in a good, safe and sanitary condition throughout the term of the Lease, normal wear and tear excepted. 4R shall implement and abide by a maintenance schedule for the floor and carpeting within the Premises, which shall be substantially the same as City's maintenance program for other flooring in the area adjacent to the Premises. 4R shall use reasonable efforts to minimize food odors from entering other areas and offices within City Hall. 4R shall provide sufficient exhaust fans and equipment as City reasonably determines are needed to insure cooking odors do not enter other areas within City Hall.

C. 4R shall establish and perform preventative routine maintenance programs on its food service equipment in accordance with manufacturers' recommendations. In addition, 4R shall provide, install and maintain fire extinguishers, and other fire protection devices as may be required from time to time by any agency having jurisdiction of such matters, and the insurance underwriters insuring the building. As part of the maintenance program, 4R shall keep an up-to-date log of all requisite health, safety and other legally required inspections of the Premises, and forward to City complete copies of all reports generated as a result of the inspections, within five (5) days of 4R's receipt of each inspection report.

16. **Surrender of Premises.** Upon the expiration or termination of this Lease, 4R shall surrender the Premises to City broom clean and otherwise in good condition, reasonable wear and tear excepted. Except to the extent provided in Section 14 hereof, 4R'S PPFF&E may not be removed at the end of the Term. 4R may remove such items only after it has satisfied all of its other obligations set forth in this Lease. In the alternative, at its election in its sole and absolute discretion, City may require 4R at 4R's expense to remove any items City so elects within ten (10) days after the Expiration Date or earlier termination of the Lease.

17. **Holding Over.** Any holding over by 4R after expiration or earlier termination of this Lease shall be treated as a tenancy at sufferance at one hundred fifty percent (150%) the Monthly Base and Percentage Rents with no cap on Percentage Rent, prorated on a daily basis, and shall otherwise be on the terms and conditions set forth in this Lease, so far as applicable.

18. **City Inspection.** City shall be entitled to inspect the Premises and all improvements located thereon every three months upon not less than twenty-four (24) hours notice (except no such notice shall be required in the event of an emergency) and provide 4R with a written list of items requiring repair by 4R. City may conduct any such inspections upon twenty-four's hours notice and may make other inspections as City determines at other times upon twenty-four (24) prior notice. 4R shall have thirty (30) days from its receipt of the list to repair all items on the list, unless the nature of the repair is such that it cannot be accomplished within thirty (30) days, in which case 4R shall be allowed a reasonable period of time to make the repairs, provided 4R promptly and diligently proceeds to complete any necessary work. The failure of 4R to repair the items within such time period shall be a violation of this Lease. If 4R fails after thirty (30) days written notice (or such shorter period as may be required in an emergency) to proceed with due diligence to perform any maintenance and make any repairs required by City, City may elect to perform or make any of the aforementioned repairs, replacements or maintenance and charge 4R. Any repairs, replacements or maintenance shall be performed in a good and workmanlike manner using contractors licensed in the State of Florida approved by City in its sole judgment. All materials utilized shall be of equal or better quality than the original work. The failure of City to provide a list of repairs to 4R shall not relieve 4R of its maintenance and repair obligations.

19. **Utilities.** City shall arrange and pay for the cost of all utilities provided to the Premises, including, but not limited to, water, gas, electricity, telephone (one line) and refuse collection service. One (1) phone line shall be provided for local calls only with a City prefix of (246), which currently is 407-246-0161. Any long distance charges shall be the responsibility of 4R. While City has generally available WIFI in City Hall, service may not be adequate to address the needs of 4R and its customers. In that event 4R will install and pay for such services.

4R will cooperate with the City on any energy-saving efforts in an attempt to reduce the cost of utilities.

20. **Janitorial Service.** 4R shall provide janitorial service to the Premises on a regular basis at its sole expense. At least twice each day, 4R shall police the Premises and outdoor seating areas to remove all trash and other debris, which shall be placed in City's designated

dumpsters. In addition, 4R shall keep the tables, chairs, umbrellas and floor of the eating areas (inside and outside) in a good and clean condition during Business Hours. Currently when 4R opens for business each day, it shall set up the table umbrellas and wipe down the tables in the outside seating area adjacent to the Premises. At the end of the business day 4R shall not be required to close the umbrellas, but shall police the area. At no charge to City, the scope of 4R's responsibilities for the outdoor seating area may change from time to time as reasonably determined by City.

21. Pest Control. 4R, at its sole expense, shall engage exterminators to control vermin and pests on a monthly basis. Extermination services shall be supplied in all areas where food is prepared, dispensed or stored and in all areas where trash is collected and deliveries are made.

22. Grease Traps, Trash and Recycling. 4R shall comply with City's Oil and Grease Management Program per Section 30.15 of the Orlando City Code (Code). 4R shall be responsible for the professional removal of grease to avoid spillage and for grease recycling.

Grease traps shall be provided and pumped at 4R's sole cost and expense, all in compliance with Section 30.15 of the Code. On a daily basis 4R will provide separate recycling containers for clean paper/plastic/aluminum and shall ferry recyclables to the loading dock collection bins. Likewise, all trash shall be deposited in proper containers on the loading dock.

23. Signage. 4R may install appropriate inside signage within the Premises to identify the Restaurant. City shall retain the right to approve 4R's naming of the Restaurant. All signage is subject to the sign regulations of City and the Downtown Development Board (DDB) (if applicable). Since the Premises is public property owned by City, political campaign signs are prohibited on the Premises pursuant to Section 64.252 of the Code. 4R may post approved signage in the City Hall Rotunda in a location approved by the Real Estate Division Manager, as well as on the sidewalk adjacent to the Premises, but not within the park area. In addition, 4R shall provide appropriate signage indicating menu selections along with prices, in a manner as to be clearly visible to restaurant patrons.

24. Catering. City and/or the general public may sponsor events at City Hall. These events may be catered by 4R or by other outside food service providers. Likewise, the general public may, from time to time, have similar catered events at various locations within City Hall catered by 4R or other outside food service providers. 4R may not operate vending machines in or around the Premises.

25. Parking. This Lease does not grant parking rights or spaces for 4R's use within any adjacent City Parking Garage, but rather in order to meet 4R's parking needs, 4R shall be solely responsible for negotiating a separate agreement with the City Commons Garage Parking Administrator. In addition, 4R may address its parking needs in other convenient parking facilities.

26. Staffing.

A. 4R shall adequately staff the Restaurant at all times to handle customer demand efficiently. If at any time City finds the actions, performance, or conduct of any 4R employees to be harmful or detrimental to the operation, image, or success of City Hall, City shall advise 4R of the specific circumstances, and the parties shall attempt to mutually resolve the situation. If resolution cannot be reached, City may require the permanent removal of any employee from the Premises, whose performance is unacceptable in City's sole and absolute discretion.

B. 4R will maintain high standards of quality in its hiring and training practices. 4R employees shall maintain a high standard of grooming and conduct. Employees of 4R shall be neatly attired in uniforms.

C. Since the Premises is located within City Hall, a governmental building, certain security measures must necessarily be required to insure the safety of the general public beyond that which might otherwise be needed. All potential employees of 4R who will work on the Premises must be approved by the Real Estate Division Manager prior to employment. At its sole expense 4R shall complete a criminal background check and screening of every new employee by a nationally recognized company providing such services. Upon completion of the criminal background check, 4R shall provide the results and all other information 4R has obtained to City's Real Estate Division Manager for review and approval. City shall also have the right to conduct its own criminal background check and any other kind of investigation as City deems appropriate in its sole and absolute discretion. From each potential employee, 4R shall obtain such written consents to City's investigation as City may require. After receipt of each criminal background check and the consent to City's investigation and review of other employment application information, City shall have ten (10) days within which to make a determination on whether to approve the employment. 4R shall maintain a file containing copies of all such background checks, screenings and other employment information. Within five (5) days of City's making any request, 4R shall allow City access thereto and provide City copies thereof.

27. Courtesy to the Public and Security of Premises. In all circumstances, 4R shall exercise and require its owners, employees and agents to exercise courtesy and consideration in their relations with the public as befitting a "Class 'A'" commercial office building. City shall notify 4R of any specific circumstances where its owners, employees or agents have failed to fulfill this requirement and upon its receipt of such notification 4R shall take the appropriate action. If a second incident occurs involving the same owner, employee or agent not exercising courtesy with the public, City shall have the right to direct 4R to remove from the Premises such owner, employee or agent of 4R. 4R also recognizes that security of the Premises is essential to the safety of the City Hall. For this reason the Real Estate Division Manager shall also have the absolute right to direct 4R to remove any employee from the Premises immediately upon notification and without any needed justification from City, which City believes is a security threat to the safety of City Hall. 4R shall observe all City security rules and regulations with respect to the Premises, including but not limited to, restricting access to the Premises to the extent reasonably necessary as to food and services deliveries. 4R shall use its side doors for all

deliveries, restricting use of the back door of the Premises to employees only to (1) enter and exit the building, (2) take out the trash, but at no other time except (3) when there is an emergency.

28. Management Duties. 4R recognizes that the affordability and the quality of items sold and services performed at the Restaurant is a matter of highest concern to City. 4R shall serve high quality products and provide a standard of service and quality comparable to other Four Rivers Restaurant establishments in the Orlando area and shall use commercially reasonable efforts to provide affordable options on its overall menu. All food, beverages, snacks, and other items sold or offered for sale at the Premises shall conform in all respects to all applicable federal, state, county and city health statutes, codes, ordinances, and regulations. All products offered for sale in the Premises shall be stored and handled with due regard for sanitation. All food products sold shall be prepared and handled to provide fresh, high quality products. 4R shall be responsible for keeping the Premises free of trash and debris, and all equipment, including but not limited to the chairs and tables located in both the interior and exterior dining areas, in good, clean, safe working order. The Premises is located above City facilities housing public records; therefore, extra care must be taken to assure that all plumbing and grease traps facilities are well maintained to guard against leakage and spillage, which might damage or destroy important documents and improvements. 4R shall immediately clean up any spills. 4R shall observe and obey all rules and regulations applicable to City Hall, which may change from time to time with regard to the care, operation, maintenance and protection of the Restaurant.

29. Default.

A. 4R Events of Default. The occurrence of one or more of the following by 4R shall constitute a 4R Event of Default under this Lease:

- (1) Failure to pay Monthly Base Rent and Monthly Percentage Rent within ten (10) days after their due dates, without notice from City;
- (2) Failure to make any other payment, including but not limited to Additional Rent, required of 4R hereunder, within fifteen (15) days after written notice that it is due;
- (3) Failure to conduct business during all Minimum Business Hours not including holidays and closures for reasonable periods of time necessary for repairs or to make alterations and/or renovations to the Premises.
- (4) Failure to perform any other covenant contained herein on its part to be observed, for fifteen (15) days after receipt of written notice from City to 4R of such breach; provided, however, that if the nature of 4R's noncompliance is such that more than fifteen (15) days are reasonably required for its cure, 4R shall not be deemed to be in default if 4R commenced such cure within the fifteen (15) day period and thereafter diligently pursued such cure to



completion within forty-five (45) days after transmittal of the notice of default;

- (5) Vacation or abandonment of the Premises including any failure to occupy the Premises for a continuous period of five (5) consecutive Business Days or more, whether or not the Rent is paid, or
- (6) Being made (i) a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto [unless, in the case of a petition filed against 4R , and the same is not dismissed within sixty (60) days], (ii) having a trustee or receiver appointed to take possession of substantially all of 4R's assets located at the Premises or of 4R's interest in this Lease, where possession is not restored to 4R within thirty (30) days; or (iii) suffering an attachment, execution or other judicial seizure of substantially all of its assets located at the Premises or of its interest in this Lease, where such seizure is not discharged within thirty (30) days.

B. Default Remedies Against 4R. In the event 4R fails to cure a 4R Event of Default within any applicable time period, without further notice City may elect to take any one or more of the following actions:

- (1) Terminate this Lease and enter into the Premises, or any part thereof, pursuant to and in accordance with applicable law and expel 4R, or any person occupying the same, and repossess and enjoy the Premises;
- (2) Enter into possession of the Premises as agent of 4R and relet the Premises without any obligation to do so, applying any rent received from new tenants on the balance due under this Lease, and in such event, 4R shall be responsible for no more than the balance then due, should a balance exist, plus all City's fees, costs and expenses in taking such actions;
- (3) Declare the entire balance of the rent due and payable forthwith and maintain a distress proceeding, chattel lien foreclosure proceeding, or other proceeding for the recovery of the rent due and have in aid thereof, with or without notice, the appointment of a receiver, issuance of a writ of injunction, or such other remedies as may be necessary to secure the relief sought; and
- (4) Exercise in addition to the foregoing, any and all other rights and remedies available according to the laws of the State of Florida.

C. City Events of Default. It shall be a "City Event Of Default" should City fail to perform any material covenant contained herein on its part to be observed, for fifteen (15) days after receipt of written notice from 4R of such breach; provided, however, if the nature of City's noncompliance is such that more than fifteen (15) days are reasonably required for its cure, City shall not be deemed to be in default if City commenced such cure immediately and

thereafter diligently pursues such cure to completion within forty-five (45) days after transmittal of the notice of default.

D. Default Remedies against City. Should City fail to cure a City Event of Default within any applicable time period, without further notice 4R may elect to take either of the following actions:

(1) Terminate this Lease and vacate the Premises, which shall be completed in the same manner as if the Term had expired on the date of 4R's notice of termination provided to City; or

(2) File an action for specific performance of this Lease

No other remedies shall be available against City for a City Event of Default or termination of this Lease.

30. Indemnification. 4R shall indemnify, defend, save and hold harmless City, its elected and appointed officials, officers, agents, councils, departments, boards, employees, successors and assigns (herein referred to as "Indemnified Parties") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (herein referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of 4R or any of its owners, officers, directors, agents, employees or contractors, arising out of or related to 4R's occupancy and use of the Premises. It is the specific intention of the parties that the Indemnified Parties shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnified Parties, be indemnified by 4R from and against any and all claims.

31. Insurance

A. 4R, at its own expense, shall keep in force and at all times maintain during the term of this Lease the following types and amounts of insurance:

1. Commercial General Liability Insurance:

Commercial General Liability, including Fire Legal Liability Insurance with limits of not less than Two (2) Million Dollars (\$2,000,000.00) combined single limit per occurrence, for Bodily Injury (BI) and Property Damage (PD).

2. Workers' Compensation/Employer Liability Insurance:

Full and complete Workers' Compensation Coverage as required by State of Florida law.

3. Property Insurance:

Replacement Cost coverage for all property owned or entrusted to 4R including any and all improvements made to the Premises.

B. City shall be named as an additional insured on each policy required hereunder, except worker's compensation.

C. 4R shall provide City with Certificate(s) of Insurance on all the policies of insurance and renewals thereof on an annual basis in a form(s) reasonably acceptable to City.

D. City reserves the right to modify any aspect of the insurance requirements, including the addition of new types of coverage, as the result of reasonable and prudent risk management review of the activities upon or associated with the Premises.

E. City shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) calendar days prior to the effective date of such action.

F. All insurance policies shall be primary and issued by companies with a Financial Rating of "A-" or better and a Financial Size Category of "Class V" or higher according to the most current edition of Best's Insurance Reports, who are licensed and authorized to do business under the laws of the State of Florida.

G. City may waive or amend the insurance coverage requirements contained herein.

H. City is a Florida municipal corporation whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City beyond that provided in Section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's sovereign immunity under Section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law. Notwithstanding anything in this Agreement to the contrary, under no circumstances shall City be liable to 4R (or any person or entity claiming under or through 4R) under any contract, negligence, strict liability, or other legal or equitable theory for any amounts in excess of those limits set forth in Section 768.28 of the Florida Statutes which limits shall be applicable to all manner of claims against City related to this Agreement.

### 32. Compliance with Laws, Rules and Regulations

A. 4R shall comply with all applicable present and future federal, state, and local laws, ordinances, rules, and regulations relating to the operation of a restaurant pursuant to this Lease, including, but not limited to, Health Department regulations, the Florida Building Code (FBC), the Americans With Disabilities Act (ADA), rules posted within City Hall regarding the use thereof, City Code, City Policies and Procedures and state beverage laws. In addition, 4R shall, at its expense, obtain and maintain in its name all licenses and permits required for the operation of a restaurant. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be 4R's responsibility.

B. City shall comply with all applicable laws, rules and regulations imposed upon it as the owner of the Premises.

C. This Lease is contingent upon 4R's obtaining all certificates, permits, and other approvals that may be required by any federal, state, or local authority for any renovations of the Premises and the operation of the Restaurant. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be 4R's responsibility.

### 33. Damage or Destruction of Premises.

A. If the Premises or any portion thereof is destroyed or damaged by fire, water damage, or other casualty, so as to materially hinder effective use of the Premises as a restaurant, then 4R may elect to either (1) repair or reconstruct the Premises at its sole cost and expense to substantially the same condition as existed prior to the damage or destruction (excluding structural elements, which shall be the City's responsibility, or (2) terminate this Lease by giving thirty (30) days written notice to City.

B. In the event 4R elects to repair or replace the Premises (either using the insurance proceeds from its Property Insurance coverage or at its own expense), then it shall do so in a manner that restores the Premises to its structural integrity and capacity prior to such damage or destruction. In addition, any repair or reconstruction is subject to the approval of City which approval shall not be unreasonably withheld, conditioned or delayed. Upon such repair or reconstruction of the Premises by 4R, 4R shall be entitled to an abatement of Rent due during the reconstruction period not to exceed one hundred eighty (180) calendar days. In the event of such repair or reconstruction, City shall retain title to the Premises as repaired or reconstructed.

C. In the event 4R elects to terminate the Lease, then it shall promptly remove the 4R's PPF&E from the Premises to the extent permitted in this Lease. Upon such termination of the Lease, 4R shall be entitled to reimbursement of any prepaid Rent on a monthly pro-rata basis. If 4R chooses not to repair or reconstruct the Restaurant, then City, as an additional insured, shall

retain any insurance proceeds payable as a result of such damage or destruction under policies required by **Section 25** of this Lease.

D. City shall have no obligation to repair any damage to the Premises that materially hinders effective use of the Premises as a restaurant.

34. Condemnation. In the event the Premises is taken by eminent domain, this Lease shall automatically terminate as of the date title to the Premises vests in the condemning authority. In the event of any taking under the power of eminent domain, 4R shall not be entitled to any portion of any award paid for the taking by the governing authority and City shall receive the full amount of such award. 4R hereby expressly waives any right or claim to any portion thereof and all damages, whether awarded, as compensation for diminution in value of any improvements to the Premises or the Premises itself shall belong to City. City will inform 4R of the commencement of any eminent domain proceedings by any governmental authority.

35. Advertising/Promotion/Marketing. 4R shall not use City's name or logo in advertising or promoting the restaurant without City's prior, written consent; provided however, that 4R may use the name and location of City Hall in such advertising without City's prior consent for location identification purposes only. 4R shall be responsible for providing, at its sole expense, reasonable marketing and advertising of its services to employees of City and to other appropriate locations. 4R will accept major credit cards and provide the necessary equipment to process credit card payments at its sole expense.

36. Rewards Program. 4R shall endeavor to establish a rewards program for customer loyalty at the Premises, which shall be similar to its reward program, if any, at other restaurants operated by 4R.

37. Books and Records. 4R shall maintain an original set of books and records of sales, revenues, receipts, fixed assets, and inventory regarding operations at the Premises, all in accordance with generally accepted accounting principles. Such books and records shall be of the type customarily used in this type of operation. 4R shall, on reasonable demand, make available to City all records, books of account and statements (which records shall include all sales tax reports) maintained with respect to its restaurant operations at the Premises. City shall have the right to audit 4R's Books and Records at City's sole expense, except to the extent otherwise provided herein, by City's internal audit department or auditors selected by City.

38. Prohibition against Encumbrance. 4R shall not encumber by mortgage or otherwise 4R's interest in the Premises or this Lease.

39. Estoppel Certificate. Either party shall at any time and from time to time upon not less than twenty (20) days prior request by the other party deliver to the requesting party a statement in writing certifying whether (a) the Lease is in full force or has been modified (if there have been modifications, that the Lease is in full force as modified and identifying the modifications); (b) Rent and other charges have been paid to the current date and if not, the

amount of Rent past due and the dates on which the rents were due; and (c) the party requesting the Estoppel Certificate is in default under any provisions of the Lease.

40. Notices. Any notice required or permitted to be given under this Lease shall be in writing and delivered by hand, by nationally recognized overnight air courier service (such as Federal Express) or by United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the party's notice address. A notice shall be deemed to have been delivered and received on the earlier of the date actually received (by whatever means sent, including means not authorized by this article) or on the date of transmittal by telecopier, or the first (1<sup>st</sup>) business day after having been delivered to a nationally recognized overnight air courier service for "next business day" delivery, or on the third (3<sup>rd</sup>) business day after having been deposited with the United States Postal Service registered or certified mail, return receipt requested. If any communication is returned to the addressor because it is refused, unclaimed, or the addressee has moved, or is otherwise not delivered or deliverable through no fault of the addressor, effective notice shall still be deemed to have been given. Addresses for delivery of notice shall be as follows:

If to City, to:	Real Estate Division Manager City of Orlando 400 S. Orange Avenue Orlando, Florida 32801 Phone No. 407-246-2655 Fax No. 407-246-3129
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With a copy to:	City Clerk City of Orlando 400 S. Orange Avenue Orlando, Florida 32801
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If to 4R, to:	4R Central Kitchen, LLC, a Florida limited liability company Attention: _____ Phone No. _____ Fax No. _____
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41. Assignment and Subletting. Neither 4R nor 4R's legal representatives or successors in interest by operation of law or otherwise may effectuate a Transfer of this Lease, without City's written consent, which shall not be unreasonably withheld, conditioned or delayed. In no instance may 4R sublease the Premises. For purposes of this Lease, "Transfer" shall mean assign in whole or in part this Lease or allot to occur a change of control of the Restaurant including but limited to how it is operated.

City's prior written consent is required should 4R desire to transfer or assign this Lease and/or transfer up to one hundred percent (100%) of the membership interests of 4R including

but not limited to any of the following: (i) any subsidiary, parent, affiliate, or corporation controlled by or under common control with 4R; or (ii) any legal entity that is the successor, by merger, consolidation, sale of membership interests, liquidation or otherwise, to all or substantially all of the assets of the 4R, 4R's parent company and/or 4R's affiliates. City's consent shall not be unreasonably withheld, conditioned or delayed. City's consent shall be based upon the following: 1. City's determination that the proposed transferee has the financial ability to meet 4R's obligations and responsibilities under this Lease; 2. the proposed transferee has the background and expertise to operate the restaurant business on the Premises to the same or greater level of competence as 4R provided prior to the transfer; and 3. Whether the proposed transferee and its controlling manager have ever been in control of a restaurant business that closed for financial reasons, health department orders, whether temporary or permanent, or similar matters.

City's consent to a Transfer shall not relieve 4R from the obligation to obtain City's consent to any subsequent Transfer. Further, in no event shall any entity which became a transferee with the City's permission, be permitted to make what amounts to a Transfer thereafter (i.e., what amounts to a transfer of 40% of 4R) without City's consent. The joint and several liability of 4R and any successor in interest of 4R (by assignment or otherwise) under this Lease shall not in any way be affected by any agreement that modifies the rights or obligations of the parties under this Lease or any waiver of, or failure to enforce, any obligation under this Lease. If 4R requests City to consent to a Transfer, 4R shall pay to City, simultaneously with such request (which request must be in writing and provide complete information detailing the proposed transferee and the terms of the proposed Transfer), along with an administrative fee of Seven Hundred Fifty and No/100 Dollars (\$750.00). 4R shall also reimburse City for City's reasonable attorneys' fees and costs associated with City's consideration of the Transfer. The administrative fee plus attorneys' fees and costs shall be due and owing whether or not the request to approve the transaction is finally granted. Any Transfer in violation of this Section shall be void.

42. Transfer of City's Interest. In the event of any transfer of City's interest in the Premises or in the real property of which the Premises is a part, City shall be automatically relieved of any and all obligations and liabilities on the part of City accruing from and after the date of such transfer.

43. Liens. 4R shall insure that no liens or claims of liens are recorded against either the Premises or 4R's leasehold interest therein, and the recording of a lien or claim of lien, unless removed within thirty (30) days of filing by payment or transfer to a bond, shall be a default by 4R of this Lease, at City's election.

44. Radon. Radon is a naturally occurring radioactive gas that, when accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit.

45. Unlawful Discrimination. 4R, for itself, its successors and assigns, covenants and agrees: (a) no person on the grounds of race, color, national origin, age or any other legally protected class shall be excluded from the furnishing or receipt of services, participation in, denial of benefits or be otherwise subject to discrimination in the use of the Premises. In the construction of any improvements on, over or under the Premises, no person on the grounds of race, color, national origin or any other legally protected class shall be excluded from participation therein.

46. Relationship of the Parties. The relationship between the parties hereto is solely that of landlord and tenant and nothing contained herein shall constitute or be construed as establishing any other relationship between the parties, including, without limitation, the relationship of principal and agent, employer and employee or parties engaged in a partnership or joint venture. Without limiting the foregoing, it is specifically understood that neither party is the agent of the other and neither is in any way empowered to bind the other to use the name of the other in connection with the construction, maintenance or operation of the Premises, except as otherwise specifically provided herein.

47. Authority. Each signatory to this Lease on behalf of the party for whom it is executing this Lease represents and warrants to all other signatories and parties executing this Lease that such signatory is duly authorized to execute and deliver this Lease on behalf of such entity and that no other person or organization is required to join in or sign this Lease, in order to bind the party on whose behalf such person(s) signs this document. If requested by any party, the requested party agrees to deliver to all others evidence of such authority satisfactory to all others. Each party represents and warrants to the other that the execution and performance of this Lease by each party has been duly authorized by all applicable laws and regulations and all necessary corporate/company action, and this Lease constitutes the valid and binding obligation of such party, enforceable in accordance with its terms.

48. Counterparts. This Lease may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, and such counterparts together shall constitute one and the same instrument.

49. Construction of Agreement. Whenever the context of this Lease so requires or admits, words in the neuter gender include the masculine and the feminine; and singular; the word "person" includes a corporation, partnership, or unincorporated association as well as a natural person. The fact that a party may be deemed to have drafted or structured any provision hereof shall not be considered in construing the particular provision either in favor of or against such party.

50. Waiver. Failure on the part of either City or 4R to complain of any act or failure to act on the part of the other shall never be a waiver of any respective rights hereunder; however, the foregoing shall not apply to provisions of this Lease, where a right of 4R is dependent upon notice to be given within a specified period. Further, no waiver at any time of any of the provisions hereof by City or 4R shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of the provisions hereof shall not be construed as a



waiver at any subsequent time of the same provisions. No payment by 4R, or acceptance by City, of a lesser amount than shall be due from 4R to City shall be treated otherwise than as a payment on account. The acceptance by City of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and City may accept such check without prejudice to any other rights or remedies which City may have against 4R.

51. Severability. If any term or provision of this Lease, or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

52. Entire Agreement. This Lease constitutes the entire agreement between the parties relating to the matters set forth herein, and shall supersede all prior written or oral agreements or understandings between the parties.

53. Binding Effect. Except as otherwise expressly provided, the terms hereof shall be binding upon and inure to the benefit of the successors and assigns, respectively, of City and 4R. Reference to “successors and assigns” of 4R is not intended to constitute City's consent to a Transfer, but has reference only to those instances in which City may give consent to a Transfer.

54. Real Estate Commission. City and 4R represent and warrant to each other that they have had no dealings with any real estate broker or leasing agent in connection with the negotiation or execution of this Lease other than the City's Real Estate Division Manager (“City's Broker). City represents and warrants that the City Broker will not be seeking a commission in this transaction. If, however, either party has had such dealings a real estate broker or agent, it has paid all sums due arising out of any claims such persons might make for assisting in leasing the Premises in any capacity.

55. Attorneys' Fees, Expenses and Other Costs. The prevailing party in any dispute arising out of or in any manner relating to this Lease shall be entitled to recover from the other party reasonable attorneys' fees and costs for all pre-litigation, trial, appellate and bankruptcy proceedings, which shall be enforceable whether or not such action is prosecuted to judgment.

56. Section Titles, Interpretation. The titles to the sections contained in this Lease are for convenience and reference only.

57. Recording. 4R agrees not to record this Lease in the Public Records of Orange County, FL, but each party agrees, on the request of the other, to execute a declaration or memorandum of this Lease in recordable form in compliance with applicable law and reasonably satisfactory to City and its attorneys.

58. Venue. This Lease shall be construed in accordance with the laws of the State of Florida. The location for the settlement of any disputes arising out of this Lease shall be Orange County, Florida.

59. Jury Waiver; Counterclaims. 4R and City waive trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of or in any way connected with this Lease. 4R further waives the right to interpose any permissive counterclaim of any nature in any action to obtain possession of the Premises.

This Lease has been executed by the parties as of the dates set forth below.

**CITY OF ORLANDO, FLORIDA**

Print Name: \_\_\_\_\_  
Mayor/Pro Tem

Dated: \_\_\_\_\_, 2015

Attest:

\_\_\_\_\_  
Celeste T. Brown, City Clerk

APPROVED AS TO FORM AND LEGALITY  
For the use and reliance of the  
City of Orlando, Florida, only.

\_\_\_\_\_, 2015.

\_\_\_\_\_  
Assistant City Attorney

**4R CENTRAL KITCHEN, LLC, a Florida  
Limited Liability Company**

By: \_\_\_\_\_,  
\_\_\_\_\_

Managing Member

Executed: \_\_\_\_\_, 2015

Witnesses:

(1) Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

(2) Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

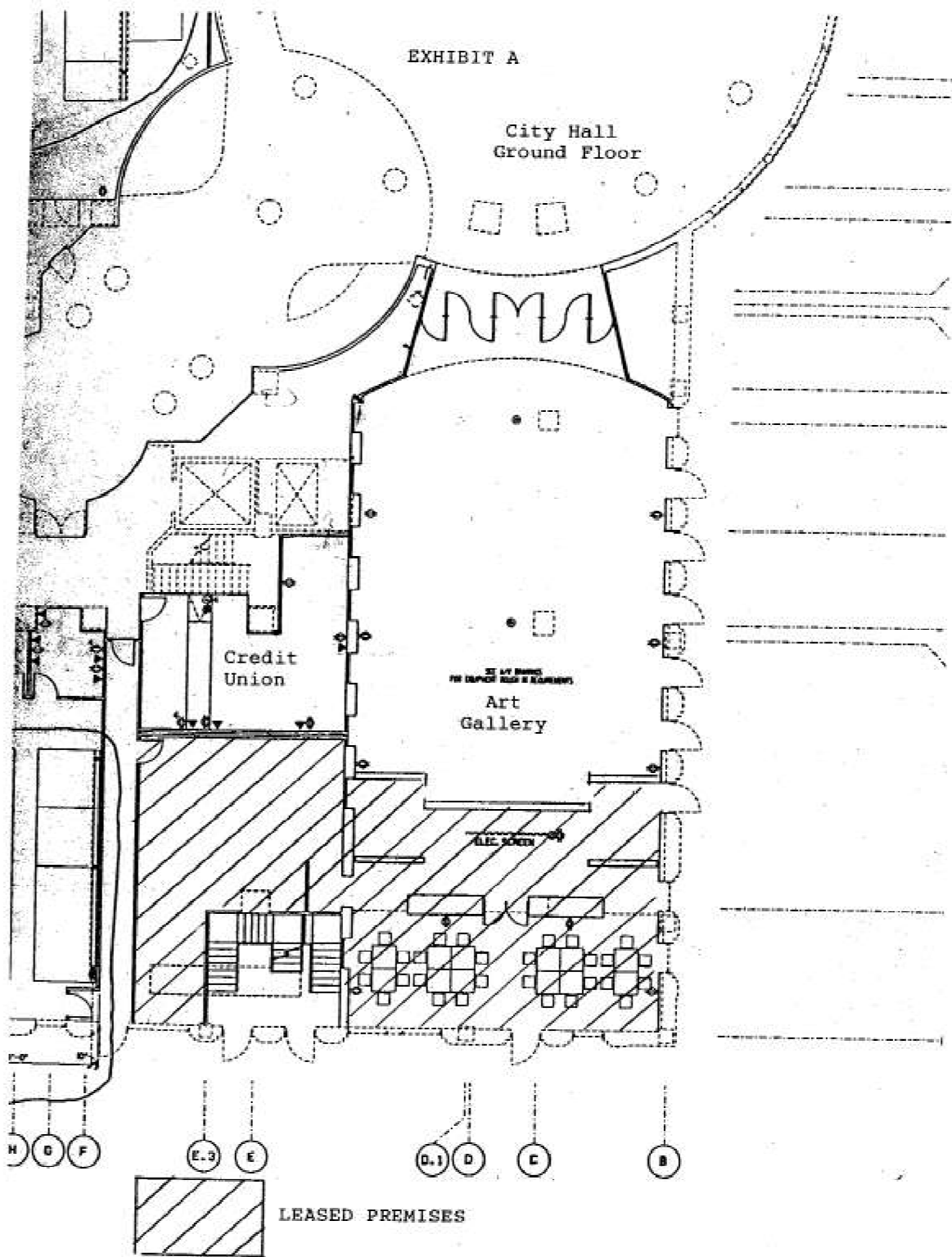
STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, as the Managing Member of 4R Central Kitchen, LLC, a Florida Limited Liability Company, on behalf of the company. He/she is personally known to me or has produced a valid \_\_\_\_\_ Driver's License as identification.

\_\_\_\_\_  
Notary Public:  
Commission Expires:  
(SEAL)

# EXHIBIT A

## Premises



**EXHIBIT B**  
**(Observed Holidays – City Hall is Closed)**

Holiday	Observed Day	Observed Date
New Year's Day	Changes Annually	January 1
Martin Luther King, Jr. Day	Monday	Changes Annually
Memorial Day	Monday	Changes Annually
Independence Day	Changes Annually	July 4
Labor Day	Monday	September 1
Thanksgiving	Thursday	Changes Annually
Day after Thanksgiving	Friday	Changes Annually
Christmas Eve	Changes Annually	December 24
Christmas	Changes Annually	December 25