

AMENDMENT TO MAY 11, 2009, AGREEMENT

THIS AMENDMENT TO AGREEMENT made and entered into this 7th day of December, 2009, by and between FAST FOOD EQUIPMENT SYSTEMS, INC. D/B/A LEAP HOSPITALITY, a Missouri corporation (hereinafter referred to as “Contractor”) and the CITY OF OVERLAND PARK, KANSAS, a municipal corporation created and existing under the laws of the State of Kansas (hereinafter referred to as “City”), is an amendment to the Agreement for the provision of Food Services previously entered into by the parties dated the 11th day of May, 2009 (the “Agreement”).

WHEREAS, Section 2 of the Agreement provides for the services to be provided by Contractor to the City; and

WHEREAS, Section 3 of the Agreement provides for the term of the Agreement; and

WHEREAS, Section 4 of the Agreement provides for the consideration to be paid by the City to the Contractor for the services provided; and

WHEREAS, the parties mutually agree that changes should be made to these provisions to contemplate the conclusion of Contractor’s engagement with the City.

NOW THEREFORE, in consideration of the promises and covenants of this Amendment to the Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. That the following Section 2.8 be added to SECTION 2 of the Agreement:

2.8 From December 7, 2009, to the end of the Operating Term, Contractor and City shall wrap up their engagement including, but not limited to, delivering the premises and final accounting as outlined in Exhibit B, attached hereto and incorporated by reference herein.

2. That SECTION 3 the Agreement shall be removed and replaced in its entirety as follows:

The term of the Agreement shall be May 11, 2009 to January 31, 2010 (the "Operating Term"). This Agreement shall terminate at the expiration of the Operating Term unless sooner terminated as provided herein.

3. That the following Section 4.4 be added to SECTION 4 of the Agreement:

4.4 Notwithstanding anything in this Agreement to the contrary, Contractor acknowledges that as of January 11, 2010, the Contractor has been paid in full for all work contemplated in Sections 2.1 through 2.7 of this Agreement. Subject to the provisions below, Contractor further agrees that it shall be paid \$34,778.52 in full and complete satisfaction of the work associated with Section 2.8 hereof related to bringing to conclusion its engagement with the City. This payment shall be considered the "Final Payment" and shall bring to closure the City's obligations to Contractor under this Agreement.

Notwithstanding anything in this Section to the contrary, if the final accounting reveals that there are monies due and owing from the Contractor to the City, those amounts will deducted from the Final Payment.

The parties acknowledge that the Contractor's insurance carrier, Allied Insurance, has reserved the right to conduct a policy audit until August 31, 2010. The Contractor agrees to return the refund, if any, received by Contractor from Allied Insurance as a result of said policy audit within thirty (30) days of receipt of refund. The parties further acknowledge that the City is entitled to a refund from Philadelphia Insurance. The Contractor shall forward those monies to the City within thirty (30) days of the Contractor receiving payment from Philadelphia Insurance.

4. That the existing language of all other paragraphs and portions of the Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Agreement on the day and year first above written.

FAST FOOD EQUIPMENT SYSTEMS, INC.
D/B/A LEAP HOSPITALITY

CITY OF OVERLAND PARK, KANSAS

By: _____

By: _____
Carl Gerlach, Mayor

ATTEST:

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Tammy M. Owens
Senior Assistant City Attorney

EXHIBIT B

Contractor Agrees to the Following:

- Return all keys issued (concession stands, field house, etc).
- Return all Corner Café uniforms.
- Provide contacts to soccer clubs that have arrangements to receive discount on food and beverage items.
- Provide procedural information/operations manual.
- Provide an evaluation of all Soccer Complex food service workers.
- Provide combination to safe.
- City shall review all correspondence sent out by Contractor (i.e. staff and vendors).
- Provide passwords to software and hardware.
- Provide contacts for all vendors, including but not limited to software, hardware, food, and beverage vendors.
- Assign administrative power role for all software/hardware to City employee.
- Provide training to Soccer Complex Staff.

City Shall:

- Notify all Contractor's vendors and service providers that Leap's engagement with the City has concluded and no further orders from Contractor are valid.
- Contact First National Bank of Kansas to restrict or freeze any activity from the Soccer Complex operating account.
- Perform a physical inventory observation count of ending inventory.
- Perform a fixed asset audit of soccer food service assets and small kitchen ware.
- Reconcile funds advanced to Contractor.
- Review final financial statements beginning in May 2009.
- Perform a proof of cash for the entire year on the financial operations of the soccer concession operations.
- City may arrange to have McGladrey & Pullen perform an agreed upon procedure engagement on Leap's financial statements for 2009.