

Ordinance No. 120946

Council Bill No. 114307

AN ORDINANCE relating to the Seattle Center; authorizing the Seattle Center Director to execute an Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center Between the City of Seattle and The Westin Seattle.

CF No. _____

| | | |
|---------------------------------------|--|--|
| Date Introduced: SEP - 9 2002 | STEINBRUECK | |
| Date 1st Referred: SEP - 9 2002 | To: (committee) Parks, Education & Libraries Committee | |
| Date Re - Referred: | To: (committee) | |
| Date Re - Referred: | To: (committee) | |
| Date of Final Passage: 10-7-02 | Full Council Vote: 9-0 | |
| Date Presented to Mayor: 10-8-02 | Date Approved: 10-16-02 | |
| Date Returned to City Clerk: 10-16-02 | Date Published: | T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/> |
| Date Vetoes by Mayor: | Date Veto Published: | |
| Date Passed Over Veto: | Veto Sustained: | |

The City of Seattle - Legislative Department
Council Bill/Ordinance sponsored by: Re

Committee Action:

Pass PS JD JN RC
10-07-02 hold 1 week
10-07-02 Motion to hold rec
2 passed 9-0
10-07-02 Passed 9-0

This file is complete and ready for presentation to Full Council. **Com**

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by:

RC

R

Councilmember

RC

Committee Action:

Pass PS JD JN RC

10-07-02 hold 1 week

10-02-02 Motion to hold reconsidered

2 passed 9-0

10-07-02 Passed 9-0

This file is complete and ready for presentation to Full Council.

Committee:

(Initial/Date)

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

Electronic
Copy Loaded

Indexed

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reement for the
at the Marion
the Seattle
Westin Seattle.

ECN

Education &
Committee

T.O. ☒

F.T. ☐

*Lab/Att
Exhib. #4
not loaded*

Dunn/Welborn
Westin/McCaw Food Service
8/28/02
Version #2

ORDINANCE 120946

AN ORDINANCE relating to the Seattle Center; authorizing the Seattle Center Director to execute an Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center Between the City of Seattle and The Westin Seattle.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. As requested by the Seattle Center Director and recommended by the Mayor, the Seattle Center Director is authorized to execute, for and on behalf of The City of Seattle, an agreement with the Westin Seattle substantially in the form of the agreement attached hereto or as may be modified by the Seattle Center Director in the best interests of the City and identified in Attachment 1 as "AGREEMENT FOR THE MANAGEMENT OF FOOD AND BEVERAGE SERVICES AT THE MARION OLIVER McCRAW HALL AND THE EXHIBITION HALL AT THE SEATTLE CENTER BETWEEN THE CITY OF SEATTLE AND THE WESTIN SEATTLE," which specifies the terms and conditions under which exclusive food and beverage concession and catering services will be provided to McCaw Hall and food and beverage concession services will be provided at the Exhibition Hall by The Westin Seattle.

Section 2. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

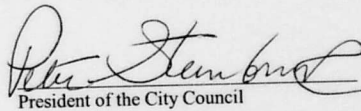
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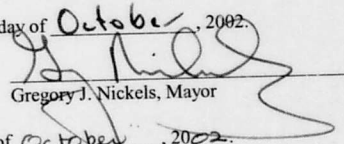
Dunn/Welborn
Westin/McCaw Food Service
8/28/02
Version #2

1 Section 3. This ordinance shall take effect and be in force thirty (30) days from and
2 after its approval by the Mayor, but if not approved and returned by the Mayor within ten
3 (10) days after presentation, it shall take effect as provided by Municipal Code Section
4 1.04.020.

5 Passed by the City Council the 7th day of October, 2002, and signed by
6 me in open session in authentication of its passage this 7th day of October,
7 2002.


President of the City Council

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10 Approved by me this 16 day of October, 2002.

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13 
14 Gregory J. Nickels, Mayor

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16 Filed by me this 16th day of October, 2002.

17
18 
19 City Clerk

20 (SEAL)

21
22 Attachment 1 - Agreement for the Management of Food and Beverage Service at the Marion
23 Oliver McCaw Hall and the Exhibition Hall at the Seattle Center Between the City of Seattle
24 and The Westin Seattle.

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Fiscal Note
**Agreement between the City of Seattle and The Westin Seattle
for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall and the Exhibition Hall
at the Seattle Center**

| | | |
|--------------------------------------|---|--|
| Department: Seattle Center | Contact Person/Phone: Ned Dunn 4-7212 Kerry Smith 5-0358 | DOF Analyst/Phone: Helen Welborn 3-7884 City Attorney/Phone: Kevin Raymond 3-2150 |
|--------------------------------------|---|--|

Legislation Title:

AN ORDINANCE relating to the Seattle Center, authorizing the Seattle Center Director to execute an Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center Between the City of Seattle and The Westin Seattle.

Summary of the Legislation:

This legislation authorizes the Seattle Center Director to execute a six-year agreement for the management of food and beverage concession and catering services at the Marion Oliver McCaw Hall and food and beverage concessions services at the Exhibition Hall at the Seattle Center between the City of Seattle and The Westin Seattle.

- The agreement outlines the terms and conditions under which the Westin Seattle will provide exclusive food and beverage concession and catering services to McCaw Hall, exclusive food and beverage concession services to the Exhibition Hall, and be an approved caterer for other Seattle Center facilities.
- The agreement term is from execution to July 31, 2008, with a renewal option for five (5) additional years with the mutual agreement of the parties.
- The financial terms provide 7.5% of gross sales to Seattle Center for the first \$1,000,000 in sales per year. The percentage paid to Seattle Center increases by 1% for each \$500,000 gross sales increment above \$1,000,000 to a maximum of 12.5% to the City. At the time of the City's Request for Proposal (RFP) annual gross sales for McCaw Hall, the Exhibition Hall and grounds catering were estimated at approximately \$1,780,000, with Seattle Center expected to receive about \$144,000. Since that time the event projections have been modified slightly increasing the sales projection to approximately \$1,890,000, with anticipated revenues of \$155,000 to Seattle Center. Attached to the Fiscal Note is a spreadsheet showing sales and revenue projections through 2012.
- The Westin will make an up-front capital investment of approximately \$235,000 to provide the computerized point-of sale system, smallwares (items like dishes, glassware,

linens, tableware, serving dishes) and related equipment necessary to operate at McCaw Hall. The Westin is responsible for maintenance and replacement of these items.

- As provided in the RFP, the City will provide up to \$750,000 at the outset of the agreement, included in the 2002 LTGO bonds, for the purchase of food and beverage service equipment, including items such as kitchen equipment, mobile carts, tables, and chairs. Depending upon timing constraints and what is the most cost effective for the City one or more of the following purchasing approaches will be pursued: (i) the Westin may purchase items and be reimbursed by Seattle Center; (ii) the Westin may receive a cash advance from Seattle Center to purchase items; and/or (iii) Seattle Center may purchase the items. Purchase of the equipment will begin in late 2002. If the Westin purchases the items they will use their procurement processes rather than the City's purchasing procedures.
- Debt service for the \$750,000 will be an operating expense for McCaw Hall. Annual debt service ranges from \$91,538 to \$94,725. The first debt service payment, due in July 2002, was paid with interest earnings from the \$750,000.
- Annually, 1.5% of gross sales, estimated at \$28,000 in 2004, will be dedicated to a capital equipment reserve fund to be controlled by Seattle Center and to be used to fund the repair, maintenance and replacement of the food and beverage service equipment purchased with City funds or to make related improvements.

Background (Include justification for the legislation and funding history, if applicable):

- Prior to the closure of the Opera House, food service was provided by Service America. The agreement with Service America provided them with exclusive concessions rights for all Seattle Center facilities except the KeyArena. Service America was also an authorized caterer for the grounds and catered events if requested by a Seattle Center client. Service America did not have exclusive catering rights in the Opera House. Service America owned the Opera House kitchen and food service equipment. The financial terms of the agreement included a \$40,000 annual management fee paid by Seattle Center to Service America. Seattle Center then received the first \$40,000 of net revenue (revenue less operating expenses) and any net revenue over \$40,000 was shared equally by Seattle Center and Service America. In 1999 Seattle Center's revenue share, including concessions and catering from all facilities, was \$73,668 and in 2000 it was \$82,684. There was no net revenue in 2001.
- In late 2000 Seattle Center issued an RFP for food and beverage concession and catering services for McCaw Hall and food and beverage concession services at the Exhibition Hall. That proposal asked the food service provider to provide all the food and beverage service equipment for McCaw Hall, to operate a canteen and a 250-seat café in McCaw Hall. That RFP had one non-responsive proposer.

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- Subsequent discussions with various food service providers indicated that the original food service plan was not financially viable for potential service providers.
- The City decided to fund a \$750,000 food service equipment budget through bond proceeds, with the revenue stream from concessions being used to pay the debt service on the bonds. The café concept was changed to a 160-seat limited menu café with some of the hot foods being prepared in the lower level kitchen, rather than in the café. The canteen was eliminated. These changes helped reduce the original food service equipment budget and made the proposal more attractive to potential providers.
- In the summer of 2001, a modified RFP was advertised and 4 proposers responded.
- In September 2001 the Westin Seattle was selected as the exclusive food and beverage concession and catering services provider for McCaw Hall and the exclusive food and beverage concession services provider to the Exhibition Hall and contract negotiations commenced. Negotiations have not yet been completed, but the financial terms and all significant elements of the agreement have been resolved. The draft agreement attached to the legislation reflects those agreements to date.

Public Private Partnership Review Status: The legislation is not subject to P4 review.
Is the legislation subject to public hearing requirements? The legislation is not subject to public hearing requirements.

Fiscal Sustainability Issues (related to grant awards): Not applicable.

Estimated Expenditure Impacts:

| FUND (List # and/or Account) | 2002 | 2003 | 2004 |
|--------------------------------------|----------|----------|----------|
| Seattle Center Operating Fund, 11410 | 0 | 0 | 0 |
| | | | |
| TOTAL | 0 | 0 | 0 |

One-time \$ 0

On-going \$ 0

Note: While the legislation does not have expenditure impacts, the 2002 LTGO bonds of \$750,000 (for food service equipment) anticipated the approval of a food service provider in McCaw Hall and revenues in McCaw Hall, of which this is one source, will be used to pay the debt service on those bonds in 2003 and 2004. Debt service in 2002 was \$17,018.74 and was paid from interest proceeds from the bonds. Debt service in 2003 is \$94,037.50 and in 2004, \$92,237.50, and will be paid from Seattle Center's annual revenue from the gross sales, described in the third bullet of the "Summary of the Legislation" section on page one of this document.

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Estimated Revenue Impacts:

| FUND (List # and/or Account) | 2002 | 2003 | 2004 |
|---|----------|-----------------|------------------|
| Seattle Center Operating Fund, 11410 | 0 | \$58,050 | \$154,630 |
| Seattle Center Operating Fund, 11410, Capital Equipment Reserve Fund | | \$11,610 | \$28,363 |
| TOTAL | 0 | \$69,660 | \$182,993 |

One-time \$ NA

On-going \$ Approx. \$140,000 -
\$185,000 per year through
2012

Note: McCaw Hall will be in operation for 5 months, starting in late July 2003. Revenues are used to offset the cost of operating McCaw Hall, including payment of debt service on the LTGO bonds that were sold for to fund the initial purchase of food service equipment.

Estimated FTE Impacts: Not applicable

| FUND (List # and/or Account) | 2002 | 2003 | 2004 |
|------------------------------|------|------|------|
| NA | | | |
| TOTAL | | | |

Full Time _____ # Part Time _____ # TES _____

Do positions sunset in the future? Not Applicable**Other Issues (including long-term implications of the legislation):**

While not a financial issue, Council staff has expressed interest in whether the Westin will hire previous Service America staff of the Opera House. Although the Opera House closed in 2001 and many of the Service America employees will likely have found alternative employment before the opening of McCaw Hall in 2003, the agreement includes a provision requiring the Westin, whenever possible, to hire its personnel from within the greater Seattle area and, for the opening of McCaw Hall, to give utmost consideration to hiring food service employees previously employed in the Opera House. Opera House employees were given the opportunity to apply for positions in the Mercer Arts Arena when the Westin agreed to provide the food and beverage concession and catering services in that venue. Both Service America and The Westin are union organizations.

The Westin has agreed to actively market and book the "front-of-house" spaces of McCaw Hall. As an additional incentive to bring new clients to the facility, the Westin will share equally with Seattle Center in any rental payments received from these clients, less Seattle Center's cost of producing the event. Exhibit E shows those rental rates and will be used by Seattle Center and The Westin for booking events in McCaw Hall.



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 26, 2002

Honorable Peter Steinbrueck
President
Seattle City Council
Municipal Building, 11th Floor

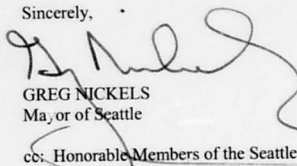
Dear Council President Steinbrueck:

The attached ordinance authorizes the Seattle Center Director to execute an agreement with The Westin Seattle for the management of food and beverage services at Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center. The Westin Seattle was selected through a competitive process to have exclusive rights to provide Seattle Center and its patrons with food and beverage concession and catering services at McCaw Hall and food and beverage concession services at the Exhibition Hall. The Westin Seattle will also be an approved caterer for other Seattle Center facilities.

Marion Oliver McCaw Hall, on schedule to open in June 2003, will be a world-class performance hall housing the Seattle Opera and Pacific Northwest Ballet, as well as a range of other events. McCaw Hall will create an inviting and welcoming physical environment that honors audiences and enables patrons to experience the fine arts in our community. Food and beverage service is a vital part of the entertainment experience, and the Westin Seattle has an outstanding reputation for providing unsurpassed customer experience. We believe the patrons of McCaw Hall and other Seattle Center facilities will be very pleased with the addition of The Westin Seattle to the food and beverage service program at Seattle Center.

Thank you for your consideration of this legislation. Should you have questions please contact Shelly Yapp at 615-1729 or Ned Dunn at 684-7212.

Sincerely,


GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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FILED
CITY OF SEATTLE
03 JAN -7 AM 11:01
CITY CLERK

To: Seattle City Clerk's Office

From: *Kerry Smith*

Subject: Original Signed Copy of the Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center between the City of Seattle and the Westin Seattle

Date: January 6, 2003

Attached please find an original signed copy of the Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center between the City of Seattle and the Westin Seattle. The lease was approved by Ordinance Number 120946.

If you have any questions about the lease, or need additional information, please feel free to contact me at 615-0358.

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**AGREEMENT FOR THE MANAGEMENT OF
FOOD AND BEVERAGE SERVICES
AT THE MARION OLIVER McCRAW HALL
AND THE EXHIBITION HALL AT THE SEATTLE CENTER
BETWEEN
THE CITY OF SEATTLE
AND
THE WESTIN SEATTLE**

FILED
CITY OF SEATTLE
03 JAN -1 PM 1:01
CITY CLERK

This Agreement is made this 30 day of December, 2002, by and between THE WESTIN SEATTLE, which is owned by SLC OPERATING LIMITED PARTNERSHIP, a Delaware limited partnership having its principal place of business at 1900 Fifth Avenue, Seattle, Washington 98101 ("Westin"), and The City of Seattle, a municipal corporation of the State of Washington ("City"), operating through its Seattle Center Department ("Seattle Center") and Seattle Center Director.

RECITALS

WHEREAS, Marion Oliver McCaw Hall ("McCaw Hall") will be a world-class performance hall housing the Seattle Opera and Pacific Northwest Ballet, as well as a range of other events, and

WHEREAS, Seattle Opera, one of the nation's leading opera companies, is recognized nationally and internationally for its theatrically compelling and musically accomplished performances, and

WHEREAS, the Pacific Northwest Ballet is one of the five largest and most highly regarded ballet companies in the United States and one of the top three ballet training institutions in the country, and

WHEREAS, Seattle Center through McCaw Hall will create an inviting and welcoming physical environment that honors audiences, as well as producers and performers, and enables patrons to share and experience the fine arts in our community together, and

WHEREAS, food and beverage service in McCaw Hall is vitally important in creating a world-class experience, and

WHEREAS, the Westin Seattle has an outstanding reputation for quality food and beverage service reflecting the talents of professionals dedicated to providing unsurpassed customer experiences, and

WHEREAS, the Westin Seattle and Seattle Center wish to enter into the Agreement as hereinafter set forth to help create a world-class venue and patron and performer experience at McCaw Hall; and

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NOW, THEREFORE, the parties hereby enter into this Agreement in order to clearly delineate the areas of responsibility and terms and conditions for food and beverage concession and catering services in McCaw Hall, food and beverage concession services in the Exhibition Hall and food and beverage catering services in other Seattle Center facilities.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONSIDERATION CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I
SCOPE OF AGREEMENT

1.1 Scope of Agreement.

Except as otherwise specifically provided for or limited herein, the Westin will provide the Seattle Center and its patrons with exclusive food and beverage concession and catering services at McCaw Hall (as the Opera House will be known when renovated) and exclusive food and beverage concession services at the Exhibition Hall, subject to the use rights of Pacific Northwest Ballet in the Exhibition Hall, throughout the term of this Agreement. The Westin will also be an approved caterer for all other Seattle Center rental facilities with the exception of the KeyArena. At the Seattle Center's option and to the extent requested, the Westin will also provide vending equipment machines at selected Seattle Center locations and coat check services for McCaw Hall. In exchange for these and other valuable rights and consideration, the Westin will compensate the City through the payment to the Seattle Center of a graduated percentage of all Gross Sales derived by the Westin under this Agreement through the sale of food and beverage concessions ("Concession"), catering ("Catering") and the possible performance of other services hereunder.

ARTICLE II
DEFINITIONS

2.1 Definitions of Terms.

The capitalized Terms used in this Agreement shall have the following meanings:

A. Agreement means this Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center together with the exhibits attached hereto. The Agreement may be amended from time to time in accordance with the terms hereof.

B. Agreement for the Management of Food and Beverage Services at the Seattle Center Mercer Arts Arena between the City of Seattle and the Westin Seattle means the agreement between the Westin Seattle and the City of Seattle, dated _____, regarding the management of food and beverage services at the Mercer Arts Arena.

C. Approval means the prior written consent of a party hereto or a designated representative thereof.

D. Catering Sales means the provision of food and/or beverage Catering services at a function where responsibility for payment for such services rests with one individual or entity. Catering Sales includes "no-host" bars provided in conjunction with catered events. It also means the backstage catering buyout rate charged for acts and performers who may choose to provide their own backstage catering services.

E. Capital Equipment Reserve Fund means the account established pursuant to Section 10.5 hereof to fund the repair, maintenance and replacement of Food and Beverage Service Equipment and the furniture and other improvements directly associated with the Food and Beverage Service program in the Facilities or at Seattle Center. In no event shall the Capital Equipment Reserve Fund be used to fund the repair, maintenance or replacement of the computerized point-of-sale system or smallwares and related equipment to be provided by the Westin in accordance with Exhibit A, attached hereto.

F. Concession Sales means food and/or beverage sales at fixed and mobile concession units to individual customers. Concession Sales does not include "no-host" bars provided in conjunction with catering sales.

G. Event Service Order means that form used and prepared by Seattle Center to outline a licensee's or tenant's event requirements.

H. Exhibition Hall means the flat floor exhibition facility adjacent to McCaw Hall at the Seattle Center used primarily for consumer shows, trade shows, banquets, and large meetings. The Pacific Northwest Ballet holds an option on the use of the Exhibition Hall as a future addition to the Phelps Center.

I. Facilities means the McCaw Hall and the Exhibition Hall.

J. Fiscal Year means that twelve-month period commencing on January 1 and ending on December 31.

K. Food and Beverage Products means all food and beverages, and shall include alcoholic beverages, candy and confections.

L. Food and Beverage Service means all food and beverage service provided hereunder, including Concession and Catering services, at or through fixed and portable concession stands, roving vendors, snack bars, liquor bars, or any other areas on or within the Facilities where food products are sold or served.

M. Food and Beverage Service Equipment means the food service equipment, mobile carts, catering furniture and related equipment to support the Food Service program. Such food service equipment and furniture are identified in greater detail in Exhibits B and C, attached hereto. Food and Beverage Service Equipment does not include the computerized point-of-sale system and smallwares and related equipment to be provided by the Westin in accordance with Exhibit A.

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N. Gross Sales means the total income of all kinds which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive in connection with any services provided under this Agreement, including but not limited to, Concession Sales, Catering Sales, rental payments from licensing agreements and any sales that may be associated with any City-requested Vending Machine Equipment provided by the Westin, less sales taxes. Gross Sales includes, but is not limited to, all such sales, whether by cash or credit and whether collected or not and regardless of shortages or shrinkage, Subcontracting Income, gratuities not actually paid to employees, service and rental charges, on-site and off-site sales, and sales via electronic communications. The term Gross Sales does not mean or include (i) the amount of all sales taxes or any excise or other tax collected by the Westin from customers and paid by the Westin to any governmental authority; (ii) the amount of gratuities or service charges added to client bills or statements which are paid over to the Westin's employees; (iii) the amount of any charitable contribution collected by the Westin on behalf of any customer; (iv) the amount of any actual refunds or credits made by Westin to the purchaser due to "over-rings," the sale of which was theretofore included in Gross Sales; or (v) promotional and other complimentary meals. Gross Sales shall not be reduced by any credit card fees charged to the Westin in connection with services provided hereunder.

O. McCaw Hall means the Opera House at the Seattle Center, to be known as the Marion Oliver McCaw Hall when the Opera House is renovated. McCaw Hall's primary tenants are expected to be the Seattle Opera and Pacific Northwest Ballet.

P. Monthly Accounting Period means each calendar month.

Q. Phelps Center means those facilities presently occupied by the Pacific Northwest Ballet in the Exhibition Hall.

R. Premises means those portions of the Facilities identified more particularly in Exhibit D to which the Westin shall have either the exclusive use and occupancy or a general right of access in connection with its Concession, Catering and any other services provided hereunder. Exhibit D delineates those portions of the Premises to which the Westin shall have a right of exclusive use and occupancy, subject to the terms and conditions of this Agreement, and those portions of the Premises to which the Westin shall have a general right of access, subject to the terms and conditions of this Agreement.

S. Seattle Center Client means any individual, organization, corporation or other legal entity with which the Seattle Center has an executed licensing agreement that specifies the use of one or more Seattle Center facilities and date(s) for such use by such Seattle Center Client.

T. Seattle Center Director means the Director of the City's Seattle Center Department or his or her designee.

U. Subcontracting Income means income paid to the Westin as a result of services provided by subcontractors.

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V. TIPS, TEAM means programs related to alcoholic beverage management control systems and procedures implemented when serving guests in public.

W. Vending Machine Equipment means all automatic vending machine equipment that serves canned, cartoned and/or prepackaged foods or beverages in an automated manner.

ARTICLE III TERM

3.1 Term.

This Agreement shall be effective upon its execution by the parties and shall continue in effect until July 31, 2008; provided, however, that upon the written request of either the Westin or the City, and with the approval of both parties, the Agreement may be renewed for an additional term of five (5) years; provided further, however, that such extension request shall have been agreed to by the parties no later than July 31, 2007.

ARTICLE IV GRANT OF CONCESSION AND CATERING RIGHTS; LIMITATIONS; WESTIN OBLIGATIONS.

4.1 Food and Beverage Concession and Catering Rights.

Except as otherwise specifically provided for herein, the City hereby grants to the Westin, for the term of the Agreement and upon the terms and conditions set forth herein, the right to provide the Seattle Center with (a) exclusive Concession and Catering services at McCaw Hall and (b) exclusive Concession services at the Exhibition Hall. This grant of rights does not include catering services for Seattle Center or Seattle Center Foundation sponsored and co-sponsored events, although the Westin may perform such services on a non-exclusive basis when requested by the Seattle Center. Except as otherwise specifically provided for herein, the City further grants to the Westin, for the term of the Agreement and upon the terms and conditions set forth herein, non-exclusive Catering rights at (a) the Exhibition Hall and (b) all other Seattle Center rental facilities, excluding the KeyArena.

4.2 Use and Occupancy of Premises; Access to Other Facilities Areas.

Subject to the terms and conditions of this Agreement, the City hereby grants to the Westin, for the term of the Agreement and upon the terms and conditions set forth herein, a right of exclusive use and occupancy of those portions of the Premises identified for such exclusive use and occupancy by Exhibit D in connection with Concession, Catering and any other services provided hereunder. The City further grants the Westin a reasonable right of access to those portions of the Premises identified for such reasonable access by Exhibit D in connection with the Concession, Catering and other services provided hereunder.

4.3 Limitations on Food and Beverage Concession and Catering Rights.

A. Notwithstanding Section 4.1, some McCaw Hall acts and performers may choose to provide their own backstage catering services. To address such circumstances, which shall constitute a limitation on the Westin's exclusive Catering rights at McCaw Hall, the Westin shall charge a \$250.00 backstage catering buyout rate for such acts and performers per event. A backstage catering buyout rate shall not be charged for food and beverage services provided to staff and crews of Seattle Center, Pacific Northwest Ballet and Seattle Opera working in McCaw Hall, provided such food and beverage services are of an informal "potluck" or "pizza party" nature. The provision of more formal food and beverage services to such staff and crews shall be subject to the Approval of the Westin, which Approval shall not be unreasonably withheld.

B. Notwithstanding Section 4.1, all rights of any kind granted hereunder to the Westin in connection with the Exhibition Hall are subject to an option held by the Pacific Northwest Ballet for use and occupancy of the Exhibition Hall as a possible future addition to the Phelps Center. If such option, requiring notice to the City of at least one year, is exercised, the Westin would not thereafter provide Concession or Catering services of any kind at the Exhibition Hall unless requested to do so by the Seattle Center.

C. Notwithstanding Section 4.1, the Seattle Center may at its option permit the Seattle Opera and/or the Pacific Northwest Ballet to conduct a total of up to three (3) events each during each year of this Agreement at McCaw Hall to be catered by a caterer other than the Westin; provided, however, that any such caterer(s) shall be entitled to use of the pantries in the donor rooms but shall not be entitled to use of the kitchen or café portions of the Premises without the approval of the Westin; and, provided further, that the catering payment for food and beverage sales by the Seattle Opera or the Pacific Northwest Ballet or their affiliates for any such event shall be no greater than two thousand dollars (\$2,000.00), exclusive of taxes and gratuities, or such number as shall be mutually agreed to by the Westin and the Seattle Opera or the Pacific Northwest Ballet. In the event a caterer other than the Westin for an event that will include alcohol may not lawfully serve alcohol at such event, such alcohol sales shall be performed by the Westin with revenue from same included as Gross Sales.

4.4 Non-Exclusive Food and Beverage Concession Right

The City hereby grants to the Westin for the term of the Agreement and upon the terms and conditions set forth herein, a non-exclusive right and privilege to provide Concession services elsewhere at the Seattle Center when requested to do so by the Seattle Center Director and subject to the agreement of the Westin.

4.5 Pre-Approved Seattle Center Caterer

The Westin is included on the official Seattle Center list of pre-approved caterers for all other Seattle Center facilities and grounds with the exception of the KeyArena. Seattle Center facilities include the Center House Conference Rooms, the Northwest Rooms, the Seattle Center Pavilion, Fisher Pavilion, and the Exhibition Hall. This Agreement, including in particular this Section 4.5, addresses the terms and conditions under which such additional catering services may be provided by the Westin, and therefore supercedes the "Agreement for the Management of Food and Beverage Services at the Seattle Center Mercer Arts Arena between the City of Seattle

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and the Westin Seattle" dated _____ 2002 between the City and the Westin as SLC Operating Limited Partnership.

A. The City hereby grants the Westin the right to provide Catering services to any individual, organization, corporation or other legal entity ("Seattle Center Clients") with which the Seattle Center has an executed licensing agreement that specifies the use of one or more Seattle Center facilities and date(s) for such use by such Seattle Center Client.

B. It shall be the responsibility of the Westin, subject to reasonable business practices, to enter into a business agreement to provide Catering services to Seattle Center Clients requesting such services.

C. All income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of providing Catering services to any Seattle Center Client or as a Seattle Center Client shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

D. In the event the Westin is selected by and contracts with a Seattle Center Client to provide Catering services the Westin shall inform the Seattle Center of any contracted Catering services hereunder not less than seventy-two (72) hours prior to the provision of the services. The Westin shall request from the Seattle Center the Event Service Order number that identifies the event and the name of the catered event.

E. In the event the Westin wants to act as a Seattle Center Client the Westin shall make their best effort to inform Seattle Center seventeen (17) days in advance of an event and shall execute a licensing agreement with Seattle Center specifying the use of one or more Seattle Center facilities and date(s) for such use.

F. As part of the monthly reports required by Section 6.1 of this Agreement, the Westin shall provide at least the following information with respect to the provision of Catering services for each Seattle Center Client and for those events for which the Westin is the Seattle Center Client hereunder: (i) the Event Service Order number; (ii) the nature and date(s) of the Catering services provided; and (iii) Gross Sales the Westin has or is legally entitled to receive for such services. In addition, a copy of the invoice(s) provided to the Seattle Center Client or to the catering client for such event shall be provided at the Seattle Center's request.

G. The Westin shall supply all linens and tableware and all other equipment that is required for the Catering services to be provided to any Seattle Center Client. The Seattle Center shall supply tables and chairs in such numbers as are requested by the Seattle Center Client and as are available from the Seattle Center as determined by the Seattle Center Director.

H. Except as specifically addressed in this Section 4.5, the provisions of this Agreement, including but not limited to those related to insurance, indemnification, employees, quality control, alcoholic beverages, audits, year end reports, maintenance of records, cleaning and trash removal, shall apply to all Catering services provided by the Westin to Seattle Center Clients or acting as a Seattle Center Client hereunder.

I. For Catering services provided in facilities other than McCaw Hall, the Westin shall remove from the facility(ies) all trash and food waste created as a result of providing Catering services. The Westin shall clean up any spills resulting from Catering services. In the event any facility used for Catering services is not left clean with trash and food waste removed, the Westin shall be charged a cleaning cost at the hourly rate of a Seattle Center Laborer as published in the Seattle Center Personnel Rates Addendum or its successor publication. The Westin may leave recycling products that are locally acceptable for recycling and have been sorted into separate receptacles reasonably approved by the Director.

4.6 Use of Kitchen Portion of Premises and Related Equipment for Off-Site Catering and Other Services.

Unless Approved by the Seattle Center Director, the Westin may not utilize any portion of the Premises or their related Food and Beverage Service Equipment to provide off-site catering or other services of any kind. In the event such Approval is granted, any income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of providing off-site catering or other services utilizing the kitchen portion of the Premises shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

4.7 Opportunity to Rent Kitchen Portion of Premises and Related Equipment to Others.

The Westin may rent the kitchen portion of the Premises and its associated Food and Beverage Service Equipment therein to other caterers for food preparation in conjunction with events conducted at Seattle Center facilities. Rental of the kitchen to others shall be by written agreement which requires the user to secure insurance in types and amounts sufficient to protect against damage to the facility and equipment therein, and to return any portions of the Premises utilized to the Westin in a clean and orderly condition, at the user's expense. All income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of renting the kitchen portion of the Premises or its related Food and Beverage Service Equipment to others shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

4.8 Duty to Provide Service; Surety Performance Bond.

The Westin shall operate and conduct its business in a first-class and reputable manner consistent with industry standards and subject to the terms and conditions otherwise set forth in this Agreement. The Westin shall provide the Seattle Center and each of its licensees and tenants with the type, level, quality and quantity of Food Services reasonably requested at the time and locations stated on an Event Service Order; provided, however, that irrespective of the request of a licensee or tenant the Westin shall not provide its services in a manner that violates the terms of this Agreement or in locations which the licensee or tenant has no right to occupy. At or prior to the execution of this Agreement, the Westin shall furnish to the City a performance bond or, with the Approval of the Seattle Center Director, an irrevocable letter of credit for the duration of the Agreement in the sum of \$100,000. Such bond or letter of credit shall be in a format and from an

entity acceptable to the Seattle Center; provided, however, that the City shall not seek recourse with respect to such bond or letter of credit unless the Westin has materially defaulted under one or more of its obligations under this Agreement and has failed to timely cure such material default in accordance with the provisions of Article 19 hereof.

4.9 Obligation to Actively Market for Catering Events and Share in Rental Payments

In addition to the Concession and Catering opportunities that exist as a result of event bookings at the Facilities, there are additional booking opportunities to be found in the Facilities. Based on available dates and spaces in or around the Facilities as determined by the Seattle Center, and consistent with Seattle Center's booking policies, the Westin will actively and continuously market these Catering opportunities throughout each year of the term of this Agreement. In particular, the Westin shall task its sales team to promote, market and sell available dates at the Facilities. This team consists of Group Sales Managers, Westin One Call Managers, and Catering Sales Managers, each handling different market segments. The Starwood Global Sales Organization will be tasked to generate business leads for Seattle Center, which will provide additional source of business for the Facilities. The Westin will market the Facilities through published print advertising, memberships in local event planning associations, and relationships with local event planning companies. The Westin will cross-market to its existing customers and include tag line messages regarding the Facilities on outgoing e-mails and printed sales proposals. The Westin will host "familiarization" tours and events with potential customers and industry event planning professionals. The Westin will work with the Seattle Center and a public relations firm to embark on a pre-opening campaign to build suspense, generate pre-bookings, and create an aura of desirability around the Facilities.

The Seattle Center recognizes that the Westin may market Seattle Center facilities, including the Facilities, in "package" agreements that include Westin facilities not otherwise subject to this Agreement. Such agreements benefit both parties by generating income that likely would not otherwise be realized. The parties intend, however, that any such agreements entered into by the Westin fairly and reasonably apportion income generated thereunder between Seattle Center facilities and Westin facilities. Therefore, in no event shall such agreements result in a reduction of Gross Sales fairly and reasonably attributable to the use of Seattle Center Facilities. Any such agreements shall be identified as such on an event-by-event basis on the monthly accounting report, and such agreement shall be subject to inspection and review by the Seattle Center at the Westin's offices in Seattle.

The Westin shall receive a portion of all rental fees paid by a client, other than the Pacific Northwest Ballet and the Seattle Opera, for events in the front of house spaces in McCaw Hall. The Westin shall receive a portion of the front of house rental rates as shown in Exhibit E. Cancellation fees for events in the front of house spaces shall be shared equally by the Westin and Seattle Center. For purposes of determining when the rental sharing should occur, rental payments shall be recorded as Gross Sales on the day of the event. Rental payments for events held on multiple days shall be recorded on the individual event days. Seattle Center, in consultation with the Westin, shall establish and change as necessary the rental rates shown in Exhibit E, along with the Seattle Center deductions, which shall be tied to Seattle Center event costs and not unreasonably inflated.

4.10 Additional Services Requested By City.

The Seattle Center, at its option, may request that the Westin provide additional services under this Agreement, including but not limited to the furnishing, installation and maintenance of Vending Machine Equipment at locations Approved by the Seattle Center and coat check services at McCaw Hall.

A. In the event and to the extent the Westin is asked to furnish, install and maintain Vending Machine Equipment, all income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of the operation of such Vending Machine Equipment shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

B. In the event the Westin is asked to provide coat-check services at McCaw Hall, the Westin shall provide such services in accordance with the terms and conditions of a Memorandum of Understanding between the parties or an amendment to this Agreement.

C. The Seattle Center may request that the Westin provide additional services not specifically contemplated hereunder. If agreement regarding such additional services can be reached, they shall be embodied in a Memorandum of Understanding between the parties or an amendment to this Agreement.

4.11 Waiver of Exclusive Catering Right.

Exclusive of backstage catering buyouts, the Westin shall make every effort to satisfy the specific needs of Seattle Center licensees and tenants with regard to customer service, menu choices and price. In the event the Westin is unable to provide or subcontract for the provision of specific Catering services requested by a licensee or tenant, the Westin shall waive its exclusive Catering rights with respect to such services and will work cooperatively with another food service provider to provide the requested Food and Beverage Services. The fee to be charged and the amount paid to Seattle Center, which shall in no event be less than 15% of Gross Sales associated with such services, shall be negotiated between the food service provider, the Westin and the licensee or tenant, shall be recommended in writing to, and shall be subject to the Approval of, the Seattle Center Director.

ARTICLE V
PERCENTAGE OF GROSS SALES TO CITY IN EXCHANGE FOR GRANT OF FOOD AND BEVERAGE CONCESSION AND CATERING RIGHTS

5.1 Percentage of Gross Sales to City.

In exchange for the grant of rights set forth in Article IV, the Westin agrees to pay to the City a percentage of its annual Gross Sales on a Monthly Accounting Period basis during each year of the term of this Agreement, in the manner set forth below and in accordance with the following graduated percentage payment schedule:

| <u>Gross Sales</u> | <u>Percentage</u> |
|----------------------------|-------------------|
| Zero to \$1,000,000 | 7.5% to City |
| \$1,000,001 to \$1,500,000 | 8.5% to City |
| \$1,500,001 to \$2,000,000 | 9.5% to City |
| \$2,000,001 to \$2,500,000 | 10.5% to City |
| \$2,500,001 to \$3,000,000 | 11.5% to City |
| \$3,000,001 and higher | 12.5% to City |

Such percentage payments are to be made to the City on a cumulative annual basis. The City will receive from the Westin an amount equal to 7.5% of the first \$1,000,000 in Gross Sales received by the Westin during any calendar year of the Agreement, an amount equal to 8.5% of all Gross Sales received by the Westin between \$1,000,001 and \$1,500,000 during such year, and so forth. (By way of example, in a calendar year in which Gross Sales totaled \$2,175,000, the City's share of the Gross Sales would be \$183,375.)

For any calendar year of the Agreement that is not a full calendar year, the percentage payments of Gross Sales to the City shall be based on a prorated Gross Sales calculation. For example, an Agreement year commencing on January 1 and ending July 31 would be based on seven twelfths (7/12 or 59%) of the Gross Sales that the Westin receives or is entitled to receive. (By way of example, for a year in which Gross Sales totaled \$1,300,000 but in which the Agreement was terminated on July 31, the City's share of the \$1,300,000 Gross Sales would be determined based on the following graduated payment schedule:

| <u>Gross Sales</u> | <u>Percentage</u> |
|----------------------------|-------------------|
| Zero to \$590,000 | 7.5% to City |
| \$590,001 to \$885,000 | 8.5% to City |
| \$885,001 to \$1,180,000 | 9.5% to City |
| \$1,180,001 to \$1,475,000 | 10.5% to City |
| \$1,475,001 to \$1,770,000 | 11.5% to City |
| \$1,770,001 and higher | 12.5% to City |

The City's share of the \$1,300,000 of Gross Sales in this example would be \$109,950.)

For the period January 9, 2002 through June 15, 2003, Catering and Concession Sales at the Mercer Arts Arena shall not be included in the calculation of Gross Sales. Any payments to the City for the Mercer Arts Arena catering and concession sales for this time period shall be governed by the terms of the "Agreement for the Management of Food and Beverage Services at the Seattle Center Mercer Arts Arena between the City of Seattle and the Westin Seattle." In the event the Mercer Arts Arena is used as a public assembly facility after June 16, 2003 the Westin and Seattle Center may enter into negotiations regarding the provision of catering and concession services at the Mercer Arts Arena for such additional period.

5.2 Timing and Form of Payments.

The City's appropriate percentage share of Gross Sales, determined on the basis of total Gross Sales received to date during any calendar year or partial calendar year of the term of the Agreement, shall be paid to the City within ten (10) calendar days following the conclusion of each Monthly Calendar Period throughout the term of the Agreement. Such payments to the City hereunder shall be in lawful money of the United States of America or in a money order or check payable in such form. All such payments shall be sent to Accounts Receivable, c/o Seattle Center Fiscal Services, 305 Harrison Street, Seattle, Washington, 98109, or to such other address as the Seattle Center Director shall specify by notice to the Westin. Late payments shall accrue interest at a rate of 12% per annum.

The Westin will identify separately and offset from each payment the amount owed the Westin by Seattle Center for that Monthly Calendar Period for their share of the rent sharing identified in Section 4.9. In the event that the amount owed the Westin by Seattle Center exceeds the percentage share of Gross Sales owed for that Monthly Calendar Period, then the Westin will carryover the balanced owed to them by the Seattle Center and offset the amount owed from the following Monthly Calendar Period(s).

5.3 Payment in Event of Early Termination.

In the event either party terminates this Agreement at any time prior to the expiration of its term for any reason, the Westin shall pay to the City the appropriate percentage of Gross Sales received by the Westin for all events occurring and services provided prior to the effective date of such termination.

ARTICLE VI
REPORTING, AUDITS, RECORD KEEPING AND CONFIDENTIALITY

6.1 Monthly Reports.

Within ten (10) days following the end of each Monthly Accounting Period, the Westin shall submit to the City an accounting report on an event-by-event basis during such period. Each accounting shall include for each event at least the following information: the Event Service Order number, event name, date of event, location of event, nature of services provided, estimated attendance, per capita revenues, and the amount of Gross Sales received or remaining

owing. All such information shall be documented on a basis satisfactory to the Seattle Center, which may include requests for additional kinds of related information from time to time, formatted to correspond with the "event type" categories currently used by the Seattle Center, and provided in disk as well as paper form, utilizing a computer application Approved by the Seattle Center Director.

6.2 Year End Report; Final Accounting and Payment of Percentage of Gross Sales to City.

Within thirty (30) days following the end of each year or partial year of the term of this Agreement, the Westin shall submit to the City a year end report that includes an accounting of all Gross Sales realized or remaining owing for services provided by the Westin during such year. Such report shall include an evaluation of its cash handling procedures and an accounting of any shortages or overages experienced during such year. Such report and accounting shall be in a form acceptable to the Seattle Center and accompanied by such documentation as the Seattle Center may require. The Westin shall provide the City disk as well as paper copies of the accounting, utilizing a computer application Approved by the Seattle Center Director.

6.3 Maintenance of Records and Annual Financial Audits.

The Westin shall establish and maintain at its on-site office an accounting system for its operations at the Premises in accordance with generally accepted accounting practices consistently applied, and the Westin shall maintain in King County books and records for its operations hereunder for a period of at least six (6) years following the end of the term of the Agreement including any extension thereof. Within one hundred eighty (180) days after the end of each year or partial year of the term of this Agreement, the Westin shall submit to the Seattle Center an annual financial audit of the Westin's activities hereunder prepared by a firm Approved by the Seattle Center and paid for by the Westin. In addition, the City, at its own expense, may cause its designated accountants to audit all records retained by the Westin pertaining to activities hereunder upon reasonable notice during the term of this Agreement including any extension thereof and for a period of at least six (6) years thereafter.

6.4 Accounting Systems.

The Westin shall use such inventory control systems, sales slips, and/or equipment as is customary in the industry and in the Westin's other recreational services accounts to record Gross Sales. All systems, equipment and sales slips shall be subject to inspection by the City, its officers, employees and representatives, during such hours that the Premises are operating or during regular business hours. Any such inspection shall be made so as not to interfere with the Westin's business activities hereunder.

6.5 Confidentiality.

The parties agree that they will not permit the duplication or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) unless such duplication, use or disclosure is

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specifically authorized in writing by the other party or is required by law, including the Public Disclosure Act, Chapter 42.17 RCW. "Confidential and Proprietary" information does not include ideas, concepts, know-how or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Agreement. Likewise, "Confidential and Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

ARTICLE VII OPERATING STANDARDS

7.1 Product and Service Standards.

The Westin shall conduct all of its operations in a first-class, professional, businesslike, and efficient manner consistent with industry standards for a premier performance hall and exhibition hall. All Concession and Catering services in McCaw Hall shall be with china, glassware, non-plastic flatware and linen. Use of any alternative serviceware shall be subject to the Approval of the Seattle Center Director. 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 all applicable, 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 and in compliance with all applicable health and safety standards. Leftover perishable product shall not be sold to the public at any time. Leftover perishable product may be sold to employees in the employee dining facility or donated to food banks, shelters, or other charitable uses. Minimum food purchase specifications shall be as outlined in Exhibit F, attached hereto. The Westin and its employees shall not make or permit any misrepresentation as to kind, quality, weight, or price of food or beverages offered for sale. The location of points of sale, methods of sale, and prices charged for commodities sold or business transacted by the Westin under the provisions of this Agreement shall at all times be subject to the supervision, direction and Approval of the Seattle Center Director, which approval shall not be unreasonably withheld. A copy of the then current food and beverage concession price schedule shall be displayed at each Concession facility on the Premises in such a manner so as to be easily viewed by the public whenever the concession facility is open for business. The Westin shall strictly adhere to the established prices as set forth in the then current price schedule. In the event the City becomes aware that the Westin is not adhering to the current established price schedule, it shall notify the Westin of such departure in writing, and the Westin shall immediately cure such default. The Westin's failure to do so within 24 hours of receipt of written notice from the City shall be grounds for immediate termination of this Agreement.

7.2 Tobacco Products.

The Westin will not advertise or sell or permit others within their control to advertise or sell, tobacco products on or around the Facilities or any other Seattle Center facility.

7.3 Alcoholic Beverages.

Alcoholic beverages are to be offered for sale by the Westin to the extent permitted by applicable state and local laws, and subject to regulations established by the Seattle Center. Final decisions as to whether alcoholic beverages may be sold at an event or in any Seattle Center facility shall be the sole responsibility of the Seattle Center. Seattle Center's decision to disallow the selling of alcoholic beverages will be based upon concerns for public safety or other public policy concerns and the basis for such decision will be communicated to the Westin. When alcoholic beverages may be sold at an event or in any Seattle Center facility, the decision to serve or refuse service of an alcoholic beverage to any individual shall be the sole responsibility of the Westin. All licenses and permits required for the sale of alcoholic beverages at Seattle Center facilities shall be held in the name of the Westin. The Westin shall keep such permits for McCaw Hall and the Exhibition Hall in full force and effect and shall obtain proper permits to serve liquor at other Seattle Center facilities prior to serving any alcoholic beverages in such facilities. The Westin shall prepare, file and process all applications for renewals of the permits. At the termination of this Agreement, the Westin shall surrender and transfer all alcoholic beverage licenses for the Seattle Center facilities, if allowed by law, to the Seattle Center or, at the option of the City, to the succeeding concessionaire, upon the transfer of such licenses the Westin shall be reimbursed by Seattle Center or the succeeding concessionaire, an amount equal to the remaining prorated fee cost for such alcoholic beverage license.

7.4 Menus, Prices and Signage.

For each year during the term of the Agreement, the Westin shall submit proposed Concession menus and prices, and proposed prices for any other services provided under this Agreement, to the Seattle Center Director for Approval, which Approval shall not be unreasonably withheld, no later than May 1 for implementation on the following July 1 and prior to the opening of the performing arts season. In the event that menu and price changes are recommended during other periods, the Westin shall submit such changes to the Seattle Center Director within thirty (30) days of the proposed change. In the event no written response is provided by the City within the thirty (30) day review period, the Westin's proposed changes shall be deemed acceptable. The Westin shall provide a wide range of Catering menus and prices to meet the variety of needs and price points of Seattle Center clients. Client event orders and cost estimates shall clearly indicate all client costs including service charges, gratuities, labor costs and sales tax. Subject to the Approval of the Seattle Center Director, all Westin signage, marketing, menus and employee uniforms and identification shall tastefully reflect the relationship hereunder between the Seattle Center and the Westin.

7.5 Deliveries.

Deliveries shall be made to and on the Premises prior to 11:00 a.m., or such alternative delivery time as mutually agreed, and in a manner that minimizes congestion and disruption to users of Seattle Center, unless otherwise authorized by the Seattle Center Director.

7.6 Uniforms.

The Westin shall provide, maintain and launder, as necessary, uniforms of a color and design appropriate to each facility and Approved by the Seattle Center Director.

7.7 Drinking Awareness Program.

The Westin shall implement and maintain a continuing alcohol awareness educational program, such as TIPS and/or TEAM, for all employees serving alcohol to the public. This training shall include age identification, diplomatic ways to refuse service, and legal responsibilities. All Westin employees serving alcohol to the public at the Facilities or any other Seattle Center venue or location shall participate in such training, and the Westin upon the request of the Seattle Center shall provide the City with documentation of the content of and attendance at any such training program. Frequency of such training shall be at the discretion of the Westin or upon the request of Seattle Center. The Westin shall submit to the Seattle Center Director for Approval, proposed graphics on alcohol awareness, to be displayed in all facilities.

7.8 Cash Handling.

Prior to signing this Agreement, the Westin shall provide the City with a written copy of its cash handling procedures for the Premises, and shall promptly notify the City of any changes to the cash handling procedures. Any theft or loss of cash, including but not limited to theft and loss of cash attributable to the failure of the Westin or its employees to comply with the Westin's cash handling procedures or otherwise attributable to an act or omission of the Westin or its employees, shall be borne solely by the Westin and shall not be deducted from Gross Sales under this Agreement.

ARTICLE VIII
USE OF PREMISES

8.1 Access to City Premises.

The Westin and its agents, employees, suppliers and other such persons necessary for the Westin to render services contemplated herein, shall have access to additional areas of the Seattle Center facilities as may be necessary or appropriate to provide the services contemplated herein, subject to customary and reasonable security precautions. When providing services hereunder, the Westin's agents, employees, suppliers and other persons necessary to its operations shall be entitled to free admission to such areas, including restrooms and changing rooms, through a reasonably convenient entrance designated by the City.

8.2 Parking.

The City shall provide the Westin with two (2) parking permits for such Seattle Center parking facility as the Director shall from time to time designate. The Westin shall be permitted to utilize the McCaw Hall loading dock for load/unload purposes only and shall be provided with two (2) additional parking permits for use by delivery vehicles only for such Seattle Center parking facility as the Director shall from time to time designate. The charge for any additional parking

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utilized by the Westin shall be at the established Seattle Center parking rate in effect at the time of such parking space use.

8.3 Inspection.

The City shall have access to the Premises at any reasonable time for the purposes of inspecting, repairing, altering or improving any property owned by or under the control of the City and not the responsibility of the Westin hereunder; provided, however, that such access and inspections shall not unnecessarily interfere with the Westin's operations hereunder. The City shall immediately notify Westin management of its intent to inspect and shall permit a Westin employee (preferably a manager or director of security) to accompany any inspection or unscheduled entry into any locked portion of the Premises. The Westin shall deliver to the City a key to any locked portions of the Premises to enable the City to at any time unlock each of the doors in, upon, and about the Premises, excluding the Westin's vaults, safes, and files. The City shall have the right to use any and all means that the Seattle Center Director deems proper to obtain entry to the Premises in an emergency, without liability to the Westin except for any failure to exercise due care for the Westin's property.

8.4 Care of Premises.

The Westin shall not damage or in any manner deface the Premises and shall not cause or permit anything to be done whereby any Seattle Center facility shall be in any manner defaced or damaged. The Westin shall submit a written notice to the Seattle Center Director regarding the circumstances of any Premises or other Seattle Center facility damage or destruction within forty-eight (48) hours after any such event. In the event that during the period of the Westin's use, the Premises or any other Seattle Center facility are damaged or defaced by the willful misconduct, default, or negligence of the Westin, the Westin shall pay to the City such sum as is reasonably necessary to restore that damaged portion of the Premises to its condition immediately prior to the occasioning of such damage.

ARTICLE IX OPERATING RESPONSIBILITIES

9.1 Cleaning, Event Set Up and Take Down

The Westin shall be responsible for maintaining in an orderly, clean and sanitary condition all areas of the Premises to which it has exclusive use and occupancy and a right of access in accordance with Exhibit D. The City shall be responsible for maintaining and cleaning all other areas of the Facilities. Subject to Seattle Center labor agreements, the Westin shall set up, and remove tables, tents, staging, and serviceware for food service functions. The Westin will be responsible for skirting and dressing tables on a timely basis. The Westin shall be responsible for setting up and tearing down, and maintaining all portable equipment and furniture necessary to food service functions. The City shall be responsible for providing sufficient storage for tables and chairs at a location to be determined by the Seattle Center Director.

9.2 Utilities.

The City shall supply and the Westin shall pay for all basic utility services associated with the Westin's operations hereunder, including, but not limited to, gas, electricity, sewer, water, and HVAC in the kitchen and café portions of the Premises in accordance with Exhibit D. The Westin shall pay through a separate metering system for its use of gas, water, sewer and electricity in these spaces. The Westin shall pay for HVAC expenses in the kitchen and café portions of the Premises based upon a mutually agreed upon allocation of the actual costs for the Facilities. The City shall provide sufficient utility load capacity to enable operation of the Facilities as designed and the Westin shall not install any equipment that will exceed or overload such capacity. Any damage to utility lines or systems caused by the Westin shall be repaired by the City at the Westin's sole expense. The Westin shall maintain the sewer lines to the satisfaction of the Seattle Center and shall take all precautionary measures necessary to assure that grease and other potentially hazardous or damaging materials are not discharged into the sewer system. If any equipment installed by the Westin requires additional utility facilities the same shall be installed at the expense of the Westin and in accordance with plans and specifications Approved by the Seattle Center Director. The City shall not be liable for any failure or interruption of water, HVAC, gas or electrical supply, or for loss of property, or for injury or damage to any person or property resulting from steam, gas, electricity, water, rain or snow that may leak or flow from or into any part of any Seattle Center facility, or from the pipes, appliances or plumbing of a building or from any other place unless such damage is caused by the willful misconduct, negligent acts or omissions of the City.

9.3 Pest Control.

The Westin shall be responsible for implementing and funding a regular program of pest control Approved by the Seattle Center Director. The vendor selected to provide pest control will be at the discretion of the Westin.

9.4 Trash Removal.

All waste foods shall be kept in closed containers until removed from the Premises. Lard, grease and similar materials shall be kept in airtight containers. The Westin shall actively participate in a refuse-recycling program Approved by the Seattle Center Director, which program will at a minimum require the Westin to collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles Approved by the Seattle Center Director. The City shall pick up and dispose of the trash from locations designated by the City. The Westin shall pay their fair share of garbage and recycling costs associated with the Food and Beverage Service program in the Facilities. The City and the Westin shall mutually agree upon an allocation of such costs based upon actual garbage and recycling costs for the Facilities. The City reserves the right to refuse to collect or accept from the Westin any waste product that is not sorted and separated as required by law, ordinance, rule or, regulation, or this Agreement, and to require the Westin to arrange for the collection of the same at the Westin's sole cost and expense using a contractor satisfactory to the City. The Westin shall pay all costs, fines, penalties and damages that may be imposed on

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the City or the Westin as a consequence of the Westin's failure to comply with the provisions of this section.

9.5 Use of Recycled Content Paper.

The Westin shall use, whenever practicable, recycled content paper on all documents submitted to the City, in accordance with Seattle Municipal Code ("SMC") 3.38.904.

9.6 Use of Recyclable and Biodegradable Products.

Subject to Section 7.1 of this Agreement, the Westin shall whenever possible use recyclable and biodegradable products for containers and supplies used in the Facilities; provided, however, that the Seattle Center reserves the right to restrict the use of cans and bottles as serving containers for particular events.

9.7 No Nuisance or Objectionable Activity.

The Westin shall not permit any excessive or objectionable noise, odor, dust, vibration, or other similar substance or condition to remain on or be emitted from the Premises; shall not create any nuisance in or adjacent to the Premises; and shall not do anything on the Premises that will create a danger to life or limb.

ARTICLE X

PREMISES, EQUIPMENT AND CAPITAL CONTRIBUTIONS OF PARTIES

10.1 Design of Food Service Facilities and Purchase of Kitchen and Other Equipment.

The Seattle Center, Seattle Opera, Pacific Northwest Ballet and the Westin will consult with each other regarding the design of the Food and Beverage Service facilities and the purchase of Food and Beverage Service Equipment for use by the Westin under this Agreement. The Westin shall not be responsible for food and beverage service and kitchen facility design in connection with the Facilities, but shall consult with the Seattle Center regarding the preparation of construction documents and specifications for the Food and Beverage Service Equipment that will be paid for by the City. The Westin shall be responsible for its own costs incurred in connection with such consultations. Any changes to the Food and Beverage Service infrastructure design requested by the Westin and Approved by the City after the overall design of McCaw Hall is considered 75% complete by the City's architects shall be made at the expense of the Westin.

10.2 Facilities and Premises Provided by City Accepted in "As Is" Condition.

Subject to the right and obligation of consultation set forth in Section 10.1, the Westin accepts all existing facilities, including those associated with the Facilities and the Premises, in their "as is" condition. Following construction of McCaw Hall, the Westin agrees to accept McCaw Hall in its newly constructed condition, provided that the construction of all Food and Beverage Service facilities associated therewith have been constructed substantially in accordance with the designs contained in the December 17, 2001 Conformance Set Plans, Food Service series and

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Concessions Casework plan. The City disclaims all representations, statements, and warranties, express or implied, with respect to the condition of the Premises or the use, occupancy and access authorized hereunder other than those contained herein. In the event any portion of the Premises subject to this Agreement is determined by a person having authority to be in violation of any building or safety code then upon reasonable and prompt notice thereof, the City agrees to cure the violation and to indemnify and hold the Westin harmless from any penalties or other costs associated with such violation.

10.3 City Funded Food Service Equipment.

The City will provide up to a maximum investment of \$750,000 for the purchase of Food and Beverage Service Equipment, including food service equipment, mobile carts, catering furniture, and related equipment. The food service equipment and furniture are identified in greater detail in Exhibits B and C. The particular items identified in Exhibits B and C may be modified by the mutual agreement of the City and the Westin as the design of McCaw Hall becomes more fully developed. If all of the Food and Beverage Service Equipment cannot be purchased for an amount not to exceed \$750,000, the Westin and the Seattle Center shall cooperatively determine how to best equip the Food and Beverage Service facilities for an amount of City funds not to exceed \$750,000. The Seattle Center will consult with the Westin concerning (a) the equipment specifications, vendors, procurement methods, (b) the timing of such procurements, and (c) the testing, installation and maintenance of such items. If by agreement with the Seattle Center the Westin purchases some of these items and receives a cash advance or is reimbursed with City funds, the Westin and the Seattle Center shall develop mutually agreeable purchasing and accounting procedures for the acquisition of such items. The Seattle Center may by agreement with the Westin reimburse the Westin or provide a cash advance for the cost of purchasing any such Food and Beverage Service Equipment.

10.4 Equipment Provided by the Westin; Initial Westin Capital Contribution.

The Westin shall provide, maintain and replace when necessary the computerized point-of-sale system, smallwares and related equipment set forth in Exhibit A throughout the term of this Agreement. The Westin shall make investments of approximately \$235,653 in point of sale equipment and small equipment for the Café and concessions operation prior to the opening of McCaw Hall in accordance with the capital investment in G, attached hereto. Documentation acceptable to the Seattle Center Director concerning such capital investments shall be included in the appropriate Westin's year-end report and annual financial audit required pursuant to Sections 6.2 and 6.3 hereof. In no event shall funds from the Capital Maintenance Reserve Fund established pursuant to Section 10.5 hereof be used for any purposes under this section. All equipment and furnishings to be installed or provided by the Westin shall (a) be Approved by the Seattle Center Director, (b) comply with any standards established by the architects of McCaw Hall, and (c) be of such quality, design and finish as will be in keeping with the general décor of the Facilities. Upon termination of the Agreement the Westin shall retain ownership of all such equipment. Seattle Center may purchase all or a portion of such equipment for the unamortized value of the equipment or for such price as may be mutually agreed by the parties.

10.5 Capital Equipment Reserve Fund.

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A. The Westin shall within ten (10) days following the conclusion of each Monthly Accounting Period pay to the City an amount equal to 1.5% of all Gross Sales received, or that the Westin has become legally entitled to receive, during such period into a Capital Equipment Reserve Fund established by the City to fund the repair, maintenance and replacement of the Food and Beverage Service Equipment purchased with City funds or to make other Food and Beverage Service related improvements to the Facilities or at Seattle Center. Late deposits to the fund shall accrue interest at the rate of 12% per annum.

B. The Westin's monthly Capital Equipment Reserve Fund deposit shall be placed in an interest-bearing sub-fund of the Seattle Center Operating fund controlled by the Seattle Center to be used at the discretion of the Seattle Center Director following consultation with the Westin. Capital Equipment Reserve Funds generated by McCaw Hall shall be recorded separately from Capital Equipment Reserve Funds generated by the Exhibition Hall and other Seattle Center facilities. Capital Equipment Reserve Funds generated by McCaw Hall shall be expended at McCaw Hall. Capital Equipment Reserve Funds generated by the Exhibition Hall and other Seattle Center facilities may be expended at the Exhibition Hall and such other Seattle Center facilities. Any funds unused during any year of the term of this Agreement shall be carried forward with interest until the termination of this Agreement, at which time all unexpended funds shall immediately become the property of the City. Items purchased and improvements funded through the Capital Equipment Reserve Fund shall become the property of the City. In the event that the City and the Westin determine that the most cost effective use of the Capital Equipment Reserve Fund will entail the purchase of items by the Westin, Seattle Center is hereby authorized to reimburse the Westin for the cost of purchasing such items from the Capital Equipment Reserve Fund. All invoices to be paid from the Capital Equipment Reserve Fund shall include appropriate documentation supporting the requested reimbursement.

C. The Capital Equipment Reserve Fund may be used to purchase items which meet any of the following criteria:

1. The item will cost in excess of \$1,000 and will have a useful life in excess of one year, or
2. The item is an addition to or an extension of an existing asset and will significantly extend the useful life of such asset, or
3. The item will entirely replace an existing asset or piece of equipment originally purchased by the City.

D. Upon the request of the Westin, the City shall provide the Westin with an accounting of the status of the Capital Equipment Reserve Fund and any expenditure of funds therefrom. All public records maintained by the City related to such fund shall be available for inspection, review or audit by the Westin during normal business hours and upon at least seven (7) days' notice of such inspection, review or audit.

E. The Capital Equipment Reserve Fund and the funds deposited therein shall not relieve the Westin of its responsibility to provide, maintain and replace as necessary the computerized point-of-sale system, smallwares and related equipment set forth in Exhibit A.

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10.6 Depreciation and Ownership of Additional Equipment and Furniture Purchased by the Westin.

If, in addition to the Westin's responsibilities pursuant to Section 10.4 and the acquisition of City-funded Food and Beverage Service Equipment pursuant to Section 10.3, the Westin chooses to purchase additional Food and Beverage Service equipment or furniture, then such equipment and/or furniture may be depreciated according to schedules agreed to by the Seattle Center and the Westin. In no event shall the depreciation term be more than 120 months from the opening of McCaw Hall. At the Seattle Center's option, all such additional Food and Beverage Service equipment and/or furniture shall become the property of the City when fully depreciated or, if not fully depreciated at the time of termination of the Agreement, upon payment by the City of the fair market value for such equipment.

10.7 Equipment, Maintenance and Repair.

Regardless of whether items are owned by the City, purchased through the Capital Equipment Reserve Fund or owned by the Westin, the Westin shall be responsible for cleaning and maintaining all foodservice facilities, equipment, rolling stock, furniture and smallwares used in the performance of their duties, in a good state of repair except for normal wear and tear. Where appropriate and at Seattle Center's direction, the Westin shall acquire maintenance contracts for Food and Beverage Service Equipment, the terms of which are mutually agreeable to Seattle Center and the Westin. Repair or upkeep of such items will be the responsibility of the Westin. Major maintenance or replacement of the Food Service Equipment, furniture or the Facilities (or significant portions thereof) may be funded through the Capital Equipment Reserve Fund at the discretion of the Seattle Center Director.

10.8 Graphics.

All graphic designs, text and images of any type or nature to be viewed by the general public and placed upon or affixed to any of the Premises or used on operating materials and/or vehicles in connection with the Premises including but not limited to menus, printed materials, advertising and other promotional materials and the location thereof, shall include the logo for McCaw Hall or the Seattle Center, be subject to the Approval of the Seattle Center Director, and tastefully reflect the relationship between the City and the Westin hereunder.

ARTICLE XI
WESTIN STAFFING AND EMPLOYEES

11.1 Management.

Prior to the commencement of this Agreement and not less than thirty (30) days prior to any change, the Westin shall identify to the Seattle Center its on-site General Manager, Executive Chef, Director of Catering and Director of Operations, or their functional equivalents. The Westin shall at all times employ an on-site General Manager Approved by the Seattle Center Director, and shall propose a candidate as a replacement when necessary, which proposed replacement shall be also be subject to Approval by the Seattle Center Director. The Westin's

on-site General Manager shall be designated as its authorized representative and shall oversee all operations on and from the Premises.

11.2 Staffing.

The Westin shall select, employ, train, furnish and deploy employees (including relief personnel) who are proficient, productive and courteous to patrons; and shall discipline and if necessary discharge staff that fail to meet these standards. The Westin shall employ sufficient staff in accordance with industry standards to perform the Concession, Catering and other services described in this Agreement. Staffing levels shall be subject to the Approval of the Seattle Center Director. Whenever possible, the Westin shall hire its personnel from within the greater Seattle area and for the opening of McCaw Hall will give utmost consideration to food service employees previously employed in the Opera House. Upon receipt of notice from the City of any reasonable and significant objection to any of the Westin's employees, including the on-site General Manager, the use of such employee in connection with this Agreement shall be discontinued and a suitable person shall be promptly substituted; provided however, that the City's right to require replacement of a Westin employee, and the Westin's obligation to comply with any such request shall be subject to restrictions imposed upon the Westin by any federal, state or local statute, law, code, regulation or ordinance or by any collective bargaining agreement or other contract affecting such employee. The Westin shall make a good faith effort during the term of the Agreement to work with programs such as FareStart, Seattle Jobs Initiative or Washington Works! to help place and retain disadvantaged individuals in the Food and Beverage Service program at the Seattle Center.

11.3 Involvement of Former City Employees.

The Westin shall promptly notify the City in writing of any person who is expected to perform any of the services hereunder who, during the twelve (12) months immediately prior to the expected commencement date of such work or subcontract, was a City officer or employee. The Westin shall ensure that no services hereunder are performed by any person (employee, subcontractor, or otherwise) who: (1) was a City officer or employee within the past twelve (12) months; and (2) as such was officially involved in, participated in, or acted upon any matter related to the services hereunder, or is otherwise prohibited from such performance by SMC 4.16.075.

11.4 Identification.

The Westin shall cause all non-management employees to prominently display their names on either uniforms or badges. The Westin shall keep records at all times so as to assure proper identification of its employees.

11.5 Appearance.

All of the Westin's non-administrative employees shall be required to wear Approved uniforms while on duty and shall be groomed in a manner consistent with a world-class performing arts

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center. Gum chewing, smoking, and drinking of alcoholic beverages by staff members while on or off duty shall not be allowed in any service area.

ARTICLE XII
ADDITIONAL RIGHTS RESERVED BY CITY

12.1 Sponsorship, Advertising and Pouring Rights.

The Seattle Center retains the sole and exclusive right to negotiate sponsorships, advertising and pouring rights for all food, beverages and merchandise sold in the Facilities. Subject to the terms of this Agreement the Westin shall be authorized to advertise Westin services, but shall have no other advertising rights of any kind in the Facilities. Any service of alcohol by parties other than the Westin shall be subject to all applicable state and local licensing laws.

12.2 Programs and Novelties.

The Seattle Center retains the sole and exclusive right to sell or authorize the sale of programs and novelties in the Facilities.

12.3 Free Distributions of Food and Drink.

The Seattle Center retains the sole and exclusive right to authorize the free distribution of wrapped or unwrapped food or food products (in up to two ounce portions), non-alcoholic drinks (in up to four ounce portions), or other free items of any nature whatsoever in the Facilities, and the Westin shall not interfere with such distributions. Such distributions from McCaw Hall shall be made only as patrons are exiting the building following an event, or at such time as is mutually agreed to by the parties. The Westin shall be excluded from liability in the event of such free distribution.

12.4 Approval of Suppliers Products and Brands.

Suppliers, products and brands utilized by the Westin hereunder, and any agreements between the Westin and third parties related thereto, shall be subject to the Approval of the Seattle Center Director, which Approval shall not be unreasonably withheld. One reasonable basis to withhold such Approval shall be the enactment by the City of an ordinance which restricts or prohibits the use of such supplier, product or brand at the Seattle Center. The provisions of this Section 12.4 shall apply to agreements between the Westin and third parties in effect as of the date of the execution of this Agreement and to such agreements as may thereafter be proposed; provided, however, that the Seattle Center Director's decisions to withhold Approval of any such agreement or product or brand use shall be effective only as to the Westin's performance hereunder.

12.5 Pouring Rights for Donated Wine.

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The Seattle Center retains the sole and exclusive right to allow the pouring of wine donated by third parties other than the Westin to the Seattle Opera, the Pacific Northwest Ballet or the Seattle Center Foundation. If the Seattle Center authorizes such pouring of donated wine, the Westin and the Seattle Opera, the Pacific Northwest Ballet or the Seattle Center Foundation, as may be applicable, shall negotiate a mutually acceptable corkage fee.

ARTICLE XIII INSURANCE AND BONDING

Prior to undertaking any work or performing any services under this Agreement, the Westin shall obtain and maintain continuously throughout the term of this Agreement the policy or policies of insurance as enumerated below. Such policy or policies shall be obtained and maintained by the Westin at no expense to the City, Seattle Opera or Pacific Northwest Ballet, and satisfactory evidence of such policy or policies shall be filed with the Seattle Center and the City's Risk Management Administrator.

13.1 Coverage.

A. *Commercial General Liability Insurance:* A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form (CG 00 01), including all the usual coverage known as:

1. Premises/Operations Liability.
2. Products/Completed Operations.
3. Personal/Advertising Injury.
4. Contractual Liability.
5. Independent Contractor's Liability.
6. Stop Gap or Employers Contingent Liability.
7. Liquor Liability/Host Liquor Liability

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Such policy(ies) must provide at least the following minimum coverage limits:

Bodily Injury and Property Damage -

\$ 5,000,000 General Aggregate
\$ 5,000,000 Products & Completed Operations Aggregate
\$ 2,000,000 Personal & Advertising Injury
\$ 2,000,000 Each Occurrence
\$ 100,000 Fire Damage Legal

Stop Gap/Employers Liability

\$ 1,000,000 Each Accident
\$ 1,000,000 Disease - Policy Limit
\$ 1,000,000 Disease - Each Employee

B. *Business Automobile Liability Insurance*: A policy of Business Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired vehicles written on an insurance industry standard form (CA 00 01) or equivalent, and as specified by Insurance Services Office Symbol 1 (any auto).

Such policy(ies) must provide the following minimum coverage limits:

Bodily Injury and Property Damage -
\$ 1,000,000 per accident

C. *Property Insurance*: A policy of Property Insurance, naming the City of Seattle as an additional insured, which requires the Westin to maintain its furniture, fixtures, equipment, inventory and all other improvements which it makes to the Premises on an "All Risk" basis, in an amount equal to the replacement cost thereof, and insuring against:
(a) Loss from the perils of fire and other risks of direct physical loss (including earthquake and flood damage) on a basis no less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP 10 30)"; (b) Loss or damage from water damage, or sprinkler systems now or hereafter installed in any Seattle Center facility, including the Facilities and Premises, used or occupied by the Westin hereunder; (c) Loss or damage by explosion of steam boilers, pressure vessels, oil, or gasoline storage, tanks or similar apparatus; (d) Business Interruption or Extra Expense, with sufficient coverage to provide for the payment to the City of its anticipated percentage of Gross Sales under this Agreement and other fixed costs during any interruption of the Westin's business because of fire or other cause.

The City and the Westin waive all subrogation rights against each other, any Subcontractors, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent covered by the Property Insurance obtained pursuant to this section or any other property insurance applicable to the services provided by the Westin hereunder, except such rights as they may have to proceeds of any such insurance held by the City as fiduciary. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification,

contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged.

D. *Worker's Compensation Policy:* As respects Workers' Compensation Insurance in the State of Washington, the Westin shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Westin shall also be responsible for Workers' Compensation Insurance for any Subcontractor who provides services under this Agreement. The Westin hereby assumes all risk of damage to its property, or injury to its officers, directors, agents, Subcontractors or invitees, in or about any Seattle Center facility, including the Premises and Facilities as defined hereunder, from any cause, and hereby waives all such claims against the City.

13.2 Additional Insured and Primary Insurance Provisions.

Each insurance policy obtained under this Agreement: (1) shall name The City of Seattle, Seattle Opera and Pacific Northwest Ballet as an additional insureds; (2) shall state that the coverages provided to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days' prior written notice to the City; Seattle Opera and Pacific Northwest Ballet and (3) shall contain a "separation of insureds" or "severability of interests" clause indicating essentially that "except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought." Insurance coverage and/or limits may be altered or increased as necessary, with the prior Approval of the City's Risk Management Administrator, to reflect the type of or exposure to risk.

13.3 Authorized Carriers.

All insurance described herein shall be obtained from insurance companies approved by the City's Risk Management Administrator and duly authorized to issue such policies in the State of Washington or issued as a surplus line by a Washington surplus lines broker, and having a rating of A-VII or higher in the A.M. Best's Key Rating Guide.

13.4 Evidence of Insurance.

This Agreement shall be expressly conditioned upon the Westin delivering to the City's Risk Management Administrator copies of the following documents:

(a) All policy declaration pages, showing the policy effective dates, limits of liability and the Schedule of Forms and Endorsements.

(b) The endorsement naming The City of Seattle, Seattle Opera and Pacific Northwest Ballet as additional insureds, showing each policy number, and signed by an authorized representative of the insurer, on Form CG2026 (ISO) or its equivalent.

(c) A copy of the "separation of insureds" or "severability of interests" clause.

13.5 Assumption of Risk.

The placement and storage of personal property on and in any Seattle Center facilities used or occupied by the Westin hereunder, including the Facilities and Premises, shall be the responsibility, and at the sole risk, of the Westin.

13.6 Failure to Maintain Insurance.

The failure by the Westin to maintain the insurance required by this Agreement in full force and effect throughout the term of the Agreement shall constitute a default and material breach of this Agreement by the Westin.

ARTICLE XIV
INDEMNIFICATION

14.1 Indemnification.

The Westin does hereby release and shall defend, indemnify, and hold the City, Seattle Opera, and Pacific Northwest Ballet and their employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort whatsoever arising out of the Westin's performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by the Westin, its servants, agents, and employees. In furtherance of these obligations, and only with respect to the City, Seattle Opera and Pacific Northwest Ballet and their employees and agents, the Westin waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. The Westin acknowledges that the foregoing waiver of immunity was mutually negotiated and agrees that the indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The City does hereby release and shall defend, indemnify, and hold the Westin, Seattle Opera and Pacific Northwest Ballet and their employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort whatsoever arising out of the City's performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by the City, its servants, agents, and employees. In furtherance of these obligations, and only with respect to the Westin, Seattle Opera and Pacific Northwest Ballet and their employees and agents, the City waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. The City acknowledges that the foregoing waiver of immunity was mutually negotiated and

agrees that the indemnification provided for in this section shall survive any termination or expiration of this Agreement.

ARTICLE XV
TAXES, LICENSES AND COMPLIANCE

15.1 Licenses and Permits.

The Westin shall obtain prior to commencing its operations, and shall maintain throughout the term of this Agreement, all licenses and permits and other approvals required for its operations hereunder, including an alcoholic beverage license. The Westin shall at all times scrupulously observe all restrictions, rules and conditions of all such licenses and permits and shall use its best efforts at all times to avoid any loss or suspension thereof. Prior to undertaking any Food and Beverage Services under this Agreement, the Westin shall submit to the Director a photocopy or facsimile copy of a current and valid Business License issued by The City of Seattle and a current and valid Food Service Establishment Permit issued by the Seattle-King County Department of Public Health. In the event any license or permit expires during the Term of this Agreement then, prior to next providing Food and Beverage Services hereunder, the Westin shall obtain and deliver to the Director documentation of its possession of current and valid licenses and permits. The City shall use its best efforts at all times to observe scrupulously all rules and regulations pertaining to such licenses to avoid loss or suspension thereof.

15.2 Taxes.

The Westin shall pay, before delinquency, all taxes, levies and assessments arising from its activities and use of the Premises, including any Washington State Leasehold Excise Taxes.

15.3 Compliance With Laws.

The parties, at no expense to each other, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; and the rules, regulations, orders and directives of their administrative agencies and the officers thereof.

15.4 Americans with Disabilities Act.

The parties shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 ("ADA") in performing its obligations under this Agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Agreement.

15.5 OSHA and WISHA Requirements.

The parties shall comply with the requirements of the Federal Occupational Safety and Health Acts ("OSHA"), as it may be amended, and the Washington Industrial Safety and Health Act ("WISHA"), as it may be amended, throughout the term of this Agreement.

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15.6 Fair Contracting Practices Ordinance.

The Westin shall comply with the City's Fair Contracting Practices Ordinance, SMC Chapter 14.10, as amended. Conduct made unlawful by that ordinance constitutes a breach of contract. Engaging in an unfair contracting practice may also result in the imposition of a civil fine or forfeiture under the Seattle Criminal Code as well as various civil remedies.

15.7 Compliance with Seattle Center Rules and Regulations.

The Westin shall comply with all Seattle Center rules and regulations as they may be amended from time to time. A copy of the current Seattle Center rules and regulations is attached hereto as H.

ARTICLE XVI

EQUAL EMPLOYMENT OPPORTUNITY AND OUTREACH

16.1 Nondiscrimination in Employment.

The Westin agrees to comply with all state and local laws prohibiting discrimination with regard to creed, religion, race, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap.

During the performance of this Agreement, the Westin agrees as follows:

The Westin will not discriminate against any employee or applicant for employment because of creed, religion, race, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Westin will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Westin agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Seattle Center Director setting forth the provisions of this nondiscrimination clause. The Westin will take affirmative action to ensure that all of its employees, agents and subcontractors adhere to these provisions; provided, nothing herein shall prevent an employer from giving preference in employment to members of his/her immediate family.

The Westin will, upon the request of the Director (as used herein Director means the City of Seattle's Director of Finance, or his/her designee) furnish to the Director on such form as may be provided therefor, a report of the affirmative action taken by the Westin in implementing the terms of this provision, and will permit access to its records of employment, employment

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advertisements, application forms, other pertinent data and records requested by the Director for the purpose of investigation to determine compliance with these provisions.

If, upon investigation, the Director determines that there is probable cause to believe that the Westin has failed to comply with any of the terms of these provisions, the Westin shall be so notified in writing. The Seattle Center Director shall give the Westin an opportunity to be heard, after ten (10) days' notice. If the Seattle Center Director concurs in the findings of the Director, it may suspend or terminate this Agreement.

Failure to comply with any of the terms of these provisions shall be a material breach of this Agreement.

The foregoing provisions shall be inserted in all subcontracts entered into under this Agreement.

ARTICLE XVII EFFORTS TO USE WOMEN AND MINORITY BUSINESS ENTERPRISES

17.1 General.

The City encourages the use of Women and Minority Business Enterprises ("WMBEs") as subconsultants and women and minority employees in all City contracts, and encourages outreach efforts to include women and minorities in employment, contracting, and subcontracting opportunities. Outreach efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making other useful schedule or requirements modifications that are likely to assist small or WMBE businesses to compete, targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach. The Westin shall ensure that all employees, particularly supervisors, are aware of, and adhere to their obligation to maintain a working environment free from discriminatory conduct, including but not limited to harassment and intimidation of minorities, women, or WMBE businesses.

17.2 Nondiscrimination.

The Westin shall not create barriers to open and fair opportunities for WMBEs to participate in any City contract and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

17.3 Record-Keeping.

The Westin shall maintain, for at least 12 months after the expiration or earlier termination of this Agreement, relevant records and information necessary to document all of the Westin's solicitations to subconsultants and suppliers, all subconsultant and supplier proposals received, and all subconsultants and suppliers actually utilized under this Agreement. The City shall have the right to inspect and copy such records.

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17.4 Sanctions for Violation.

Any violation of the mandatory requirements of the provisions of Sections 17.2 and 17.3 shall be a material breach of contract for which the Westin may be subject to damages and sanctions provided for by the Agreement and by applicable law.

ARTICLE XVIII CONTINGENCIES

18.1 Failure to Perform Excused.

Neither party hereto shall be liable to the other party for any nonperformance, in whole or in part, of its obligations under this Agreement caused by the occurrence of any contingencies beyond the reasonable control of the parties, including but not limited to declared or undeclared war, sabotage, insurrection, riot, or other acts of civil disobedience, acts of a public enemy, acts of governments or agencies affecting the terms of this Agreement, strikes, labor disputes, acts of third parties not within the control of the party whose performance is affected, shortages of fuel, failures of power, accidents, fires, explosions, floods or other similar contingencies. In the event that any such contingencies occur, the party whose performance is affected shall have a reasonable time in which to resume performance and such party's nonperformance shall not constitute a default under Section 20.2. Notwithstanding the foregoing, in the event the Westin's ability to perform its obligations under this Agreement is temporarily impaired by any such contingency, the Seattle Center shall have the right to utilize substitute food service providers in any area of the Premises, without liability to the Westin of any kind. If a party is unable to resume full performance for a period of at least forty-five (45) days, either party shall have the right to terminate this Agreement on thirty (30) days' prior written notice to the other party. No suspension shall result in an extension of the expiration date of this Agreement unless specifically agreed upon, in writing, by the parties. If the Westin has knowledge that any actual or potential labor dispute is impairing or threatening to impair its performance under this Agreement, the Westin shall immediately give notice, including all relevant information, to the City. The Westin shall make all reasonable efforts to prevent and mitigate the effects of any interruption in service regardless of its cause. In the event the provisions of this Section 18.1 are triggered, the Westin shall be responsible for paying to the City the City's appropriate share of Gross Sales which the Westin has received or is legally entitled to receive as of the effective date of the termination of this Agreement hereunder.

18.2 Damage or Destruction.

If any portion of the Premises is damaged by fire or other casualty, preventing the Westin from providing the services contemplated by this Agreement, the City will, within thirty (30) days after learning of such damage, notify the Westin in writing of the time necessary to repair or restore such damage, as estimated by the City's architect, engineer or contractor. If such estimate states that repair or restoration of all or such damage that caused to the Premises or to any other portion of the Premises necessary for the Westin's occupancy to provide concession and catering services at a reasonable level cannot be completed within one hundred and twenty (120) days from the

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date of such damage, then either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party.

ARTICLE XIX TERMINATION

19.1 When Terminated.

Unless sooner terminated as provided in this Agreement, this Agreement shall terminate at the expiration of its term.

19.2 Termination for Cause.

Either the City or the Westin may terminate this Agreement prior to the expiration of the term only in the event of a material default on the part of the other party. In such event, the party who wishes to terminate this Agreement shall deliver to the other party written notice describing the breach in reasonable detail and proposing steps to be taken to cure the breach and specifying a period of time, which shall not be less than thirty (30) days, in which the breaching party must either remedy the breach or cease performance under this Agreement; provided, however, that breaches by the Westin related to potentially hazardous conditions shall be cured within twenty-four (24) hours of receipt of such notice.

In the event the breaching party elects to continue performance, it shall either cure the breach, or provide a written statement of the steps to be taken in order to do so, within the period of time specified in the written notice of the breach. If the cure or statement of intent to cure is satisfactory to the non-breaching party, that party shall consent to a continuation of performance, which consent shall not be withheld or delayed unreasonably. If the cure or attempted cure is unsatisfactory, the non-breaching party may terminate the Agreement and pursue such remedies as may be available at law or in equity in addition to observing the other terms contained herein as to termination of this Agreement.

The Westin's failure to provide services as required by the City may substantially interfere with the business functions of the City, and may result in losses or damages to the City. It is impractical and extremely difficult to determine the amount of the losses and actual damages sustained as a result of any such failure. In lieu of declaring the Westin in breach, the City and the Westin agree that in the event of any such failure by the Westin that is not caused by an action or inaction by the City, and that is not explained and justified by the Westin to the reasonable satisfaction of the Seattle Center Director, that a penalty of up to 10% of Gross Sales may be applied with respect to the performance or event at which the failure occurred. Seattle Center shall review each situation of this nature with the Westin prior to the assessment of any penalty hereunder. The Seattle Center Director will have the final determination over such penalties.

In addition, if the Westin is given four (4) notices of breach or receives (4) penalties within any twelve (12) month period, regardless of whether such breaches are remedied, the City may consider such breach to be incurable and may terminate this Agreement for cause.

19.3 Rights and Duties Upon a Termination.

The following provisions shall apply in the event of a termination of this Agreement for any reason whatsoever:

A. Delivery of Premises. The Westin shall remove its property from the Premises and shall deliver to the City the Premises and all property thereon belonging to the City in the same condition as existed at the time the Premises and property were delivered to the Westin except (1) ordinary wear and tear, (2) loss or damage occurring absent any negligence or fault on the part of the Westin, and (3) damage occurring as a result of fire, flood, or other, like unavoidable casualty or occurrence occurring absent any negligence or fault on the part of the Westin.

B. Final Accounting. The Westin shall deliver to the City, within twenty-five (25) days of the effective date of termination, a final accounting setting forth the information described in Section 6.2, and shall remit to the City all amounts owed as of the effective date of termination, including the City's appropriate percentage share of Gross Sales and required deposits into the Capital Equipment Reserve Fund.

19.4 Loss of Caterer's Endorsement.

The Parties acknowledge and agree that the Westin's ability to continue to rely on its existing liquor license caterer's endorsement (as issued by the Washington State Liquor Control Board) as a legal basis for its distribution and servicing of alcoholic beverages is essential to Westin's performance hereunder. In the event (a) the Washington State Liquor Control Board concludes that such endorsements do not, under existing state law and/or governing regulations, allow for the distribution and servicing of alcoholic beverages as contemplated herein, and (b) efforts to revise any such statutes and regulations are unsuccessful, and (c) an alternative approach reasonably acceptable to Westin that allows Westin to legally continue to distribute and serve alcoholic beverages as contemplated herein is not implemented despite the commercially reasonable efforts of the Parties, the Parties agree as follows:

A. Amendment. The Parties will work together in good faith to negotiate an amendment to Article V of the Agreement that addresses such changed circumstance on a basis satisfactory to the Parties, taking into account, among other things, the estimated financial proformas reviewed by the Parties prior to the execution of this Agreement and the City's McCaw Hall kitchen equipment debt service obligations; and

B. Termination without Amendment. In the event the Parties are unable to negotiate a mutually agreeable amendment to Article V, with six months notice the Westin may terminate the Agreement and its services hereunder without cause or penalty, and if the Agreement is terminated, the City shall purchase the nonproprietary portion of the computerized point-of-sale system, smallwares and related equipment provided by

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Westin under Section 10.4 for the then unamortized value of the equipment or for such price as may be mutually agreed by the Parties.

ARTICLE XX DISPUTES

20.1 Disputes.

Any dispute or misunderstanding that may arise under this Agreement concerning the performance of either party shall first be resolved through amicable negotiations, if possible, between the Westin's on-site General Manager and the Seattle Center Director's designee, or if necessary shall be referred to the Seattle Center Director and the Westin of Seattle's General Manager. If such officials do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to mediation or other alternate dispute resolution processes.

ARTICLE XXI NOTICES

21.1 Requirements for Notice.

All notices required by this Agreement, including any notice as to changes of address, shall be in writing and shall be delivered personally, by fax, overnight mail or by registered or certified mail, return receipt requested to:

If to Seattle Center:

Seattle Center Director
Seattle Center Department
The City of Seattle
305 Harrison Street
Seattle, WA 98109
Telephone: (206) 684-7330
Facsimile: (206) 233-3950

If to the Westin:

The Westin Seattle

1900 Fifth Avenue
Seattle, Washington 98101
Attn: General Manager
Telephone: (206) 728-1000
Facsimile:

with a copy to:

Starwood Hotels & Resorts
Worldwide, Inc.
1111 Westchester Ave.
White Plains, NY 10604
Attn: General Counsel
Telephone:
Facsimile:

If to the Seattle Opera: Seattle Opera

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Mr. Gary Tribble, Director of Finance

102 John Street

P.O. Box 9248

Seattle, WA 98109

Telephone: (206) 389-7600

Facsimile: (206) 389-7651

If to the Pacific Northwest Ball

Pacific Northwest Ballet

Mr. Dennis Brown, Managing Director

301 Mercer Street

Seattle, WA 98109

Telephone: (206) 441-9411

Facsimile: (206) 441-2440

21.2 When Given.

Notice complying with the requirements of Section 22.1 shall be deemed given on the date delivered.

ARTICLE XXII
ASSIGNMENT AND BINDING EFFECT

22.1 Subcontracting, Sale and Assignment or Transfer.

The Westin shall not subcontract, sell, assign or otherwise transfer to another person or entity any of its rights or responsibilities under this Agreement without the prior Approval of the Seattle Center Director; provided, however, that in no event shall Approval of any such sale be unreasonably withheld or delayed. The Westin shall provide the City with such documentation as may be reasonably necessary to permit the City to determine whether to approve any such subcontract, sale, assignment or transfer. Any such subcontract, sale, assignment or transfer shall be subject to all of the terms and conditions of this Agreement. In the event of any such sale, assignment or transfer the Westin shall cause to be delivered to the Seattle Center Director, simultaneously with such sale, assignment, or transfer, an instrument, in writing, executed by the grantee, assignee, or transferee, in which the grantee, assignee or transferee shall have assumed and agreed to perform all of the terms and provisions of this Agreement on the Westin's part which have not been fully performed previously.

22.2 Binding Effect

Subject to Section 22.1, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors, assigns and representatives.

ARTICLE XXIII
REPRESENTATIONS AND WARRANTIES

23.1 City's Representations.

The City represents and warrants to the Westin as follows:

- A. That it has been validly formed and duly exists as a municipal corporation under the laws of the State of Washington;
- B. That it has the sole right and authority to occupy the Premises; that it has the full right and authority to grant to the Westin the rights conferred by this Agreement, and that it is not prevented from entering into this Agreement by any statute, regulation, or order of the State of Washington or other governmental authority, or by any license, debt instrument, lease, contract, or other agreement or instrument binding upon it or any of its property;
- C. That it is duly authorized to enter into this Agreement and has taken all necessary action to obtain such authorization, and that no consent of or notice to any other individual, private entity or governmental authority is required in connection with the execution and delivery of this Agreement;
- D. That this Agreement, when properly executed by both parties, shall constitute a valid and binding agreement, enforceable by the Westin in accordance with its terms;
- E. That to the best of its knowledge, there is no suit or proceeding pending or threatened with respect to the Premises that would adversely affect the Premises, or the operation thereof; and
- F. That it will use its best efforts at all times to ensure that the Premises subject to this Agreement in which concession services are to be provided are booked to the fullest extent possible.

23.2 Westin Representations.

The Westin represents and warrants to the City as follows:

- A. That it has been validly formed and duly exists as limited partnership under the laws of the State of Washington and that it is duly qualified to do business in the State of Washington;
- B. That the Westin is the business and trade name for such limited partnership, SLC Operating Limited Partnership, whose general partner is Starwood Hotels and Resorts Worldwide, Inc., a corporation organized under the laws of the State of Maryland and duly qualified to do business in the State of Washington;
- C. That Starwood Hotels and Resorts Worldwide, Inc. has the full right and authority to enter into and execute this Agreement on behalf of SLC Operating Limited Partnership dba the Westin;

D. That as set forth above the Westin is duly authorized to enter into this Agreement and has taken all necessary action to obtain such authorization, and that no consent of or notice to any other individual, private entity or governmental authority is required in connection with the execution and delivery of this Agreement;

E. That this Agreement, when properly executed by both parties, shall constitute a valid and binding agreement, enforceable by the City in accordance with its terms;

F. That to the best of its knowledge, there is no suit or proceeding pending or threatened that would adversely affect the ability of the Westin to perform its obligations under this Agreement; and

G. That the Westin has not been induced to enter into this Agreement by any statement contained in the City's Request for Proposals or any other representations, verbal or written.

23.3 Disclaimer of Representations and Warranties.

By entering into this Agreement, the City expressly does not warrant: (a) that construction of McCaw Hall will occur or that if it does occur such construction will be completed by any date or time, (b) that sales of food or beverages or the number of Concession or Catering events at the Facilities or other Seattle Center facilities will meet or exceed any particular amount or number, or (c) that any portion of the Premises subject to this Agreement will remain open and available for public events or performances.

23.4 Survival of Representations and Warranties.

The representations and warranties of each party set forth in this Section shall survive the execution and termination of this Agreement.

ARTICLE XXIV MISCELLANEOUS

24.1 Relationship of Parties.

The parties intend that Westin shall be a licensee of the City and an independent contractor thereto. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties and neither shall have the authority to obligate or bind the other in any respect.

24.2 Amendments.

No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.

24.3 Binding Agreement.

This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors, and assigns.

24.4 Applicable Law/Venue.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.

24.5 Remedies Cumulative.

Rights under this Agreement are cumulative and nonexclusive of any other remedy at law or in equity.

24.6 Captions.

The titles of sections are for convenience only and do not define or limit the contents.

24.7 Severability.

If any term or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

24.8 Waiver.

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. The acceptance by the City of any performance by the Westin that is inconsistent with the terms and conditions of this Agreement shall not constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City, in writing.

24.9 Interpretation of Agreement.

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable United States and State of Washington statutes and regulations; (b) this Agreement; (c) the Request for Proposals; and (d) the Westin Proposal.

24.10 No Conflict of Interest.

Initial
Change

The Westin confirms that it does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Westin's selection for this Agreement or the negotiation, drafting, signing, administration, or evaluating of the Westin's performance thereunder. As used in this subsection, the term "Westin" shall include any employee of the Westin who was, is, or will be involved in the negotiation, drafting, signing, administration, or performance of this Agreement. As used in this section, the term "close family relationship" refers to the following: spouse or domestic partner; any dependent parent, parent-in-law, child, son-in-law, or daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

24.11 Limited Effect of Approval by Seattle Center Director.

Action of the Seattle Center Director pursuant to or in implementation of this Agreement does not constitute any official action by any other City Department or official that may be required by law, City Charter, ordinance, rule or regulation before the Westin may rightfully commence, suspend, enlarge, or terminate any particular undertaking.

24.12 Entire Agreement.

This Agreement, together with its Exhibits A through H, constitutes the entire agreement between the parties with respect to the Concession, Catering and any other services to be provided by the Westin to the City. No verbal agreement or conversation between any officer, agent, associate or employee of the City and any officer, agency, employee or associate of the Westin prior to the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement.

24.13 Negotiated Agreement.

The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by having their authorized representative(s) affix their signatures in the spaces below:

SLC OPERATING LIMITED
PARTNERSHIP DBA THE WESTIN
SEATTLE by Starwood Hotels
& Resorts Worldwide, Inc.
By ELISABETH JAMES

Name

James
Vice President of Operations for
General Manager
The Westin Seattle

THE CITY OF SEATTLE

By *Virginia Anderson*
Virginia Anderson, Director
Seattle Center Department
Dawn D. Damm

Washington and Oregon, Starwood Hotels
and Resorts Worldwide, Inc., General Partner

ACKNOWLEDGMENT

STATE OF WASHINGTON)

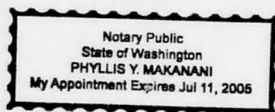
) ss

COUNTY OF KING)

On this 30th day of December, 2002, before me personally
appeared

Elisabeth James, to me known to be the person(s) described in and who
executed the foregoing instrument, and acknowledged the same as a free and voluntary act and deed
for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.



Phyllis Y. Makanani

Signature

Phyllis Y. Makanani

(Print or Type Name)

NOTARY PUBLIC in and for the State of
Washington,

Residing

at

Lynnwood

My

appointment

expires:

July 11, 2005

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

On this 30th day of DECEMBER, 2002, before me personally
appeared

ROBERT NEWMAN to me known to be the ^{Deputy} Director of the Seattle Center
Department of The City of Seattle, the municipal corporation that executed the within and
foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed
of said corporation for the uses and purposes therein mentioned and, under oath, stated that she was
authorized by ordinance to execute said instrument.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.



Irene F. Perry
Signature

IRENE F. PERRY
(Print or Type Name)

NOTARY PUBLIC in and for the State of Washington,

Residing Sydney at

My appointment expires:
5/2/02

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Exhibit A

**Agreement for the Management of Food and Beverage Services
At the Marion Oliver McCaw Hall
And the Exhibition Hall at the Seattle Center
Between
The City of Seattle
And
The Westin Seattle**

Westin Provided Computerized Point-of-Sale System, Smallwares and Related Equipment

A. Smallwares and Related Equipment:

The Westin shall provide smallwares and related equipment in quantities necessary to provide food service to McCaw Hall and the Exhibition Hall. The smallwares proposed for purchase shall be of a quality consistent with a world-class facility and shall be approved in writing by Seattle Center prior to their purchase. The smallwares provided shall include the following:

1. Adequate supply of china, including but not limited to: plates, bowls, cups, saucers, water pitchers, and related items. Unless otherwise directed by Seattle Center, the china will not have the logo of Seattle Center imprinted thereon.
 2. Beverage glassware.
 3. Adequate supply of trays (both service and café style).
 4. Supply of stainless steel and/or silver-plated dining utensils, including but not limited to: knives, forks, spoons, and soup spoons.
 5. Ample supplies of back-of-house servicewares, including but not limited to: kitchen utensils, equipment cleaning aids, and related items.
 6. Buffet and catering equipment i.e.: chafing dishes, transport carts, servicewares, and related items.
 7. Salt and pepper shakers.
 8. Table and service linens.
- B. Electronic, computerized point-of-sale cash and inventory control system with all peripheral equipment and interface equipment necessary to be fully compatible with the Seattle Center computer systems. Seattle Center shall approve all control systems, their interface, and the monitoring system thereof before their purchase and implementation.
- C. State of the art menu boards and lighted signage for the food service program wherever necessary.
- D. Desks, chairs, file cabinets, shelving and other equipment to furnish the kitchen office space.
- E. Lockers, chairs, benches, and shelves to furnish the Westin's employee locker room.

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Exhibit B
Furniture
Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between
The City of Seattle
and
The Westin Seattle

Exhibit B provides a general indication of the quantity and type of equipment to be funded by the \$750,000 for food service equipment, mobile carts, catering furniture, and other equipment. The particular items noted below may be modified by the mutual agreement of the City and the Westin.

| Space | Item Description | Qty |
|--|----------------------------------|-----|
| Concessions (6) | | |
| Concessions | Receptacle, Trash, 50 Gallon | 6 |
| Concessions | Receptacle, Recycling, 50 Gallon | 6 |
| Concessions | Floor Mat, Rubber | 12 |
| Concession Storage - through-out | | |
| Concession Storage | Storage, Shelving, Industrial | 1 |
| Catering - support - Donor's Lounge | | |
| Catering | Floor Mat, Rubber | 2 |
| Catering | Receptacle, Trash | 2 |
| Catering | Receptacle, Recycling | 2 |
| Catering - support - Donor's Lounge | | |
| Catering | Floor Mat, Rubber | 2 |
| Catering | Receptacle, Trash | 1 |
| Catering | Receptacle, Recycling | 1 |
| Catering - General Equipment | | |
| Catering | Chair, Stacking, Banquet | 650 |
| Catering | Table, 4' Folding Round | 20 |
| Catering | Table, 6' Folding Round | 75 |

Exhibit B

| Space | Item Description | Qty |
|--|---------------------------------|-----|
| Catering - General Equipment, cont. | | |
| Catering | Table 6' Folding Rectangle | 4 |
| Catering | Table 8' Folding Rectangle | 5 |
| Catering | Table, High | 10 |
| Catering | Table Truck, 4' Round | 2 |
| Catering | Table Truck, 6' Round | 8 |
| Catering | Table Truck, 6' Rectangle | 1 |
| Catering | Table Truck, 8' Rectangle | 1 |
| Catering | Chair Truck, Banquet Seating | 14 |
| Servery/Catering | | |
| Servery/Catering | Storage, Shelving, Industrial | 3 |
| Catering Storage | | |
| Catering Storage | Storage, Shelving, Industrial | 3 |
| Café | | |
| Café | Chair, Café - interior/exterior | 280 |
| Café | Table, Café - interior/exterior | 70 |
| Café | Receptacle, Trash | 2 |
| Café | Receptacle, Recycling | 2 |
| Café | Receptacle, Trash/Ash, Exterior | 2 |
| Café | Receptacle, Recycling, Exterior | 2 |
| Café | Booster Chair | 20 |
| Café | High Chair | 5 |
| Dry Storage | | |
| Dry Storage | Storage, Shelving, Industrial | 3 |
| Caterer Storage | | |
| Caterer Storage | Storage, Shelving, Industrial | 3 |
| Dish Storage | | |
| Dish Storage | Storage, Shelving, Industrial | 3 |
| Janitor | | |
| Janitor | Receptacle Trash, 50 Gallon | 1 |

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Exhibit C
Food Service Equipment

Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between the City of Seattle and The Westin Seattle

Exhibit C provides a general indication of the quantity and type of equipment to be funded by the \$750,000 for food service equipment, mobile carts, catering furniture, and other equipment. Where indicated it is anticipated that the purveyor will provide the equipment at no expense. The particular items noted below may be modified by the mutual agreement of the City and the Westin.

Note: Item # refers to corresponding numbers on the construction documents.

| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|---------------------------|
| 1 | 1 | BEVERAGE COOLER |
| 2 | 1 | EVAPORATOR COIL - COOLER |
| 3 | 22 | SHELVING UNIT |
| 4 | 1 | WALK-IN FREEZER |
| 5 | 1 | EVAPORATOR COIL - FREEZER |
| 6 | 8 | SHELVING UNIT |
| 7 | 1 | WALK-IN COOLER |
| 8 | 1 | EVAPORATOR COIL - COOLER |
| 11 | 1 | WALK-IN COOLER |
| 12 | 1 | EVAPORATOR COIL - COOLER |
| 13 | 11 | SHELVING UNIT |
| 14 | 2 | REACH-IN REFRIGERATOR |
| 15 | 1 | ICE MACHINE W/ BIN |
| 16 | 3 | WORK TABLE |
| 17 | 1 | 60-QUART MIXER |
| 18 | 1 | SINK TABLE |
| 21 | 2 | FOOD PROCESSOR |
| 22 | 1 | WALL SHELF |
| 23 | 1 | SLICER |
| 24 | 1 | EXHAUST HOOD |
| 25 | 1 | RANGE |
| 26 | 1 | SPREADER TABLE |
| 27 | 3 | FRYER |
| 28 | 1 | GRIDDLE |
| 31 | 1 | CHARBROILER |
| 32 | 1 | FIRE PROTECTION SYSTEM |

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| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|-----------------------------------|
| 33 | 1 | SINK TABLE |
| 34 | 1 | WALL SHELF |
| 35 | 1 | REACH-IN FREEZER |
| 36 | 2 | DOUBLE CONVECTION OVEN |
| 37 | 1 | TILT SKILLET |
| 38 | 1 | FLOOR TROUGH |
| 41 | 1 | 40-GALLON KETTLE |
| 42 | 1 | FLOOR TROUGH |
| 43 | 1 | EXHAUST HOOD |
| 44 | 1 | PLATING & STAGING TABLE |
| 45 | 2 | BANQUET CART |
| 46 | 3 | HEATED TRANSPORT CABINET |
| 47 | 1 | SOILED DISHTABLE |
| 48 | 1 | DISPOSER |
| 51 | 1 | PRE-RINSE |
| 53 | 1 | STRAIGHT RINSE - INCL. IN ITEM 54 |
| 54 | 1 | DISHWASHER |
| 55 | 1 | PREWASH - INCLUDED IN ITEM 54 |
| 56 | 1 | CLEAN DISHTABLE |
| 57 | 5 | MOBILE DISH DOLLY |
| 58 | 1 | POT SINK |
| 60 | 1 | BEVERAGE COOLER |
| 67 | 1 | REMOTE REFRIGERATION SYSTEM |
| 68 | 1 | COUNTER W/ DISPLAY SHELF |
| 72 | 1 | HAND SINK |
| 73 | 1 | UTILITY RACK - UNIVERSAL ANGLE |
| 74 | 2 | UNDERCOUNTER REFRIGERATOR |
| 76 | 1 | BACK COUNTER |
| 77 | 1 | COFFEE BREWER - BY PURVEYOR |
| 78 | 1 | GRINDER |
| 101 | 1 | REFRIGERATED DELI CASE |
| 102 | 2 | COUNTER |
| 103 | 4 | HAND SINK |
| 104 | 1 | REACH-IN REFRIGERATOR |
| 105 | 3 | COFFEE BREWER - BY PURVEYOR |
| 106 | 2 | GRINDER |
| 107 | 1 | BACK COUNTER |
| 108 | 2 | UNDERCOUNTER REFRIGERATOR |
| 112 | 1 | REACH-IN REFRIGERATOR/FREEZER |
| 113 | 1 | PREP TABLE |
| 120 | 1 | MICROWAVE OVEN |
| 121 | 3 | HEATED CABINET |
| 122 | 1 | HOT / COLD FOOD TABLE |

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| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|----------------------------------|
| 123 | 1 | ICED TEA DISPENSER-BY PURVEYOR |
| 124 | 1 | BEVERAGE DISPENSER |
| 125 | 1 | ICE & SODA DISPENSER-BY PURVEYOR |
| 126 | 1 | BEVERAGE COUNTER |
| 127 | 1 | REACH-IN REFRIGERATOR |
| 128 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 130 | 1 | ICE BIN - PART OF ITEM 131 |
| 131 | 1 | ICE CUBER |
| 132 | 1 | SHELVING UNIT |
| 133 | 1 | WORK TABLE W/ SINK |
| 134 | 1 | WALL SHELF |
| 135 | 1 | THREE COMPARTMENT SINK |
| 136 | 1 | WALL SHELF |
| 138 | 1 | COUNTER |
| 161 | 1 | COUNTER W/ DISPLAY SHELF |
| 162 | 1 | COUNTER W/ DISPLAY SHELF |
| 163 | 4 | UNDERCOUNTER REFRIGERATOR |
| 164 | 2 | COFFEE BREWER - BY PURVEYOR |
| 165 | 3 | GRINDER |
| 166 | 2 | ESPRESSO MACHINE-BY PURVEYOR |
| 168 | 1 | BACK COUNTER |
| 171 | 1 | BACK COUNTER |
| 173 | 1 | HAND SINK |
| 174 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 175 | 5 | SHELVING UNIT |
| 177 | 1 | BACK COUNTER |
| 178 | 1 | HAND SINK |
| 181 | 2 | COUNTER W/ DISPLAY SHELF |
| 201 | 1 | COUNTER W/ DISPLAY SHELF |
| 202 | 1 | BACK COUNTER |
| 203 | 1 | UNDERCOUNTER REFRIGERATOR |
| 204 | 1 | GRINDER |
| 205 | 3 | COFFEE BREWER - BY PURVEYOR |
| 206 | 3 | HAND SINK |
| 207 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 208 | 1 | SHELVING UNIT |
| 212 | 1 | BEVERAGE TABLE |
| 213 | 2 | ICE CUBER |
| 214 | 2 | ICE BIN - PART OF ITEM 213 |
| 217 | 2 | ROLL-IN REFRIGERATOR |
| 221 | 3 | DISH DISPENSER |
| 222 | 2 | PLATING TABLE |
| 223 | 2 | DISH DISPENSER |

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| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|--------------------------------|
| 225 | 1 | BEVERAGE TABLE |
| 251 | 1 | COUNTER W/ DISPLAY SHELF |
| 252 | 1 | COUNTER W/ DISPLAY SHELF |
| 253 | 3 | UNDERCOUNTER REFRIGERATOR |
| 254 | 1 | BACK COUNTER |
| 256 | 3 | GRINDER |
| 257 | 2 | COFFEE BREWER - BY PURVEYOR |
| 258 | 2 | ESPRESSO MACHINE-BY PURVEYOR |
| 262 | 1 | BACK COUNTER |
| 263 | 1 | HAND SINK |
| 264 | 5 | SHELVING UNIT |
| 265 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 267 | 1 | BACK COUNTER |
| 268 | 1 | HAND SINK |
| 271 | 2 | COUNTER W/ DISPLAY SHELF |

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Exhibit D
Food Service Facilities
Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between
The City of Seattle
and
The Westin Seattle

| PREMISES | Exclusive Use Space | Right of Access | Cleaning Responsibility | Utility Payment Responsibility |
|--|---------------------|-----------------|--------------------------|--------------------------------|
| McCAW HALL | | | | |
| LOWER LEVEL | | | | |
| MAIN KITCHEN | X | X | Westin Seattle Center | Westin Seattle Center |
| CANTEEN | | | | |
| MEZZANINE/ORCHESTRA PIT LEVEL | | | | |
| LECTURE HALL CONCESSION | X | | Westin | Seattle Center |
| (1) MOBILE THEMATIC CART W/ (2) POS | X | | Westin | Seattle Center |
| (OR ADD ALTERNATE TO BUILD IN CONC STAND) | | | | |
| LECTURE HALL | | X | Seattle Center (a) | Seattle Center |
| GROUND LEVEL | | | | |
| CAFÉ: | | | | |
| CONCESSION | X | | Westin | Westin |
| CAFÉ SERVERY | X | | Westin | Westin |
| CAFÉ DINING | | X | Westin | Seattle Center |
| LOBBY AREA W/ CAFÉ OVERFLOW | | X | Seattle Center (a) | Seattle Center |
| EXTERIOR TERRACE | | X | Seattle Center (a) | Seattle Center |
| PRESS/RECEPTION ROOM | | X | Seattle Center (a) | Seattle Center |
| PRESS/RECEPTION CATERING PANTRY | X | | Westin | Seattle Center |
| (1) MOBILE CART W/ (1) POS EA | X | | Westin | Seattle Center |
| ORCHESTRA LEVEL | | | | |
| CONCESSION (South) (Includes Support Pantry) | X | | Westin | Seattle Center |
| CONCESSION (North) | X | | Westin | Seattle Center |
| GRAND LOBBY | | X | Seattle Center (a) | Seattle Center |
| FIRST BALCONY LEVEL | | | | |
| CONCESSION | X | | Westin | Seattle Center |
| PANTRY, DONORS' ROOM (North) | X | | Westin | Seattle Center |
| PANTRY, DONORS' ROOM (South) | X | | Westin | Seattle Center |
| DONORS' ROOM (North and South) | | X | Seattle Center (a) | Seattle Center |
| LOBBY | | X | Seattle Center (a) | Seattle Center |
| SECOND BALCONY LEVEL | | | | |
| CONCESSION (South) (Includes Support Pantry) | X | | Westin | Seattle Center |
| CONCESSION (North) | X | | Westin | Seattle Center |
| LOBBY | | X | Seattle Center (a) | Seattle Center |
| EXHIBITION HALL | | | | |
| CONCESSION | X | | Westin | Seattle Center |

(a) Seattle Center will be responsible for general cleaning of these spaces. If a food service event is held in these spaces, the Westin is responsible to set up and remove tables, tents, staging, and serveware for food service functions. The Westin will be responsible for skirting and dressing tables on a timely basis. Concessionaire shall be responsible for setting up and tearing down, and maintaining all portable equipment necessary to food service functions.

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Exhibit E
Rental Rates for use of Front of House Spaces in McCaw Hall

Agreement for the Management of Food and Beverage Services

At the Marion Oliver McCaw Hall

And the Exhibition Hall at the Seattle Center

Between The City of Seattle and The Westin Seattle

| <u>Rent for up to 6 hours use</u> | | | | <u>Room Descriptions</u> | | |
|--|----------------------|-----------------------|-----------------------|-----------------------------|---------------------|-----------------|
| | <u>Client Rental</u> | <u>Seattle Center</u> | <u>Amount</u> | | <u>Capacities</u> | |
| | <u>Rate</u> | <u>Deduction</u> | <u>to Split 50-50</u> | <u>Square Feet</u> | <u>10/6' Rounds</u> | <u>Standing</u> |
| Promenade Lobby | | | | 9,000 | 250 | 650 |
| Fri / Sat evening | \$2,000 | \$900 | \$1,100 | | | |
| Sun-Thur evening | \$1,500 | \$675 | \$825 | | | |
| Daytime | \$750 | \$450 | \$300 | | | |
| Orchestra Lobby | | | | 12,000 | 350 | 850 |
| Fri / Sat evening | \$2,500 | \$900 | \$1,600 | | | |
| Sun-Thur evening | \$2,000 | \$675 | \$1,325 | | | |
| Daytime | \$1,000 | \$450 | \$550 | | | |
| Orchestra Lobby plus First Tier Lobby + Donor Rooms | | | | 23,050 | 750 | 1,800 |
| Fri / Sat evening | \$4,000 | \$1,400 | \$2,600 | | | |
| Sun-Thur evening | \$3,000 | \$1,050 | \$1,950 | | | |
| Daytime | \$1,500 | \$700 | \$800 | | | |
| First Tier Lobby + Donor Rooms | | | | 5,500 | 150 | 400 |
| Fri / Sat evening | \$2,000 | \$900 | \$1,100 | (for First Tier Lobby only) | | |
| Sun-Thur evening | \$1,500 | \$675 | \$825 | | | |
| Daytime | \$750 | \$450 | \$300 | | | |
| North Donor Room Only | | | | 2,900 | 150 | 300 |
| Fri / Sat evening | \$1,000 | \$400 | \$600 | | | |
| Sun-Thur evening | \$750 | \$300 | \$450 | | | |
| Daytime | \$375 | \$200 | \$175 | | | |
| South Donor Room Only | | | | 2,650 | 100 | 250 |
| Fri / Sat evening | \$850 | \$400 | \$450 | | | |
| Sun-Thur evening | \$650 | \$300 | \$350 | | | |
| Daytime | \$325 | \$200 | \$125 | | | |
| Second Tier Lobby | | | | 7,500 | 220 | 550 |
| Fri / Sat evening | \$1,000 | \$900 | \$100 | | | |
| Sun-Thur evening | \$750 | \$675 | \$75 | | | |
| Daytime | \$500 | \$450 | \$50 | | | |
| Add-On Rooms | | | | | <u>6/4' Rounds</u> | |
| Reception Room | \$150 | \$0 | \$150 | 550 | 24 | 40 |
| Press Room | \$100 | \$0 | \$100 | 350 | 12 | 25 |
| Entire Front of House | | | | 40,450 | 1,256 | 3,065 |
| Fri / Sat evening | \$5,000 | \$1,600 | \$3,400 | | | |
| Sun-Thur evening | \$3,750 | \$1,200 | \$2,550 | | | |
| Daytime | \$1,900 | \$800 | \$1,100 | | | |

Included with Rent:

One or Two Admissions Guards
 One or Two Event Attendants for restrooms
 Facility set-up, utilities, clean-up and tear-down
 Tables and chairs, lecterns, easels

Additional charges:

Food and Beverage
 Catering staff
 Audio / visual systems and operators
 Stages, Theatrical lighting
 Flowers, decorations, etc.

Exhibit F
Agreement for the Management of Food and Beverage Services
At the Marion Oliver McCaw Hall And the Exhibition Hall at the Seattle Center
Between The City of Seattle and The Westin Seattle

MINIMUM PURCHASE SPECIFICATION REQUIREMENTS

| | | |
|------------------------------|--|---|
| BEEF Heifer or Steer | GRADE: YIELD: CONDITION: GROUND BEEF: | USDA Top Choice 3 or under Fresh or Frozen Chuck, 20% fat content |
| PORK | GRADE: YIELD: CONDITION: | US No. 1 1 Fresh or Frozen |
| VEAL Calf | GRADE: CONDITION: | USDA Choice Fresh or Frozen |
| LAMB Under one year old | GRADE: CONDITION: | USDA Choice Fresh or Frozen |
| POULTRY | GRADE: CONDITION: | USDA Inspected Grade A Hens - Fresh or Frozen Fryers - Fresh or Frozen Duckling - Fresh or Frozen Turkey Breast - Fresh or Frozen |
| FISH & SHELLFISH | GRADE: CONDITION: | When graded - A, otherwise top quality Fresh when available, frozen if cost and availability warrant |
| EGGS | GRADE: SIZE: CONDITION: | USDA A, 100% candled Large Fresh |
| BUTTER | GRADE: | USDA AA |
| MILK & MILK PRODUCTS | GRADE: | US Grade A pasteurized |
| NONFAT DRY MILK | GRADE: | US Extra |
| BULK ICE CREAM | | Minimum 12% milk fat, 80-100% overrun |
| FRESH VEGETABLES & FRUITS | GRADE: | US No. 1 or better |
| FROZEN VEGETABLES | GRADE: | A |
| CANNED FRUIT | GRADE: | US Grade A or Fancy in heavy syrup |
| CANNED VEGETABLES | GRADE: | US Grade A or Fancy |
| DRY GOODS | RICE: BEANS: | Fancy or US No. 2 Grade A |
| BAKED PRODUCTS | At Seattle Center's approval | |

Exhibit G
Capital Investment Proposal
Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between The City of Seattle and The Westin Seattle

| | | | Number | Price | Extended |
|---------------------------------|--------|-------------------------------|--------|----------|------------------|
| Fixed Asset | 5 yrs | Point of Sale System | | | |
| | | terminals | 16 | \$3,000 | \$48,000 |
| | 5 yrs | operating systems | 1 | \$25,000 | \$25,000 |
| | 5 yrs | printers | 3 | \$350 | \$1,050 |
| | 5 yrs | cabling | 1 | \$18,000 | \$18,000 |
| | 5 yrs | Delphi | | | \$10,000 |
| Fixed Asset | 5 yrs | misc. | 1 | \$5,000 | \$5,000 |
| | | | | | Total |
| | | | | | \$107,050 |
| China (Homer Laughlin) | | | | | |
| Inventory | | dinner plate | 400 | \$6.50 | \$2,600 |
| Inventory | | cup/saucer | 1000 | \$3.00 | \$3,000 |
| Inventory | | soup bowl | 350 | \$2.50 | \$875 |
| Inventory | | soup cup | 350 | \$1.75 | \$613 |
| Inventory | | side plates | 2000 | \$2.75 | \$5,500 |
| Inventory | | mugs | 400 | \$2.50 | \$1,000 |
| Inventory | | ramekins | 100 | \$2.50 | \$250 |
| | | | | | Total |
| | | | | | \$11,838 |
| Glassware | | | | | |
| Inventory | | water/soda | 320 | \$1.75 | \$560 |
| Inventory | | wine | 2000 | \$1.50 | \$3,000 |
| | | | | | Total |
| | | | | | \$3,560 |
| Dining Utensils | | | | | |
| Inventory | | caf  | | | \$5,000 |
| Inventory | | concessions/catering | | | \$6,000 |
| | | | | | Total |
| | | | | | \$11,000 |
| Linen | | | | | |
| Inventory | | Service - front | | | |
| Inventory | | coffee urns | 10 | \$3,000 | \$30,000 |
| Inventory | | pitchers | 50 | \$8.00 | \$400 |
| Inventory | | buffet trays - jacks | 50 | \$75.00 | \$3,750 |
| Inventory | | trays | 50 | \$3.00 | \$150 |
| Inventory | | salt/pepper | 50 | \$5.00 | \$250 |
| | | | | | Total |
| | | | | | \$34,550 |
| Service - kitchen | | | | | |
| Fixed Asset | 10 yrs | Misc. Equipment | | | \$20,000 |
| | | | | | Total |
| | | | | | \$20,000 |
| Menu boards | | | | | |
| Inventory | | Menu boards | | | \$1,000 |
| Inventory | | Signage | | | \$1,000 |
| | | | | | Total |
| | | | | | \$2,000 |
| Office Equipment | | | | | |
| Fixed Asset | 5 yrs | Desk, chairs, filing cabinets | | | \$1,500 |
| Fixed Asset | 5 yrs | PC and related equipment | | | \$3,500 |
| | | | | | Total |
| | | | | | \$5,000 |
| Locker-room equipment | | | | | |
| Fixed Asset | 5 yrs | Locker-room equipment | | | \$5,000 |
| Inventory | | Uniforms | 25 | 100 | \$2,500 |
| | | | | | \$2,500 |
| | | | | | \$211,998 |
| | | | | | Tax |
| | | | | | \$18,656 |
| | | | | | Freight |
| | | | | | \$5,000 |
| Total Capital Investment | | | | | \$235,653 |

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Exhibit H



**RULES AND REGULATIONS
GOVERNING SEATTLE CENTER**

- Rule 1.** All persons on the Seattle Center grounds shall be governed by the rules and regulations described below and by order and instructions of the City Council and the Seattle Center Director relative to the use or occupation of any part of the Seattle Center grounds or buildings and shall comply with written or oral instructions issued by the Director, Seattle Center employees, or Seattle Police to enforce these regulations.
- Rule 2.** No person, other than tenants, lessees, permittees with approved contracts, or concessionaires, at their respective locations, shall solicit funds for any purpose or offer merchandise or services for sale, or carry on business activity within any building or on any grounds of Seattle Center, except as provided by Rule #3. Business activity conducted by tenants, lessees, permittees with approved contracts, or concessionaires, shall be governed by contractual commitments with Seattle Center, or be approved by the Seattle Center.
- Rule 3.** Persons other than tenants, lessees, permittees with approved contracts, and concessionaires may engage in lawful solicitation of funds for religious, political, or charitable purposes. Those persons doing charitable solicitation shall wear the required permit badge. Persons making solicitations shall confine their activities to those areas permitted by Rule #5.
- Rule 4.** No person shall use the roads or walkways in such a manner as to hinder or obstruct pedestrians or vehicles, nor shall any person or group of persons hinder or obstruct the egress or ingress of any facility, door, loading dock, escalator, elevator, stairway or to the grounds, after having been requested to stop such hindering or obstructing action by an authorized person. (See Rule #1.)
- Rule 5.** The following shall govern speech activities in the Seattle Center complex. The use of Seattle Center for the purpose of engaging in speech activities as defined herein shall not impair or interfere with the rights of other persons or the civic center functions of the Seattle Center. No person shall interfere with regularly scheduled events occurring in the Seattle Center. To assure compliance with this Rule #5, the following standards shall apply and the conduct of speech activities shall be in accordance with the following rules:
- A.** Definitions: As used herein, the term "speech activities" shall mean distributing literature, seeking petition signatures, picketing, demonstrating, displaying signs, soliciting funds for religious, political, charitable purposes, or conducting surveys for other than licensed concessionaires, for other than Seattle Center sponsored events or for other than Seattle Center approved activities.
- The term "captive audience" shall mean any person or group of persons waiting in line to obtain tickets, food, or attend any Seattle Center event; attending or being an audience to any Seattle Center sponsored event; or seated in any seating location where foods or beverages are consumed.
- B.** Soliciting of funds shall not be permitted in any building except as provided for in Rule #3. Speech activities conducted pursuant to Rule #5 in the buildings shall not be permitted:
1. In any building or portion of a building rented or leased to a promoter, tenant, concessionaire, or person(s) who has a contract with Seattle Center for use of a building or portion of a building without express consent of that promoter, tenant, concessionaire, or person;
 2. In washrooms as this activity would hinder or obstruct the usage of such facilities;
 3. Such that pedestrian traffic flows are hindered or obstructed.

- C. Speech activities conducted pursuant to Rule #5 outside the Seattle Center buildings shall be permitted as provided for in Rule #4.
- D. In addition to the rules set forth above which are specifically applicable to the buildings and grounds of the Seattle Center, the following regulations shall apply throughout the Seattle Center complex:
1. Speech activities shall not be permitted in those portions of the Seattle Center not open to the general public for common use;
 2. No person shall engage in speech activities within thirty (30) feet of any captive audience.
 3. No person shall engage in speech activities within thirty (30) feet of any person engaged in any scheduled event that is sponsored or co-sponsored by Seattle Center.
 4. The use of sound or voice amplifying apparatus in a building or on the grounds is prohibited.
 5. Tables, stands, or other structures shall not be used or placed upon the Seattle Center premises.
 6. There shall be no storage of placards, boxes, or supplies on Seattle Center premises other than in authorized public lockers.
 7. There shall be no posting of signs, literature, notices or the like on the Seattle Center premises.
 8. There shall be no business solicitation on the Seattle Center complex unless a written concession contract has been entered into by Seattle Center and the respective business.
- Rule 6.** Street musician is anyone who engages in the playing of any musical instrument, singing, or vocalizing with or without musical accompaniment and who is not sponsored by the Seattle Center. The following shall govern street musician activities in the Seattle Center complex:
- A. Street musicians shall be considered to be engaging in speech activities, and shall comply with Rule #5 except as herein modified by Rule #6.
- B. No street musician is allowed in any building.
- C. *Place of Performance.*
1. Musicians may not perform in those locations set forth in Rule 6.E. below.
 2. No devices for the reproduction or amplification of any sound are allowed. Brass instruments, drums, and other loud instruments are not permitted within thirty (30) feet of any captive audience or scheduled event sponsored by Seattle Center.
- D. *Number of Performers.*
There may be no more than two (2) performers per group unless specifically approved in writing by the Special Activities Office (Room 105, Center House).
- E. *Locations.*
In addition to those prohibited by Rule #5, street musicians shall be prohibited from:
1. The Fun Forest.
 2. The covered walkways.
 3. The Monorail terminals and train.
 4. The International Fountain cobblestones area.
 5. Within ten (10) feet of any information kiosk.
- Rule 7.** Any rule or portion of rule found to be invalid shall not effect the other rules or portions of those rules.
- Rule 8.** The Seattle Center grounds are officially open from 7:00 A.M. to midnight daily (by Ordinance 92792).
- Rule 9.** Patrons will wear shirts and shoes at all times while in the Center House building (Ordinance 106356).

**AGREEMENT FOR THE MANAGEMENT OF
FOOD AND BEVERAGE SERVICES
AT THE MARION OLIVER McCRAW HALL
AND THE EXHIBITION HALL AT THE SEATTLE CENTER
BETWEEN
THE CITY OF SEATTLE
AND
THE WESTIN SEATTLE**

This Agreement is made this ____ day of _____, 2002, by and between THE WESTIN SEATTLE, which is owned by SLC OPERATING LIMITED PARTNERSHIP, a Delaware limited partnership having its principal place of business at 1900 Fifth Avenue, Seattle, Washington 98101 ("Westin"), and The City of Seattle, a municipal corporation of the State of Washington ("City"), operating through its Seattle Center Department ("Seattle Center") and Seattle Center Director.

RECITALS

WHEREAS, Marion Oliver McCaw Hall ("McCaw Hall") will be a world-class performance hall housing the Seattle Opera and Pacific Northwest Ballet, as well as a range of other events, and

WHEREAS, Seattle Opera, one of the nation's leading opera companies, is recognized nationally and internationally for its theatrically compelling and musically accomplished performances, and

WHEREAS, the Pacific Northwest Ballet is one of the five largest and most highly regarded ballet companies in the United States and one of the top three ballet training institutions in the country, and

WHEREAS, Seattle Center through McCaw Hall will create an inviting and welcoming physical environment that honors audiences, as well as producers and performers, and enables patrons to share and experience the fine arts in our community together, and

WHEREAS, food and beverage service in McCaw Hall is vitally important in creating a world-class experience, and

WHEREAS, the Westin Seattle has an outstanding reputation for quality food and beverage service reflecting the talents of professionals dedicated to providing unsurpassed customer experiences, and

WHEREAS, the Westin Seattle and Seattle Center wish to enter into the Agreement as hereinafter set forth to help create a world-class venue and patron and performer experience at McCaw Hall; and

NOW, THEREFORE, the parties hereby enter into this Agreement in order to clearly delineate the areas of responsibility and terms and conditions for food and beverage concession and catering services in McCaw Hall, food and beverage concession services in the Exhibition Hall and food and beverage catering services in other Seattle Center facilities.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONSIDERATION CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I
SCOPE OF AGREEMENT

1.1 Scope of Agreement.

Except as otherwise specifically provided for or limited herein, the Westin will provide the Seattle Center and its patrons with exclusive food and beverage concession and catering services at McCaw Hall (as the Opera House will be known when renovated) and exclusive food and beverage concession services at the Exhibition Hall, subject to the use rights of Pacific Northwest Ballet in the Exhibition Hall, throughout the term of this Agreement. The Westin will also be an approved caterer for all other Seattle Center rental facilities with the exception of the KeyArena. At the Seattle Center's option and to the extent requested, the Westin will also provide vending equipment, machines at selected Seattle Center locations and coat check services for McCaw Hall. In exchange for these and other valuable rights and consideration, the Westin will compensate the City through the payment to the Seattle Center of a graduated percentage of all Gross Sales derived by the Westin under this Agreement through the sale of food and beverage concessions ("Concession"), catering ("Catering") and the possible performance of other services hereunder.

ARTICLE II
DEFINITIONS

2.1 Definitions of Terms.

The capitalized Terms used in this Agreement shall have the following meanings:

A. Agreement means this Agreement for the Management of Food and Beverage Services at the Marion Oliver McCaw Hall and the Exhibition Hall at the Seattle Center together with the exhibits attached hereto. The Agreement may be amended from time to time in accordance with the terms hereof.

B. Agreement for the Management of Food and Beverage Services at the Seattle Center Mercer Arts Arena between the City of Seattle and the Westin Seattle means the agreement between the Westin Seattle and the City of Seattle, dated _____, regarding the management of food and beverage services at the Mercer Arts Arena.

C. Approval means the prior written consent of a party hereto or a designated representative thereof.

D. Catering Sales means the provision of food and/or beverage Catering services at a function where responsibility for payment for such services rests with one individual or entity. Catering Sales includes "no-host" bars provided in conjunction with catered events. It also means the backstage catering buyout rate charged for acts and performers who may choose to provide their own backstage catering services.

E. Capital Equipment Reserve Fund means the account established pursuant to Section 10.5 hereof to fund the repair, maintenance and replacement of Food and Beverage Service Equipment and the furniture and other improvements directly associated with the Food and Beverage Service program in the Facilities or at Seattle Center. In no event shall the Capital Equipment Reserve Fund be used to fund the repair, maintenance or replacement of the computerized point-of-sale system or smallwares and related equipment to be provided by the Westin in accordance with Exhibit A, attached hereto.

F. Concession Sales means food and/or beverage sales at fixed and mobile concession units to individual customers. Concession Sales does not include "no-host" bars provided in conjunction with catering sales.

G. Event Service Order means that form used and prepared by Seattle Center to outline a licensee's or tenant's event requirements.

H. Exhibition Hall means the flat floor exhibition facility adjacent to McCaw Hall at the Seattle Center used primarily for consumer shows, trade shows, banquets, and large meetings. The Pacific Northwest Ballet holds an option on the use of the Exhibition Hall as a future addition to the Phelps Center.

I. Facilities means the McCaw Hall and the Exhibition Hall.

J. Fiscal Year means that twelve-month period commencing on January 1 and ending on December 31.

K. Food and Beverage Products means all food and beverages, and shall include alcoholic beverages, candy and confections.

L. Food and Beverage Service means all food and beverage service provided hereunder, including Concession and Catering services, at or through fixed and portable concession stands, roving vendors, snack bars, liquor bars, or any other areas on or within the Facilities where food products are sold or served.

M. Food and Beverage Service Equipment means the food service equipment, mobile carts, catering furniture and related equipment to support the Food Service program. Such food service equipment and furniture are identified in greater detail in Exhibits B and C, attached hereto. Food and Beverage Service Equipment does not include the computerized point-of-sale system and smallwares and related equipment to be provided by the Westin in accordance with Exhibit A.

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N. Gross Sales means the total income of all kinds which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive in connection with any services provided under this Agreement, including but not limited to, Concession Sales, Catering Sales, rental payments from licensing agreements and any sales that may be associated with any City-requested Vending Machine Equipment provided by the Westin, less sales taxes. Gross Sales includes, but is not limited to, all such sales, whether by cash or credit and whether collected or not and regardless of shortages or shrinkage, Subcontracting Income, gratuities not actually paid to employees, service and rental charges, on-site and off-site sales, and sales via electronic communications. The term Gross Sales does not mean or include (i) the amount of all sales taxes or any excise or other tax collected by the Westin from customers and paid by the Westin to any governmental authority; (ii) the amount of gratuities or service charges added to client bills or statements which are paid over to the Westin's employees; (iii) the amount of any charitable contribution collected by the Westin on behalf of any customer; (iv) the amount of any actual refunds or credits made by Westin to the purchaser due to "over-rings," the sale of which was theretofore included in Gross Sales; or (v) promotional and other complimentary meals. Gross Sales shall not be reduced by any credit card fees charged to the Westin in connection with services provided hereunder.

O. McCaw Hall means the Opera House at the Seattle Center, to be known as the Marion Oliver McCaw Hall when the Opera House is renovated. McCaw Hall's primary tenants are expected to be the Seattle Opera and Pacific Northwest Ballet.

P. Monthly Accounting Period means each calendar month.

Q. Phelps Center means those facilities presently occupied by the Pacific Northwest Ballet in the Exhibition Hall.

R. Premises means those portions of the Facilities identified more particularly in Exhibit D to which the Westin shall have either the exclusive use and occupancy or a general right of access in connection with its Concession, Catering and any other services provided hereunder. Exhibit D delineates those portions of the Premises to which the Westin shall have a right of exclusive use and occupancy, subject to the terms and conditions of this Agreement, and those portions of the Premises to which the Westin shall have a general right of access, subject to the terms and conditions of this Agreement.

S. Seattle Center Client means any individual, organization, corporation or other legal entity with which the Seattle Center has an executed licensing agreement that specifies the use of one or more Seattle Center facilities and date(s) for such use by such Seattle Center Client.

T. Seattle Center Director means the Director of the City's Seattle Center Department or his or her designee.

U. Subcontracting Income means income paid to the Westin as a result of services provided by subcontractors.

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V. TIPS, TEAM means programs related to alcoholic beverage management control systems and procedures implemented when serving guests in public.

W. Vending Machine Equipment means all automatic vending machine equipment that serves canned, cartoned and/or prepackaged foods or beverages in an automated manner.

ARTICLE III TERM

3.1 Term.

This Agreement shall be effective upon its execution by the parties and shall continue in effect until July 31, 2008; provided, however, that upon the written request of either the Westin or the City, and with the approval of both parties, the Agreement may be renewed for an additional term of five (5) years; provided further, however, that such extension request shall have been agreed to by the parties no later than July 31, 2007.

ARTICLE IV GRANT OF CONCESSION AND CATERING RIGHTS; LIMITATIONS; WESTIN OBLIGATIONS.

4.1 Food and Beverage Concession and Catering Rights.

Except as otherwise specifically provided for herein, the City hereby grants to the Westin, for the term of the Agreement and upon the terms and conditions set forth herein, the right to provide the Seattle Center with (a) exclusive Concession and Catering services at McCaw Hall and (b) exclusive Concession services at the Exhibition Hall. This grant of rights does not include catering services for Seattle Center or Seattle Center Foundation sponsored and co-sponsored events, although the Westin may perform such services on a non-exclusive basis when requested by the Seattle Center. Except as otherwise specifically provided for herein, the City further grants to the Westin, for the term of the Agreement and upon the terms and conditions set forth herein, non-exclusive Catering rights at (a) the Exhibition Hall and (b) all other Seattle Center rental facilities, excluding the KeyArena.

4.2 Use and Occupancy of Premises; Access to Other Facilities Areas.

Subject to the terms and conditions of this Agreement, the City hereby grants to the Westin, for the term of the Agreement and upon the terms and conditions set forth herein, a right of exclusive use and occupancy of those portions of the Premises identified for such exclusive use and occupancy by Exhibit D in connection with Concession, Catering and any other services provided hereunder. The City further grants the Westin a reasonable right of access to those portions of the Premises identified for such reasonable access by Exhibit D in connection with the Concession, Catering and other services provided hereunder.

4.3 Limitations on Food and Beverage Concession and Catering Rights.

A. Notwithstanding Section 4.1, some McCaw Hall acts and performers may choose to provide their own backstage catering services. To address such circumstances, which shall constitute a limitation on the Westin's exclusive Catering rights at McCaw Hall, the Westin shall charge a \$250.00 backstage catering buyout rate for such acts and performers per event. A backstage catering buyout rate shall not be charged for food and beverage services provided to staff and crews of Seattle Center, Pacific Northwest Ballet and Seattle Opera working in McCaw Hall, provided such food and beverage services are of an informal "potluck" or "pizza party" nature. The provision of more formal food and beverage services to such staff and crews shall be subject to the Approval of the Westin, which Approval shall not be unreasonably withheld.

B. Notwithstanding Section 4.1, all rights of any kind granted hereunder to the Westin in connection with the Exhibition Hall are subject to an option held by the Pacific Northwest Ballet for use and occupancy of the Exhibition Hall as a possible future addition to the Phelps Center. If such option, requiring notice to the City of at least one year, is exercised, the Westin would not thereafter provide Concession or Catering services of any kind at the Exhibition Hall unless requested to do so by the Seattle Center.

C. Notwithstanding Section 4.1, the Seattle Center may at its option permit the Seattle Opera and/or the Pacific Northwest Ballet to conduct a total of up to three (3) events each during each year of this Agreement at McCaw Hall to be catered by a caterer other than the Westin; provided, however, that any such caterer(s) shall be entitled to use of the pantries in the donor rooms but shall not be entitled to use of the kitchen or café portions of the Premises without the approval of the Westin; and, provided further, that the catering payment for food and beverage sales by the Seattle Opera or the Pacific Northwest Ballet or their affiliates for any such event shall be no greater than two thousand dollars (\$2,000.00), exclusive of taxes and gratuities, or such number as shall be mutually agreed to by the Westin and the Seattle Opera or the Pacific Northwest Ballet. In the event a caterer other than the Westin for an event that will include alcohol may not lawfully serve alcohol at such event, such alcohol sales shall be performed by the Westin with revenue from same included as Gross Sales.

4.4 Non-Exclusive Food and Beverage Concession Right

The City hereby grants to the Westin for the term of the Agreement and upon the terms and conditions set forth herein, a non-exclusive right and privilege to provide Concession services elsewhere at the Seattle Center when requested to do so by the Seattle Center Director and subject to the agreement of the Westin.

4.5 Pre-Approved Seattle Center Caterer

The Westin is included on the official Seattle Center list of pre-approved caterers for all other Seattle Center facilities and grounds with the exception of the KeyArena. Seattle Center facilities include the Center House Conference Rooms, the Northwest Rooms, the Seattle Center Pavilion, Fisher Pavilion, and the Exhibition Hall. This Agreement, including in particular this Section 4.5, addresses the terms and conditions under which such additional catering services may be provided by the Westin, and therefore supercedes the "Agreement for the Management of Food and Beverage Services at the Seattle Center Mercer Arts Arena between the City of Seattle

and the Westin Seattle dated _____ 2002 between the City and the Westin as SLC Operating Limited Partnership.

A. The City hereby grants the Westin the right to provide Catering services to any individual, organization, corporation or other legal entity ("Seattle Center Clients") with which the Seattle Center has an executed licensing agreement that specifies the use of one or more Seattle Center facilities and date(s) for such use by such Seattle Center Client.

B. It shall be the responsibility of the Westin, subject to reasonable business practices, to enter into a business agreement to provide Catering services to Seattle Center Clients requesting such services.

C. All income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of providing Catering services to any Seattle Center Client or as a Seattle Center Client shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

D. In the event the Westin is selected by and contracts with a Seattle Center Client to provide Catering services the Westin shall inform the Seattle Center of any contracted Catering services hereunder not less than seventy-two (72) hours prior to the provision of the services. The Westin shall request from the Seattle Center the Event Service Order number that identifies the event and the name of the catered event.

E. In the event the Westin wants to act as a Seattle Center Client the Westin shall make their best effort to inform Seattle Center seventeen (17) days in advance of an event and shall execute a licensing agreement with Seattle Center specifying the use of one or more Seattle Center facilities and date(s) for such use.

F. As part of the monthly reports required by Section 6.1 of this Agreement, the Westin shall provide at least the following information with respect to the provision of Catering services for each Seattle Center Client and for those events for which the Westin is the Seattle Center Client hereunder: (i) the Event Service Order number; (ii) the nature and date(s) of the Catering services provided; and (iii) Gross Sales the Westin has or is legally entitled to receive for such services. In addition, a copy of the invoice(s) provided to the Seattle Center Client or to the catering client for such event shall be provided at the Seattle Center's request.

G. The Westin shall supply all linens and tableware and all other equipment that is required for the Catering services to be provided to any Seattle Center Client. The Seattle Center shall supply tables and chairs in such numbers as are requested by the Seattle Center Client and as are available from the Seattle Center as determined by the Seattle Center Director.

H. Except as specifically addressed in this Section 4.5, the provisions of this Agreement, including but not limited to those related to insurance, indemnification, employees, quality control, alcohol & beverages, audits, year end reports, maintenance of records, cleaning and trash removal, shall apply to all Catering services provided by the Westin to Seattle Center Clients or acting as a Seattle Center Client hereunder.

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I. For Catering services provided in facilities other than McCaw Hall, the Westin shall remove from the facility(ies) all trash and food waste created as a result of providing Catering services. The Westin shall clean up any spills resulting from Catering services. In the event any facility used for Catering services is not left clean with trash and food waste removed, the Westin shall be charged a cleaning cost at the hourly rate of a Seattle Center Laborer as published in the Seattle Center Personnel Rates Addendum or its successor publication. The Westin may leave recycling products that are locally acceptable for recycling and have been sorted into separate receptacles reasonably approved by the Director.

4.6 Use of Kitchen Portion of Premises and Related Equipment for Off-Site Catering and Other Services.

Unless Approved by the Seattle Center Director, the Westin may not utilize any portion of the Premises or their related Food and Beverage Service Equipment to provide off-site catering or other services of any kind. In the event such Approval is granted, any income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of providing off-site catering or other services utilizing the kitchen portion of the Premises shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

4.7 Opportunity to Rent Kitchen Portion of Premises and Related Equipment to Others.

The Westin may rent the kitchen portion of the Premises and its associated Food and Beverage Service Equipment therein to other caterers for food preparation in conjunction with events conducted at Seattle Center facilities. Rental of the kitchen to others shall be by written agreement which requires the user to secure insurance in types and amounts sufficient to protect against damage to the facility and equipment therein, and to return any portions of the Premises utilized to the Westin in a clean and orderly condition, at the user's expense. All income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of renting the kitchen portion of the Premises or its related Food and Beverage Service Equipment to others shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

4.8 Duty to Provide Service; Surety Performance Bond.

The Westin shall operate and conduct its business in a first-class and reputable manner consistent with industry standards and subject to the terms and conditions otherwise set forth in this Agreement. The Westin shall provide the Seattle Center and each of its licensees and tenants with the type, level, quality and quantity of Food Services reasonably requested at the time and locations stated on an Event Service Order; provided, however, that irrespective of the request of a licensee or tenant the Westin shall not provide its services in a manner that violates the terms of this Agreement or in locations which the licensee or tenant has no right to occupy. At or prior to the execution of this Agreement, the Westin shall furnish to the City a performance bond or, with the Approval of the Seattle Center Director, an irrevocable letter of credit for the duration of the Agreement in the sum of \$100,000. Such bond or letter of credit shall be in a format and from an

entity acceptable to the Seattle Center; provided, however, that the City shall not seek recourse with respect to such bond or letter of credit unless the Westin has materially defaulted under one or more of its obligations under this Agreement and has failed to timely cure such material default in accordance with the provisions of Article 19 hereof.

4.9 Obligation to Actively Market for Catering Events and Share in Rental Payments.

In addition to the Concession and Catering opportunities that exist as a result of event bookings at the Facilities, there are additional booking opportunities to be found in the Facilities. Based on available dates and spaces in or around the Facilities as determined by the Seattle Center, and consistent with Seattle Center's booking policies, the Westin will actively and continuously market these Catering opportunities throughout each year of the term of this Agreement. In particular, the Westin shall task its sales team to promote, market and sell available dates at the Facilities. This team consists of Group Sales Managers, Westin One Call Managers, and Catering Sales Managers, each handling different market segments. The Starwood Global Sales Organization will be tasked to generate business leads for Seattle Center, which will provide additional source of business for the Facilities. The Westin will market the Facilities through published print advertising, memberships in local event planning associations, and relationships with local event planning companies. The Westin will cross-market to its existing customers and include tag line messages regarding the Facilities on outgoing e-mails and printed sales proposals. The Westin will host "familiarization" tours and events with potential customers and industry event planning professionals. The Westin will work with the Seattle Center and a public relations firm to embark on a pre-opening campaign to build suspense, generate pre-bookings, and create an aura of desirability around the Facilities.

The Seattle Center recognizes that the Westin may market Seattle Center facilities, including the Facilities, in "package" agreements that include Westin facilities not otherwise subject to this Agreement. Such agreements benefit both parties by generating income that likely would not otherwise be realized. The parties intend, however, that any such agreements entered into by the Westin fairly and reasonably apportion income generated thereunder between Seattle Center facilities and Westin facilities. Therefore, in no event shall such agreements result in a reduction of Gross Sales fairly and reasonably attributable to the use of Seattle Center Facilities. Any such agreements shall be identified as such on an event-by-event basis on the monthly accounting report, and such agreement shall be subject to inspection and review by the Seattle Center at the Westin's offices in Seattle.

The Westin shall receive a portion of all rental fees paid by a client, other than the Pacific Northwest Ballet and the Seattle Opera, for events in the front of house spaces in McCaw Hall. The Westin shall receive a portion of the front of house rental rates as shown in Exhibit E. Cancellation fees for events in the front of house spaces shall be shared equally by the Westin and Seattle Center. For purposes of determining when the rental sharing should occur, rental payments shall be recorded as Gross Sales on the day of the event. Rental payments for events held on multiple days shall be recorded on the individual event days. Seattle Center, in consultation with the Westin, shall establish and change as necessary the rental rates shown in Exhibit E, along with the Seattle Center deductions, which shall be tied to Seattle Center event costs and not unreasonably inflated.

4.10 Additional Services Requested By City.

The Seattle Center, at its option, may request that the Westin provide additional services under this Agreement, including but not limited to the furnishing, installation and maintenance of Vending Machine Equipment at locations Approved by the Seattle Center and coat check services at McCaw Hall.

A. In the event and to the extent the Westin is asked to furnish, install and maintain Vending Machine Equipment, all income of any kind which the Westin, its agents, subcontractors or employees, receives or becomes legally entitled to receive as a result of the operation of such Vending Machine Equipment shall be considered Gross Sales and distributed as otherwise provided for under this Agreement.

B. In the event the Westin is asked to provide coat-check services at McCaw Hall, the Westin shall provide such services in accordance with the terms and conditions of a Memorandum of Understanding between the parties or an amendment to this Agreement.

C. The Seattle Center may request that the Westin provide additional services not specifically contemplated hereunder. If agreement regarding such additional services can be reached, they shall be embodied in a Memorandum of Understanding between the parties or an amendment to this Agreement.

4.11 Waiver of Exclusive Catering Right.

Exclusive of backstage catering buyouts, the Westin shall make every effort to satisfy the specific needs of Seattle Center licensees and tenants with regard to customer service, menu choices and price. In the event the Westin is unable to provide or subcontract for the provision of specific Catering services requested by a licensee or tenant, the Westin shall waive its exclusive Catering rights with respect to such services and will work cooperatively with another food service provider to provide the requested Food and Beverage Services. The fee to be charged and the amount paid to Seattle Center, which shall in no event be less than 15% of Gross Sales associated with such services, shall be negotiated between the food service provider, the Westin and the licensee or tenant, shall be recommended in writing to, and shall be subject to the Approval of, the Seattle Center Director.

ARTICLE V
PERCENTAGE OF GROSS SALES TO CITY IN EXCHANGE FOR GRANT OF FOOD AND BEVERAGE CONCESSION AND CATERING RIGHTS

5.1 Percentage of Gross Sales to City.

In exchange for the grant of rights set forth in Article IV, the Westin agrees to pay to the City a percentage of its annual Gross Sales on a Monthly Accounting Period basis during each year of the term of this Agreement, in the manner set forth below and in accordance with the following graduated percentage payment schedule:

| <u>Gross Sales</u> | <u>Percentage</u> |
|----------------------------|-------------------|
| Zero to \$1,000,000 | 7.5% to City |
| \$1,000,001 to \$1,500,000 | 8.5% to City |
| \$1,500,001 to \$2,000,000 | 9.5% to City |
| \$2,000,001 to \$2,500,000 | 10.5% to City |
| \$2,500,001 to \$3,000,000 | 11.5% to City |
| \$3,000,001 and higher | 12.5% to City |

Such percentage payments are to be made to the City on a cumulative annual basis. The City will receive from the Westin an amount equal to 7.5% of the first \$1,000,000 in Gross Sales received by the Westin during any calendar year of the Agreement, an amount equal to 8.5% of all Gross Sales received by the Westin between \$1,000,001 and \$1,500,000 during such year, and so forth. (By way of example, in a calendar year in which Gross Sales totaled \$2,175,000, the City's share of the Gross Sales would be \$183,275.)

For any calendar year of the Agreement that is not a full calendar year, the percentage payments of Gross Sales to the City shall be based on a prorated Gross Sales calculation. For example, an Agreement year commencing on January 1 and ending July 31 would be based on seven twelfths (7/12 or 59%) of the Gross Sales that the Westin receives or is entitled to receive. (By way of example, for a year in which Gross Sales totaled \$1,300,000 but in which the Agreement was terminated on July 31, the City's share of the \$1,300,000 Gross Sales would be determined based on the following graduated payment schedule:

| <u>Gross Sales</u> | <u>Percentage</u> |
|----------------------------|-------------------|
| Zero to \$590,000 | 7.5% to City |
| \$590,001 to \$885,000 | 8.5% to City |
| \$885,001 to \$1,180,000 | 9.5% to City |
| \$1,180,001 to \$1,475,000 | 10.5% to City |
| \$1,475,001 to \$1,770,000 | 11.5% to City |
| \$1,770,001 and higher | 12.5% to City |

The City's share of the \$1,300,000 of Gross Sales in this example would be \$109,950.)

For the period January 9, 2002 through June 15, 2003, Catering and Concession Sales at the Mercer Arts Arena shall not be included in the calculation of Gross Sales. Any payments to the City for the Mercer Arts Arena catering and concession sales for this time period shall be governed by the terms of the "Agreement for the Management of Food and Beverage Services at the Seattle Center Mercer Arts Arena between the City of Seattle and the Westin Seattle." In the event the Mercer Arts Arena is used as a public assembly facility after June 16, 2003 the Westin and Seattle Center may enter into negotiations regarding the provision of catering and concession services at the Mercer Arts Arena for such additional period.

5.2 Timing and Form of Payments.

The City's appropriate percentage share of Gross Sales, determined on the basis of total Gross Sales received to date during any calendar year or partial calendar year of the term of the Agreement, shall be paid to the City within ten (10) calendar days following the conclusion of each Monthly Calendar Period throughout the term of the Agreement. Such payments to the City hereunder shall be in lawful money of the United States of America or in a money order or check payable in such form. All such payments shall be sent to Accounts Receivable, c/o Seattle Center Fiscal Services, 305 Harrison Street, Seattle, Washington, 98109, or to such other address as the Seattle Center Director shall specify by notice to the Westin. Late payments shall accrue interest at a rate of 12% per annum.

The Westin will identify separately and offset from each payment the amount owed the Westin by Seattle Center for that Monthly Calendar Period for their share of the rent sharing identified in Section 4.9. In the event that the amount owed the Westin by Seattle Center exceeds the percentage share of Gross Sales owed for that Monthly Calendar Period, then the Westin will carryover the balanced owed to them by the Seattle Center and offset the amount owed from the following Monthly Calendar Period(s).

5.3 Payment in Event of Early Termination.

In the event either party terminates this Agreement at any time prior to the expiration of its term for any reason, the Westin shall pay to the City the appropriate percentage of Gross Sales received by the Westin for all events occurring and services provided prior to the effective date of such termination.

ARTICLE VI
REPORTING, AUDITS, RECORD KEEPING AND CONFIDENTIALITY

6.1 Monthly Reports.

Within ten (10) days following the end of each Monthly Accounting Period, the Westin shall submit to the City an accounting report on an event-by-event basis during such period. Each accounting shall include for each event at least the following information: the Event Service Order number, event name, date of event, location of event, nature of services provided, estimated attendance, per capita revenues, and the amount of Gross Sales received or remaining

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owing. All such information shall be documented on a basis satisfactory to the Seattle Center, which may include requests for additional kinds of related information from time to time, formatted to correspond with the "event type" categories currently used by the Seattle Center, and provided in disk as well as paper form, utilizing a computer application Approved by the Seattle Center Director.

6.2 Year End Report; Final Accounting and Payment of Percentage of Gross Sales to City.

Within thirty (30) days following the end of each year or partial year of the term of this Agreement, the Westin shall submit to the City a year end report that includes an accounting of all Gross Sales realized or remaining owing for services provided by the Westin during such year. Such report shall include an evaluation of its cash handling procedures and an accounting of any shortages or overages experienced during such year. Such report and accounting shall be in a form acceptable to the Seattle Center and accompanied by such documentation as the Seattle Center may require. The Westin shall provide the City disk as well as paper copies of the accounting, utilizing a computer application Approved by the Seattle Center Director.

6.3 Maintenance of Records and Annual Financial Audits.

The Westin shall establish and maintain at its on-site office an accounting system for its operations at the Premises in accordance with generally accepted accounting practices consistently applied, and the Westin shall maintain in King County books and records for its operations hereunder for a period of at least six (6) years following the end of the term of the Agreement including any extension thereof. Within one hundred eighty (180) days after the end of each year or partial year of the term of this Agreement, the Westin shall submit to the Seattle Center an annual financial audit of the Westin's activities hereunder prepared by a firm Approved by the Seattle Center and paid for by the Westin. In addition, the City, at its own expense, may cause its designated accountants to audit all records retained by the Westin pertaining to activities hereunder upon reasonable notice during the term of this Agreement including any extension thereof and for a period of at least six (6) years thereafter.

6.4 Accounting Systems.

The Westin shall use such inventory control systems, sales slips, and/or equipment as is customary in the industry and in the Westin's other recreational services accounts to record Gross Sales. All systems, equipment and sales slips shall be subject to inspection by the City, its officers, employees and representatives, during such hours that the Premises are operating or during regular business hours. Any such inspection shall be made so as not to interfere with the Westin's business activities hereunder.

6.5 Confidentiality.

The parties agree that they will not permit the duplication or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) unless such duplication, use or disclosure is

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specifically authorized in writing by the other party or is required by law, including the Public Disclosure Act, Chapter 42.17 RCW. "Confidential and Proprietary" information does not include ideas, concepts, know-how or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Agreement. Likewise, "Confidential and Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

ARTICLE VII OPERATING STANDARDS

7.1 Product and Service Standards.

The Westin shall conduct all of its operations in a first-class, professional, businesslike, and efficient manner consistent with industry standards for a premier performance hall and exhibition hall. All Concession and Catering services in McCaw Hall shall be with china, glassware, non-plastic flatware and linen. Use of any alternative serviceware shall be subject to the Approval of the Seattle Center Director. 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 all applicable, 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 and in compliance with all applicable health and safety standards. Leftover perishable product shall not be sold to the public at any time. Leftover perishable product may be sold to employees in the employee dining facility or donated to food banks, shelters, or other charitable uses. Minimum food purchase specifications shall be as outlined in Exhibit F, attached hereto. The Westin and its employees shall not make or permit any misrepresentation as to kind, quality, weight, or price of food or beverages offered for sale. The location of points of sales, methods of sale, and prices charged for commodities sold or business transacted by the Westin under the provisions of this Agreement shall at all times be subject to the supervision, direction and Approval of the Seattle Center Director, which approval shall not be unreasonably withheld. A copy of the then current food and beverage concession price schedule shall be displayed at each Concession facility on the Premises in such a manner so as to be easily viewed by the public whenever the concession facility is open for business. The Westin shall strictly adhere to the established prices as set forth in the then current price schedule. In the event the City becomes aware that the Westin is not adhering to the current established price schedule, it shall notify the Westin of such departure in writing, and the Westin shall immediately cure such default. The Westin's failure to do so within 24 hours of receipt of written notice from the City shall be grounds for immediate termination of this Agreement.

7.2 Tobacco Products.

The Westin will not advertise or sell or permit others within their control to advertise or sell, tobacco products on or around the Facilities or any other Seattle Center facility.



7.3 Alcoholic Beverages.

Alcoholic beverages are to be offered for sale by the Westin to the extent permitted by applicable state and local laws, and subject to regulations established by the Seattle Center. Final decisions as to whether alcoholic beverages may be sold at an event or in any Seattle Center facility shall be the sole responsibility of the Seattle Center. Seattle Center's decision to disallow the selling of alcoholic beverages will be based upon concerns for public safety or other public policy concerns and the basis for such decision will be communicated to the Westin. When alcoholic beverages may be sold at an event or in any Seattle Center facility, the decision to serve or refuse service of an alcoholic beverage to any individual shall be the sole responsibility of the Westin. All licenses and permits required for the sale of alcoholic beverages at Seattle Center facilities shall be held in the name of the Westin. The Westin shall keep such permits for McCaw Hall and the Exhibition Hall in full force and effect and shall obtain proper permits to serve liquor at other Seattle Center facilities prior to serving any alcoholic beverages in such facilities. The Westin shall prepare, file and process all applications for renewals of the permits. At the termination of this Agreement, the Westin shall surrender and transfer all alcoholic beverage licenses for the Seattle Center facilities, if allowed by law, to the Seattle Center or, at the option of the City, to the succeeding concessionaire, upon the transfer of such licenses the Westin shall be reimbursed by Seattle Center or the succeeding concessionaire, an amount equal to the remaining prorated fee cost for such alcoholic beverage license.

7.4 Menus, Prices and Signage.

For each year during the term of the Agreement, the Westin shall submit proposed Concession menus and prices, and proposed prices for any other services provided under this Agreement, to the Seattle Center Director for Approval, which Approval shall not be unreasonably withheld, no later than May 1 for implementation on the following July 1 and prior to the opening of the performing arts season. In the event that menu and price changes are recommended during other periods, the Westin shall submit such changes to the Seattle Center Director within thirty (30) days of the proposed change. In the event no written response is provided by the City within the thirty (30) day review period, the Westin's proposed changes shall be deemed acceptable. The Westin shall provide a wide range of Catering menus and prices to meet the variety of needs and price points of Seattle Center clients. Client event orders and cost estimates shall clearly indicate all client costs including service charges, gratuities, labor costs and sales tax. Subject to the Approval of the Seattle Center Director, all Westin signage, marketing, menus and employee uniforms and identification shall tastefully reflect the relationship hereunder between the Seattle Center and the Westin.

7.5 Deliveries.

Deliveries shall be made to and on the Premises prior to 11:00 a.m., or such alternative delivery time as mutually agreed, and in a manner that minimizes congestion and disruption to users of Seattle Center, unless otherwise authorized by the Seattle Center Director.

7.6 Uniforms.

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The Westin shall provide, maintain and launder, as necessary, uniforms of a color and design appropriate to each facility and Approved by the Seattle Center Director.

7.7 Drinking Awareness Program.

The Westin shall implement and maintain a continuing alcohol awareness educational program, such as TIPS and/or TEAM, for all employees serving alcohol to the public. This training shall include age identification, diplomatic ways to refuse service, and legal responsibilities. All Westin employees serving alcohol to the public at the Facilities or any other Seattle Center venue or location shall participate in such training, and the Westin upon the request of the Seattle Center shall provide the City with documentation of the content of and attendance at any such training program. Frequency of such training shall be at the discretion of the Westin or upon the request of Seattle Center. The Westin shall submit to the Seattle Center Director for Approval, proposed graphics on alcohol awareness, to be displayed in all facilities.

7.8 Cash Handling.

Prior to signing this Agreement, the Westin shall provide the City with a written copy of its cash handling procedures for the Premises, and shall promptly notify the City of any changes to the cash handling procedures. Any theft or loss of cash, including but not limited to theft and loss of cash attributable to the failure of the Westin or its employees to comply with the Westin's cash handling procedures or otherwise attributable to an act or omission of the Westin or its employees, shall be borne solely by the Westin and shall not be deducted from Gross Sales under this Agreement.

ARTICLE VIII
USE OF PREMISES

8.1 Access to City Premises.

The Westin and its agents, employees, suppliers and other such persons necessary for the Westin to render services contemplated herein, shall have access to additional areas of the Seattle Center facilities as may be necessary or appropriate to provide the services contemplated herein, subject to customary and reasonable security precautions. When providing services hereunder, the Westin's agents, employees, suppliers and other persons necessary to its operations shall be entitled to free admission to such areas, including restrooms and changing rooms, through a reasonably convenient entrance designated by the City.

8.2 Parking.

The City shall provide the Westin with two (2) parking permits for such Seattle Center parking facility as the Director shall from time to time designate. The Westin shall be permitted to utilize the McCaw Hall loading dock for load/unload purposes only and shall be provided with two (2) additional parking permits for use by delivery vehicles only for such Seattle Center parking facility as the Director shall from time to time designate. The charge for any additional parking

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utilized by the Westin shall be at the established Seattle Center parking rate in effect at the time of such parking space use.

8.3 Inspection.

The City shall have access to the Premises at any reasonable time for the purposes of inspecting, repairing, altering or improving any property owned by or under the control of the City and not the responsibility of the Westin hereunder; provided, however, that such access and inspections shall not unnecessarily interfere with the Westin's operations hereunder. The City shall immediately notify Westin management of its intent to inspect and shall permit a Westin employee (preferably a manager or director of security) to accompany any inspection or unscheduled entry into any locked portion of the Premises. The Westin shall deliver to the City a key to any locked portions of the Premises to enable the City to at any time unlock each of the doors in, upon, and about the Premises, excluding the Westin's vaults, safes, and files. The City shall have the right to use any and all means that the Seattle Center Director deems proper to obtain entry to the Premises in an emergency, without liability to the Westin except for any failure to exercise due care for the Westin's property.

8.4 Care of Premises.

The Westin shall not damage or in any manner deface the Premises and shall not cause or permit anything to be done whereby any Seattle Center facility shall be in any manner defaced or damaged. The Westin shall submit a written notice to the Seattle Center Director regarding the circumstances of any Premises or other Seattle Center facility damage or destruction within forty-eight (48) hours after any such event. In the event that during the period of the Westin's use, the Premises or any other Seattle Center facility are damaged or defaced by the willful misconduct, default, or negligence of the Westin, the Westin shall pay to the City such sum as is reasonably necessary to restore that damaged portion of the Premises to its condition immediately prior to the occasioning of such damage.

ARTICLE IX OPERATING RESPONSIBILITIES

9.1 Cleaning, Event Set Up and Take Down

The Westin shall be responsible for maintaining in an orderly, clean and sanitary condition all areas of the Premises to which it has exclusive use and occupancy and a right of access in accordance with Exhibit D. The City shall be responsible for maintaining and cleaning all other areas of the Facilities. Subject to Seattle Center labor agreements, the Westin shall set up, and remove tables, tents, staging, and serveware for food service functions. The Westin will be responsible for skirting and dressing tables on a timely basis. The Westin shall be responsible for setting up and tearing down, and maintaining all portable equipment and furniture necessary to food service functions. The City shall be responsible for providing sufficient storage for tables and chairs at a location to be determined by the Seattle Center Director.

9.2 Utilities.

The City shall supply and the Westin shall pay for all basic utility services associated with the Westin's operations hereunder, including, but not limited to, gas, electricity, sewer, water, and HVAC in the kitchen and café portions of the Premises in accordance with Exhibit D. The Westin shall pay through a separate metering system for its use of gas, water, sewer and electricity in these spaces. The Westin shall pay for HVAC expenses in the kitchen and café portions of the Premises based upon a mutually agreed upon allocation of the actual costs for the Facilities. The City shall provide sufficient utility load capacity to enable operation of the Facilities as designed and the Westin shall not install any equipment that will exceed or overload such capacity. Any damage to utility lines or systems caused by the Westin shall be repaired by the City at the Westin's sole expense. The Westin shall maintain the sewer lines to the satisfaction of the Seattle Center and shall take all precautionary measures necessary to assure that grease and other potentially hazardous or damaging materials are not discharged into the sewer system. If any equipment installed by the Westin requires additional utility facilities the same shall be installed at the expense of the Westin and in accordance with plans and specifications Approved by the Seattle Center Director. The City shall not be liable for any failure or interruption of water, HVAC, gas or electrical supply, or for loss of property, or for injury or damage to any person or property resulting from steam, gas, electricity, water, rain or snow that may leak or flow from or into any part of any Seattle Center facility, or from the pipes, appliances or plumbing of a building or from any other place unless such damage is caused by the willful misconduct, negligent acts or omissions of the City.

9.3 Pest Control.

The Westin shall be responsible for implementing and funding a regular program of pest control Approved by the Seattle Center Director. The vendor selected to provide pest control will be at the discretion of the Westin.

9.4 Trash Removal.

All waste foods shall be kept in closed containers until removed from the Premises. Lard, grease and similar materials shall be kept in airtight containers. The Westin shall actively participate in a refuse-recycling program Approved by the Seattle Center Director, which program will at a minimum require the Westin to collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles Approved by the Seattle Center Director. The City shall pick up and dispose of the trash from locations designated by the City. The Westin shall pay their fair share of garbage and recycling costs associated with the Food and Beverage Service program in the Facilities. The City and the Westin shall mutually agree upon an allocation of such costs based upon actual garbage and recycling costs for the Facilities. The City reserves the right to refuse to collect or accept from the Westin any waste product that is not sorted and separated as required by law, ordinance, rule or, regulation, or this Agreement, and to require the Westin to arrange for the collection of the same at the Westin's sole cost and expense using a contractor satisfactory to the City. The Westin shall pay all costs, fines, penalties and damages that may be imposed on

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the City or the Westin as a consequence of the Westin's failure to comply with the provisions of this section.

9.5 Use of Recycled Content Paper.

The Westin shall use, whenever practicable, recycled content paper on all documents submitted to the City, in accordance with Seattle Municipal Code ("SMC") 3.38.904.

9.6 Use of Recyclable and Biodegradable Products.

Subject to Section 7.1 of this Agreement, the Westin shall whenever possible use recyclable and biodegradable products for containers and supplies used in the Facilities; provided, however, that the Seattle Center reserves the right to restrict the use of cans and bottles as serving containers for particular events.

9.7 No Nuisance or Objectionable Activity.

The Westin shall not permit any excessive or objectionable noise, odor, dust, vibration, or other similar substance or condition to remain on or be emitted from the Premises; shall not create any nuisance in or adjacent to the Premises; and shall not do anything on the Premises that will create a danger to life or limb.

ARTICLE X

PREMISES, EQUIPMENT AND CAPITAL CONTRIBUTIONS OF PARTIES

10.1 Design of Food Service Facilities and Purchase of Kitchen and Other Equipment.

The Seattle Center, Seattle Opera, Pacific Northwest Ballet and the Westin will consult with each other regarding the design of the Food and Beverage Service facilities and the purchase of Food and Beverage Service Equipment for use by the Westin under this Agreement. The Westin shall not be responsible for food and beverage service and kitchen facility design in connection with the Facilities, but shall consult with the Seattle Center regarding the preparation of construction documents and specifications for the Food and Beverage Service Equipment that will be paid for by the City. The Westin shall be responsible for its own costs incurred in connection with such consultations. Any changes to the Food and Beverage Service infrastructure design requested by the Westin and Approved by the City after the overall design of McCaw Hall is considered 75% complete by the City's architects shall be made at the expense of the Westin.

10.2 Facilities and Premises Provided by City Accepted in "As Is" Condition.

Subject to the right and obligation of consultation set forth in Section 10.1, the Westin accepts all existing facilities, including those associated with the Facilities and the Premises, in their "as is" condition. Following construction of McCaw Hall, the Westin agrees to accept McCaw Hall in its newly constructed condition, provided that the construction of all Food and Beverage Service facilities associated therewith have been constructed substantially in accordance with the designs contained in the December 17, 2001 Conformance Set Plans, Food Service series and

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Concessions Casework plan. The City disclaims all representations, statements, and warranties, express or implied, with respect to the condition of the Premises or the use, occupancy and access authorized hereunder other than those contained herein. In the event any portion of the Premises subject to this Agreement is determined by a person having authority to be in violation of any building or safety code then upon reasonable and prompt notice thereof, the City agrees to cure the violation and to indemnify and hold the Westin harmless from any penalties or other costs associated with such violation.

10.3 City Funded Food Service Equipment.

The City will provide up to a maximum investment of \$750,000 for the purchase of Food and Beverage Service Equipment, including food service equipment, mobile carts, catering furniture, and related equipment. The food service equipment and furniture are identified in greater detail in Exhibits B and C. The particular items identified in Exhibits B and C may be modified by the mutual agreement of the City and the Westin as the design of McCaw Hall becomes more fully developed. If all of the Food and Beverage Service Equipment cannot be purchased for an amount not to exceed \$750,000, the Westin and the Seattle Center shall cooperatively determine how to best equip the Food and Beverage Service facilities for an amount of City funds not to exceed \$750,000. The Seattle Center will consult with the Westin concerning (a) the equipment specifications, vendors, procurement methods, (b) the timing of such procurements, and (c) the testing, installation and maintenance of such items. If by agreement with the Seattle Center the Westin purchases some of these items and receives a cash advance or is reimbursed with City funds, the Westin and the Seattle Center shall develop mutually agreeable purchasing and accounting procedures for the acquisition of such items. The Seattle Center may by agreement with the Westin reimburse the Westin or provide a cash advance for the cost of purchasing any such Food and Beverage Service Equipment.

10.4 Equipment Provided by the Westin; Initial Westin Capital Contribution.

The Westin shall provide, maintain and replace when necessary the computerized point-of-sale system, smallwares and related equipment set forth in Exhibit A throughout the term of this Agreement. The Westin shall make investments of approximately \$235,653 in point of sale equipment and small equipment for the Café and concessions operation prior to the opening of McCaw Hall in accordance with the capital investment in G, attached hereto. Documentation acceptable to the Seattle Center Director concerning such capital investments shall be included in the appropriate Westin's year-end report and annual financial audit required pursuant to Sections 6.2 and 6.3 hereof. In no event shall funds from the Capital Maintenance Reserve Fund established pursuant to Section 10.5 hereof be used for any purposes under this section. All equipment and furnishings to be installed or provided by the Westin shall (a) be Approved by the Seattle Center Director, (b) comply with any standards established by the architects of McCaw Hall, and (c) be of such quality, design and finish as will be in keeping with the general décor of the Facilities. Upon termination of the Agreement the Westin shall retain ownership of all such equipment. Seattle Center may purchase all or a portion of such equipment for the unamortized value of the equipment or for such price as may be mutually agreed by the parties.

10.5 Capital Equipment Reserve Fund.

A. The Westin shall within ten (10) days following the conclusion of each Monthly Accounting Period pay to the City an amount equal to 1.5% of all Gross Sales received, or that the Westin has become legally entitled to receive, during such period into a Capital Equipment Reserve Fund established by the City to fund the repair, maintenance and replacement of the Food and Beverage Service Equipment purchased with City funds or to make other Food and Beverage Service related improvements to the Facilities or at Seattle Center. Late deposits to the fund shall accrue interest at the rate of 12% per annum.

B. The Westin's monthly Capital Equipment Reserve Fund deposit shall be placed in an interest-bearing sub-fund of the Seattle Center Operating fund controlled by the Seattle Center to be used at the discretion of the Seattle Center Director following consultation with the Westin. Capital Equipment Reserve Funds generated by McCaw Hall shall be recorded separately from Capital Equipment Reserve Funds generated by the Exhibition Hall and other Seattle Center facilities. Capital Equipment Reserve Funds generated by McCaw Hall shall be expended at McCaw Hall. Capital Equipment Reserve Funds generated by the Exhibition Hall and other Seattle Center facilities may be expended at the Exhibition Hall and such other Seattle Center facilities. Any funds unused during any year of the term of this Agreement shall be carried forward with interest until the termination of this Agreement, at which time all unexpended funds shall immediately become the property of the City. Items purchased and improvements funded through the Capital Equipment Reserve Fund shall become the property of the City. In the event that the City and the Westin determine that the most cost effective use of the Capital Equipment Reserve Fund will entail the purchase of items by the Westin, Seattle Center is hereby authorized to reimburse the Westin for the cost of purchasing such items from the Capital Equipment Reserve Fund. All invoices to be paid from the Capital Equipment Reserve Fund shall include appropriate documentation supporting the requested reimbursement.

C. The Capital Equipment Reserve Fund may be used to purchase items which meet any of the following criteria:

1. The item will cost in excess of \$1,000 and will have a useful life in excess of one year, or
2. The item is an addition to or an extension of an existing asset and will significantly extend the useful life of such asset, or
3. The item will entirely replace an existing asset or piece of equipment originally purchased by the City.

D. Upon the request of the Westin, the City shall provide the Westin with an accounting of the status of the Capital Equipment Reserve Fund and any expenditure of funds therefrom. All public records maintained by the City related to such fund shall be available for inspection, review or audit by the Westin during normal business hours and upon at least seven (7) days' notice of such inspection, review or audit.

E. The Capital Equipment Reserve Fund and the funds deposited therein shall not relieve the Westin of its responsibility to provide, maintain and replace as necessary the computerized point-of-sale system, smallwares and related equipment set forth in Exhibit A.

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10.6 Depreciation and Ownership of Additional Equipment and Furniture Purchased by the Westin.

If, in addition to the Westin's responsibilities pursuant to Section 10.4 and the acquisition of City-funded Food and Beverage Service Equipment pursuant to Section 10.3, the Westin chooses to purchase additional Food and Beverage Service equipment or furniture, then such equipment and/or furniture may be depreciated according to schedules agreed to by the Seattle Center and the Westin. In no event shall the depreciation term be more than 120 months from the opening of McCaw Hall. At the Seattle Center's option, all such additional Food and Beverage Service equipment and/or furniture shall become the property of the City when fully depreciated or, if not fully depreciated at the time of termination of the Agreement, upon payment by the City of the fair market value for such equipment.

10.7 Equipment, Maintenance and Repair.

Regardless of whether items are owned by the City, purchased through the Capital Equipment Reserve Fund or owned by the Westin, the Westin shall be responsible for cleaning and maintaining all foodservice facilities, equipment, rolling stock, furniture and smallwares used in the performance of their duties, in a good state of repair except for normal wear and tear. Where appropriate and at Seattle Center's direction, the Westin shall acquire maintenance contracts for Food and Beverage Service Equipment, the terms of which are mutually agreeable to Seattle Center and the Westin. Repair or upkeep of such items will be the responsibility of the Westin. Major maintenance or replacement of the Food Service Equipment, furniture or the Facilities (or significant portions thereof) may be funded through the Capital Equipment Reserve Fund at the discretion of the Seattle Center Director.

10.8 Graphics.

All graphic designs, text and images of any type or nature to be viewed by the general public and placed upon or affixed to any of the Premises or used on operating materials and/or vehicles in connection with the Premises including but not limited to menus, printed materials, advertising and other promotional materials and the location thereof, shall include the logo for McCaw Hall or the Seattle Center, be subject to the Approval of the Seattle Center Director, and tastefully reflect the relationship between the City and the Westin hereunder.

ARTICLE XI
WESTIN STAFFING AND EMPLOYEES

11.1 Management.

Prior to the commencement of this Agreement and not less than thirty (30) days prior to any change, the Westin shall identify to the Seattle Center its on-site General Manager, Executive Chef, Director of Catering and Director of Operations, or their functional equivalents. The Westin shall at all times employ an on-site General Manager Approved by the Seattle Center Director, and shall propose a candidate as a replacement when necessary, which proposed replacement shall be also be subject to Approval by the Seattle Center Director. The Westin's

on-site General Manager shall be designated as its authorized representative and shall oversee all operations on and from the Premises.

11.2 Staffing.

The Westin shall select, employ, train, furnish and deploy employees (including relief personnel) who are proficient, productive and courteous to patrons; and shall discipline and if necessary discharge staff that fail to meet these standards. The Westin shall employ sufficient staff in accordance with industry standards to perform the Concession, Catering and other services described in this Agreement. Staffing levels shall be subject to the Approval of the Seattle Center Director. Whenever possible, the Westin shall hire its personnel from within the greater Seattle area and for the opening of McCaw Hall will give utmost consideration to food service employees previously employed in the Opera House. Upon receipt of notice from the City of any reasonable and significant objection to any of the Westin's employees, including the on-site General Manager, the use of such employee in connection with this Agreement shall be discontinued and a suitable person shall be promptly substituted; provided however, that the City's right to require replacement of a Westin employee, and the Westin's obligation to comply with any such request shall be subject to restrictions imposed upon the Westin by any federal, state or local statute, law, code, regulation or ordinance or by any collective bargaining agreement or other contract affecting such employee. The Westin shall make a good faith effort during the term of the Agreement to work with programs such as FareStart, Seattle Jobs Initiative or Washington Works! to help place and retain disadvantaged individuals in the Food and Beverage Service program at the Seattle Center.

11.3 Involvement of Former City Employees.

The Westin shall promptly notify the City in writing of any person who is expected to perform any of the services hereunder who, during the twelve (12) months immediately prior to the expected commencement date of such work or subcontract, was a City officer or employee. The Westin shall ensure that no services hereunder are performed by any person (employee, subcontractor, or otherwise) who: (1) was a City officer or employee within the past twelve (12) months; and (2) as such was officially involved in, participated in, or acted upon any matter related to the services hereunder, or is otherwise prohibited from such performance by SMC 4.16.075.

11.4 Identification.

The Westin shall cause all non-management employees to prominently display their names on either uniforms or badges. The Westin shall keep records at all times so as to assure proper identification of its employees.

11.5 Appearance.

All of the Westin's non-administrative employees shall be required to wear Approved uniforms while on duty and shall be groomed in a manner consistent with a world-class performing arts

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center. Gum chewing, smoking, and drinking of alcoholic beverages by staff members while on or off duty shall not be allowed in any service area.

ARTICLE XII
ADDITIONAL RIGHTS RESERVED BY CITY

12.1 Sponsorship, Advertising and Pouring Rights.

The Seattle Center retains the sole and exclusive right to negotiate sponsorships, advertising and pouring rights for all food, beverages and merchandise sold in the Facilities. Subject to the terms of this Agreement the Westin shall be authorized to advertise Westin services, but shall have no other advertising rights of any kind in the Facilities. Any service of alcohol by parties other than the Westin shall be subject to all applicable state and local licensing laws.

12.2 Programs and Novelties.

The Seattle Center retains the sole and exclusive right to sell or authorize the sale of programs and novelties in the Facilities.

12.3 Free Distributions of Food and Drink.

The Seattle Center retains the sole and exclusive right to authorize the free distribution of wrapped or unwrapped food or food products (in up to two ounce portions), non-alcoholic drinks (in up to four ounce portions), or other free items of any nature whatsoever in the Facilities, and the Westin shall not interfere with such distributions. Such distributions from McCaw Hall shall be made only as patrons are exiting the building following an event, or at such time as is mutually agreed to by the parties. The Westin shall be excluded from liability in the event of such free distribution.

12.4 Approval of Suppliers Products and Brands.

Suppliers, products and brands utilized by the Westin hereunder, and any agreements between the Westin and third parties related thereto, shall be subject to the Approval of the Seattle Center Director, which Approval shall not be unreasonably withheld. One reasonable basis to withhold such Approval shall be the enactment by the City of an ordinance which restricts or prohibits the use of such supplier, product or brand at the Seattle Center. The provisions of this Section 12.4 shall apply to agreements between the Westin and third parties in effect as of the date of the execution of this Agreement and to such agreements as may thereafter be proposed; provided, however, that the Seattle Center Director's decisions to withhold Approval of any such agreement or product or brand use shall be effective only as to the Westin's performance hereunder.

12.5 Pouring Rights for Donated Wine.

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The Seattle Center retains the sole and exclusive right to allow the pouring of wine donated by third parties other than the Westin to the Seattle Opera, the Pacific Northwest Ballet or the Seattle Center Foundation. If the Seattle Center authorizes such pouring of donated wine, the Westin and the Seattle Opera, the Pacific Northwest Ballet or the Seattle Center Foundation, as may be applicable, shall negotiate a mutually acceptable corkage fee.

ARTICLE XIII INSURANCE AND BONDING

Prior to undertaking any work or performing any services under this Agreement, the Westin shall obtain and maintain continuously throughout the term of this Agreement the policy or policies of insurance as enumerated below. Such policy or policies shall be obtained and maintained by the Westin at no expense to the City, Seattle Opera or Pacific Northwest Ballet, and satisfactory evidence of such policy or policies shall be filed with the Seattle Center and the City's Risk Management Administrator.

13.1 Coverage.

A. *Commercial General Liability Insurance:* A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form (CG 00 01), including all the usual coverage known as:

1. Premises/Operations Liability.
2. Products/Completed Operations.
3. Personal/Advertising Injury.
4. Contractual Liability.
5. Independent Contractor's Liability.
6. Stop Gap or Employers Contingent Liability.
7. Liquor Liability/Host Liquor Liability

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Such policy(ies) must provide at least the following minimum coverage limits:

Bodily Injury and Property Damage -

\$ 5,000,000 General Aggregate
\$ 5,000,000 Products & Completed Operations Aggregate
\$ 2,000,000 Personal & Advertising Injury
\$ 2,000,000 Each Occurrence
\$ 100,000 Fire Damage Legal

Stop Gap/Employers Liability

\$ 1,000,000 Each Accident
\$ 1,000,000 Disease - Policy Limit
\$ 1,000,000 Disease - Each Employee

B. *Business Automobile Liability Insurance*: A policy of Business Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired vehicles written on an insurance industry standard form (CA 00 01) or equivalent, and as specified by Insurance Services Office Symbol 1 (any auto).

Such policy(ies) must provide the following minimum coverage limits:

Bodily Injury and Property Damage -
\$ 1,000,000 per accident

C. *Property Insurance*: A policy of Property Insurance, naming the City of Seattle as an additional insured, which requires the Westin to maintain its furniture, fixtures, equipment, inventory and all other improvements which it makes to the Premises on an "All Risk" basis, in an amount equal to the replacement cost thereof, and insuring against: (a) Loss from the perils of fire and other risks of direct physical loss (including earthquake and flood damage) on a basis no less broad than provided by the insurance industry standard "Causes of Loss - Special Form (CP 10 30)"; (b) Loss or damage from water damage, or sprinkler systems now or hereafter installed in any Seattle Center facility, including the Facilities and Premises, used or occupied by the Westin hereunder; (c) Loss or damage by explosion of steam boilers, pressure vessels, oil, or gasoline storage, tanks or similar apparatus; (d) Business Interruption or Extra Expense, with sufficient coverage to provide for the payment to the City of its anticipated percentage of Gross Sales under this Agreement and other fixed costs during any interruption of the Westin's business because of fire or other cause.

The City and the Westin waive all subrogation rights against each other, any Subcontractors, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent covered by the Property Insurance obtained pursuant to this section or any other property insurance applicable to the services provided by the Westin hereunder, except such rights as they may have to proceeds of any such insurance held by the City as fiduciary. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification,

contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged.

D. *Worker's Compensation Policy*: As respects Workers' Compensation Insurance in the State of Washington, the Westin shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Westin shall also be responsible for Workers' Compensation Insurance for any Subcontractor who provides services under this Agreement. The Westin hereby assumes all risk of damage to its property, or injury to its officers, directors, agents, Subcontractors or invitees, in or about any Seattle Center facility, including the Premises and Facilities as defined hereunder, from any cause, and hereby waives all such claims against the City.

13.2 Additional Insured and Primary Insurance Provisions.

Each insurance policy obtained under this Agreement: (1) shall name The City of Seattle, Seattle Opera and Pacific Northwest Ballet as an additional insureds; (2) shall state that the coverages provided to the City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days' prior written notice to the City; Seattle Opera and Pacific Northwest Ballet and (3) shall contain a "separation of insureds" or "severability of interests" clause indicating essentially that "except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought." Insurance coverage and/or limits may be altered or increased as necessary, with the prior Approval of the City's Risk Management Administrator, to reflect the type of or exposure to risk.

13.3 Authorized Carriers.

All insurance described herein shall be obtained from insurance companies approved by the City's Risk Management Administrator and duly authorized to issue such policies in the State of Washington or issued as a surplus line by a Washington surplus lines broker, and having a rating of A-VII or higher in the A.M. Best's Key Rating Guide.

13.4 Evidence of Insurance.

This Agreement shall be expressly conditioned upon the Westin delivering to the City's Risk Management Administrator copies of the following documents:

(a) All policy declaration pages, showing the policy effective dates, limits of liability and the Schedule of Forms and Endorsements.

(b) The endorsement naming The City of Seattle, Seattle Opera and Pacific Northwest Ballet as additional insureds, showing each policy number, and signed by an authorized representative of the insurer, on Form CG2026 (ISO) or its equivalent.

(c) A copy of the "separation of insureds" or "severability of interests" clause.

13.5 Assumption of Risk.

The placement and storage of personal property on and in any Seattle Center facilities used or occupied by the Westin hereunder, including the Facilities and Premises, shall be the responsibility, and at the sole risk, of the Westin.

13.6 Failure to Maintain Insurance.

The failure by the Westin to maintain the insurance required by this Agreement in full force and effect throughout the term of the Agreement shall constitute a default and material breach of this Agreement by the Westin.

ARTICLE XIV
INDEMNIFICATION

14.1 Indemnification.

The Westin does hereby release and shall defend, indemnify, and hold the City, Seattle Opera, and Pacific Northwest Ballet and their employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort whatsoever arising out of the Westin's performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by the Westin, its servants, agents, and employees. In furtherance of these obligations, and only with respect to the City, Seattle Opera and Pacific Northwest Ballet and their employees and agents, the Westin waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. The Westin acknowledges that the foregoing waiver of immunity was mutually negotiated and agrees that the indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The City does hereby release and shall defend, indemnify, and hold the Westin, Seattle Opera and Pacific Northwest Ballet and their employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort whatsoever arising out of the City's performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by the City, its servants, agents, and employees. In furtherance of these obligations, and only with respect to the Westin, Seattle Opera and Pacific Northwest Ballet and their employees and agents, the City waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. The City acknowledges that the foregoing waiver of immunity was mutually negotiated and

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agrees that the indemnification provided for in this section shall survive any termination or expiration of this Agreement.

ARTICLE XV
TAXES, LICENSES AND COMPLIANCE

15.1 Licenses and Permits.

The Westin shall obtain prior to commencing its operations, and shall maintain throughout the term of this Agreement, all licenses and permits and other approvals required for its operations hereunder, including an alcoholic beverage license. The Westin shall at all times scrupulously observe all restrictions, rules and conditions of all such licenses and permits and shall use its best efforts at all times to avoid any loss or suspension thereof. Prior to undertaking any Food and Beverage Services under this Agreement, the Westin shall submit to the Director a photocopy or facsimile copy of a current and valid Business License issued by The City of Seattle and a current and valid Food Service Establishment Permit issued by the Seattle-King County Department of Public Health. In the event any license or permit expires during the Term of this Agreement then, prior to next providing Food and Beverage Services hereunder, the Westin shall obtain and deliver to the Director documentation of its possession of current and valid licenses and permits. The City shall use its best efforts at all times to observe scrupulously all rules and regulations pertaining to such licenses to avoid loss or suspension thereof.

15.2 Taxes.

The Westin shall pay, before delinquency, all taxes, levies and assessments arising from its activities and use of the Premises, including any Washington State Leasehold Excise Taxes.

15.3 Compliance With Laws.

The parties, at no expense to each other, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; and the rules, regulations, orders and directives of their administrative agencies and the officers thereof.

15.4 Americans with Disabilities Act.

The parties shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 ("ADA") in performing its obligations under this Agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Agreement.

15.5 OSHA and WISHA Requirements.

The parties shall comply with the requirements of the Federal Occupational Safety and Health Acts ("OSHA"), as it may be amended, and the Washington Industrial Safety and Health Act ("WISHA"), as it may be amended, throughout the term of this Agreement.

15.6 Fair Contracting Practices Ordinance.

The Westin shall comply with the City's Fair Contracting Practices Ordinance, SMC Chapter 14.10, as amended. Conduct made unlawful by that ordinance constitutes a breach of contract. Engaging in an unfair contracting practice may also result in the imposition of a civil fine or forfeiture under the Seattle Criminal Code as well as various civil remedies.

15.7 Compliance with Seattle Center Rules and Regulations.

The Westin shall comply with all Seattle Center rules and regulations as they may be amended from time to time. A copy of the current Seattle Center rules and regulations is attached hereto as H.

ARTICLE XVI
EQUAL EMPLOYMENT OPPORTUNITY AND OUTREACH

16.1 Nondiscrimination in Employment.

The Westin agrees to comply with all state and local laws prohibiting discrimination with regard to creed, religion, race, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap.

During the performance of this Agreement, the Westin agrees as follows:

The Westin will not discriminate against any employee or applicant for employment because of creed, religion, race, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Westin will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Westin agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Seattle Center Director setting forth the provisions of this nondiscrimination clause. The Westin will take affirmative action to ensure that all of its employees, agents and subcontractors adhere to these provisions; provided, nothing herein shall prevent an employer from giving preference in employment to members of his/her immediate family.

The Westin will, upon the request of the Director (as used herein Director means the City of Seattle's Director of Finance, or his/her designee) furnish to the Director on such form as may be provided therefor, a report of the affirmative action taken by the Westin in implementing the terms of this provision, and will permit access to its records of employment, employment

advertisements, application forms, other pertinent data and records requested by the Director for the purpose of investigation to determine compliance with these provisions.

If, upon investigation, the Director determines that there is probable cause to believe that the Westin has failed to comply with any of the terms of these provisions, the Westin shall be so notified in writing. The Seattle Center Director shall give the Westin an opportunity to be heard, after ten (10) days' notice. If the Seattle Center Director concurs in the findings of the Director, it may suspend or terminate this Agreement.

Failure to comply with any of the terms of these provisions shall be a material breach of this Agreement.

The foregoing provisions shall be inserted in all subcontracts entered into under this Agreement.

ARTICLE XVII EFFORTS TO USE WOMEN AND MINORITY BUSINESS ENTERPRISES

17.1 General.

The City encourages the use of Women and Minority Business Enterprises ("WMBEs") as subconsultants and women and minority employees in all City contracts, and encourages outreach efforts to include women and minorities in employment, contracting, and subcontracting opportunities. Outreach efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making other useful schedule or requirements modifications that are likely to assist small or WMBE businesses to compete, targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach. The Westin shall ensure that all employees, particularly supervisors, are aware of, and adhere to their obligation to maintain a working environment free from discriminatory conduct, including but not limited to harassment and intimidation of minorities, women, or WMBE businesses.

17.2 Nondiscrimination.

The Westin shall not create barriers to open and fair opportunities for WMBEs to participate in any City contract and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

17.3 Record-Keeping.

The Westin shall maintain, for at least 12 months after the expiration or earlier termination of this Agreement, relevant records and information necessary to document all of the Westin's solicitations to subconsultants and suppliers, all subconsultant and supplier proposals received, and all subconsultants and suppliers actually utilized under this Agreement. The City shall have the right to inspect and copy such records.

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17.4 Sanctions for Violation.

Any violation of the mandatory requirements of the provisions of Sections 17.2 and 17.3 shall be a material breach of contract for which the Westin may be subject to damages and sanctions provided for by the Agreement and by applicable law.

ARTICLE XVIII CONTINGENCIES

18.1 Failure to Perform Excused.

Neither party hereto shall be liable to the other party for any nonperformance, in whole or in part, of its obligations under this Agreement caused by the occurrence of any contingencies beyond the reasonable control of the parties, including but not limited to declared or undeclared war, sabotage, insurrection, riot, or other acts of civil disobedience, acts of a public enemy, acts of governments or agencies affecting the terms of this Agreement, strikes, labor disputes, acts of third parties not within the control of the party whose performance is affected, shortages of fuel, failures of power, accidents, fires, explosions, floods or other similar contingencies. In the event that any such contingencies occur, the party whose performance is affected shall have a reasonable time in which to resume performance and such party's nonperformance shall not constitute a default under Section 20.2. Notwithstanding the foregoing, in the event the Westin's ability to perform its obligations under this Agreement is temporarily impaired by any such contingency, the Seattle Center shall have the right to utilize substitute food service providers in any area of the Premises, without liability to the Westin of any kind. If a party is unable to resume full performance for a period of at least forty-five (45) days, either party shall have the right to terminate this Agreement on thirty (30) days' prior written notice to the other party. No suspension shall result in an extension of the expiration date of this Agreement unless specifically agreed upon, in writing, by the parties. If the Westin has knowledge that any actual or potential labor dispute is impairing or threatening to impair its performance under this Agreement, the Westin shall immediately give notice, including all relevant information, to the City. The Westin shall make all reasonable efforts to prevent and mitigate the effects of any interruption in service regardless of its cause. In the event the provisions of this Section 18.1 are triggered, the Westin shall be responsible for paying to the City the City's appropriate share of Gross Sales which the Westin has received or is legally entitled to receive as of the effective date of the termination of this Agreement hereunder.

18.2 Damage or Destruction.

If any portion of the Premises is damaged by fire or other casualty, preventing the Westin from providing the services contemplated by this Agreement, the City will, within thirty (30) days after learning of such damage, notify the Westin in writing of the time necessary to repair or restore such damage, as estimated by the City's architect, engineer or contractor. If such estimate states that repair or restoration of all or such damage that caused to the Premises or to any other portion of the Premises necessary for the Westin's occupancy to provide concession and catering services at a reasonable level cannot be completed within one hundred and twenty (120) days from the

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date of such damage, then either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party.

ARTICLE XIX TERMINATION

19.1 When Terminated.

Unless sooner terminated as provided in this Agreement, this Agreement shall terminate at the expiration of its term.

19.2 Termination for Cause.

Either the City or the Westin may terminate this Agreement prior to the expiration of the term only in the event of a material default on the part of the other party. In such event, the party who wishes to terminate this Agreement shall deliver to the other party written notice describing the breach in reasonable detail and proposing steps to be taken to cure the breach and specifying a period of time, which shall not be less than thirty (30) days, in which the breaching party must either remedy the breach or cease performance under this Agreement; provided, however, that breaches by the Westin related to potentially hazardous conditions shall be cured within twenty-four (24) hours of receipt of such notice.

In the event the breaching party elects to continue performance, it shall either cure the breach, or provide a written statement of the steps to be taken in order to do so, within the period of time specified in the written notice of the breach. If the cure or statement of intent to cure is satisfactory to the non-breaching party, that party shall consent to a continuation of performance, which consent shall not be withheld or delayed unreasonably. If the cure or attempted cure is unsatisfactory, the non-breaching party may terminate the Agreement and pursue such remedies as may be available at law or in equity in addition to observing the other terms contained herein as to termination of this Agreement.

The Westin's failure to provide services as required by the City may substantially interfere with the business functions of the City, and may result in losses or damages to the City. It is impractical and extremely difficult to determine the amount of the losses and actual damages sustained as a result of any such failure. In lieu of declaring the Westin in breach, the City and the Westin agree that in the event of any such failure by the Westin that is not caused by an action or inaction by the City, and that is not explained and justified by the Westin to the reasonable satisfaction of the Seattle Center Director, that a penalty of up to 10% of Gross Sales may be applied with respect to the performance or event at which the failure occurred. Seattle Center shall review each situation of this nature with the Westin prior to the assessment of any penalty hereunder. The Seattle Center Director will have the final determination over such penalties.

In addition, if the Westin is given four (4) notices of breach or receives (4) penalties within any twelve (12) month period, regardless of whether such breaches are remedied, the City may consider such breach to be incurable and may terminate this Agreement for cause.

19.3 Rights and Duties Upon a Termination.

The following provisions shall apply in the event of a termination of this Agreement for any reason whatsoever:

A. Delivery of Premises. The Westin shall remove its property from the Premises and shall deliver to the City the Premises and all property thereon belonging to the City in the same condition as existed at the time the Premises and property were delivered to the Westin except (1) ordinary wear and tear, (2) loss or damage occurring absent any negligence or fault on the part of the Westin, and (3) damage occurring as a result of fire, flood, or other, like unavoidable casualty or occurrence occurring absent any negligence or fault on the part of the Westin.

B. Final Accounting. The Westin shall deliver to the City, within twenty-five (25) days of the effective date of termination, a final accounting setting forth the information described in Section 6.2, and shall remit to the City all amounts owed as of the effective date of termination, including the City's appropriate percentage share of Gross Sales and required deposits into the Capital Equipment Reserve Fund.

ARTICLE XX
DISPUTES

20.1 Disputes.

Any dispute or misunderstanding that may arise under this Agreement concerning the performance of either party shall first be resolved through amicable negotiations, if possible, between the Westin's on-site General Manager and the Seattle Center Director's designee, or if necessary shall be referred to the Seattle Center Director and the Westin of Seattle's General Manager. If such officials do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to mediation or other alternate dispute resolution processes.

ARTICLE XXI
NOTICES

21.1 Requirements for Notice.

All notices required by this Agreement, including any notice as to changes of address, shall be in writing and shall be delivered personally, by fax, overnight mail or by registered or certified mail, return receipt requested to:

If to Seattle Center:
Seattle Center Director
Seattle Center Department
The City of Seattle



305 Harrison Street
Seattle, WA 98109
Telephone: (206) 684-7330
Facsimile: (206) 233-3950

If to the Westin:

The Westin Seattle

1900 Fifth Avenue
Seattle, Washington 98101
Attn: General Manager
Telephone: (206) 728-1000
Facsimile:

with a copy to:

Starwood Hotels & Resorts
Worldwide, Inc.
1111 Westchester Ave.
White Plains, NY 10604
Attn: General Counsel
Telephone:
Facsimile:

If to the Seattle Opera:

Seattle Opera
Mr. Gary Tribble, Director of Finance
102 John Street
P.O. Box 9248
Seattle, WA 98109
Telephone: (206) 389-7600
Facsimile: (206) 389-7651

If to the Pacific Northwest Ballet

Pacific Northwest Ballet
Mr. Dennis Brown, Managing Director
301 Mercer Street
Seattle, WA 98109
Telephone: (206) 441-9411
Facsimile: (206) 441-2440

21.2 When Given.

Notice complying with the requirements of Section 22.1 shall be deemed given on the date delivered.

ARTICLE XXII
ASSIGNMENT AND BINDING EFFECT

22.1 Subcontracting, Sale and Assignment or Transfer.

The Westin shall not subcontract, sell, assign or otherwise transfer to another person or entity any of its rights or responsibilities under this Agreement without the prior Approval of the Seattle Center Director; provided, however, that in no event shall Approval of any such sale be



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unreasonably withheld or delayed. The Westin shall provide the City with such documentation as may be reasonably necessary to permit the City to determine whether to approve any such subcontract, sale, assignment or transfer. Any such subcontract, sale, assignment or transfer shall be subject to all of the terms and conditions of this Agreement. In the event of any such sale, assignment or transfer the Westin shall cause to be delivered to the Seattle Center Director, simultaneously with such sale, assignment, or transfer, an instrument, in writing, executed by the grantee, assignee, or transferee, in which the grantee, assignee or transferee shall have assumed and agreed to perform all of the terms and provisions of this Agreement on the Westin's part which have not been fully performed previously.

22.2 Binding Effect

Subject to Section 22.1, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors, assigns and representatives.

ARTICLE XXIII REPRESENTATIONS AND WARRANTIES

23.1 City's Representations.

The City represents and warrants to the Westin as follows:

- A. That it has been validly formed and duly exists as a municipal corporation under the laws of the State of Washington;
- B. That it has the sole right and authority to occupy the Premises; that it has the full right and authority to grant to the Westin the rights conferred by this Agreement, and that it is not prevented from entering into this Agreement by any statute, regulation, or order of the State of Washington or other governmental authority, or by any license, debt instrument, lease, contract, or other agreement or instrument binding upon it or any of its property;
- C. That it is duly authorized to enter into this Agreement and has taken all necessary action to obtain such authorization, and that no consent of or notice to any other individual, private entity or governmental authority is required in connection with the execution and delivery of this Agreement;
- D. That this Agreement, when properly executed by both parties, shall constitute a valid and binding agreement, enforceable by the Westin in accordance with its terms;
- E. That to the best of its knowledge, there is no suit or proceeding pending or threatened with respect to the Premises that would adversely affect the Premises, or the operation thereof; and
- F. That it will use its best efforts at all times to ensure that the Premises subject to this Agreement in which concession services are to be provided are booked to the fullest extent possible.

23.2 Westin Representations.

The Westin represents and warrants to the City as follows:

A. That it has been validly formed and duly exists as limited partnership under the laws of the State of Washington and that it is duly qualified to do business in the State of Washington;

B. That the Westin is the business and trade name for such limited partnership, SLC Operating Limited Partnership, whose general partner is Starwood Hotels and Resorts Worldwide, Inc., a corporation organized under the laws of the State of Maryland and duly qualified to do business in the State of Washington;

C. That Starwood Hotels and Resorts Worldwide, Inc. has the full right and authority to enter into and execute this Agreement on behalf of SLC Operating Limited Partnership dba the Westin;

D. That as set forth above the Westin is duly authorized to enter into this Agreement and has taken all necessary action to obtain such authorization, and that no consent of or notice to any other individual, private entity or governmental authority is required in connection with the execution and delivery of this Agreement;

E. That this Agreement, when properly executed by both parties, shall constitute a valid and binding agreement, enforceable by the City in accordance with its terms;

F. That to the best of its knowledge, there is no suit or proceeding pending or threatened that would adversely affect the ability of the Westin to perform its obligations under this Agreement; and

G. That the Westin has not been induced to enter into this Agreement by any statement contained in the City's Request for Proposals or any other representations, verbal or written.

23.3 Disclaimer of Representations and Warranties.

By entering into this Agreement, the City expressly does not warrant: (a) that construction of McCaw Hall will occur or that if it does occur such construction will be completed by any date or time, (b) that sales of food or beverages or the number of Concession or Catering events at the Facilities or other Seattle Center facilities will meet or exceed any particular amount or number, or (c) that any portion of the Premises subject to this Agreement will remain open and available for public events or performances.

23.4 Survival of Representations and Warranties.

The representations and warranties of each party set forth in this Section shall survive the execution and termination of this Agreement.

ARTICLE XXIV
MISCELLANEOUS

24.1 Relationship of Parties.

The parties intend that Westin shall be a licensee of the City and an independent contractor thereto. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties and neither shall have the authority to obligate or bind the other in any respect.

24.2 Amendments.

No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.

24.3 Binding Agreement.

This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors, and assigns.

24.4 Applicable Law/Venue.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.

24.5 Remedies Cumulative.

Rights under this Agreement are cumulative and nonexclusive of any other remedy at law or in equity.

24.6 Captions.

The titles of sections are for convenience only and do not define or limit the contents.

24.7 Severability.

If any term or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

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24.8 Waiver.

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. The acceptance by the City of any performance by the Westin that is inconsistent with the terms and conditions of this Agreement shall not constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City, in writing.

24.9 Interpretation of Agreement.

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable United States and State of Washington statutes and regulations; (b) this Agreement; (c) the Request for Proposals; and (d) the Westin Proposal.

24.10 No Conflict of Interest.

The Westin confirms that it does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Westin's selection for this Agreement or the negotiation, drafting, signing, administration, or evaluating of the Westin's performance thereunder. As used in this subsection, the term "Westin" shall include any employee of the Westin who was, is, or will be involved in the negotiation, drafting, signing, administration, or performance of this Agreement. As used in this section, the term "close family relationship" refers to the following: spouse or domestic partner; any dependent parent, parent-in-law, child, son-in-law, or daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

24.11 Limited Effect of Approval by Seattle Center Director.

Action of the Seattle Center Director pursuant to or in implementation of this Agreement does not constitute any official action by any other City Department or official that may be required by law, City Charter, ordinance, rule or regulation before the Westin may rightfully commence, suspend, enlarge, or terminate any particular undertaking.

24.12 Entire Agreement.

This Agreement, together with its Exhibits A through H, constitutes the entire agreement between the parties with respect to the Concession, Catering and any other services to be provided by the Westin to the City. No verbal agreement or conversation between any officer, agent, associate or employee of the City and any officer, agency, employee or associate of the Westin prior to the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement.

24.13 Negotiated Agreement.

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Residing _____ at _____

My _____ appointment _____ expires: _____

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

On this _____ day of _____, 20____, before me personally
appeared _____

_____ to me known to be the Director of the Seattle Center
Department of The City of Seattle, the municipal corporation that executed the within and
foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed
of said corporation for the uses and purposes therein mentioned and, under oath, stated that she was
authorized by ordinance to execute said instrument.

GIVEN UNDER MY HAND AND SEAL the day and year first above written.

Signature

(Print or Type Name)

NOTARY PUBLIC in and for the State of
Washington,

Residing _____ at _____

My _____ appointment _____ expires: _____

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Exhibit A

**Agreement for the Management of Food and Beverage Services
At the Marion Oliver McCaw Hall
And the Exhibition Hall at the Seattle Center
Between
The City of Seattle
And
The Westin Seattle**

Westin Provided Computerized Point-of-Sale System, Smallwares and Related Equipment

A. Smallwares and Related Equipment:

The Westin shall provide smallwares and related equipment in quantities necessary to provide food service to McCaw Hall and the Exhibition Hall. The smallwares proposed for purchase shall be of a quality consistent with a world-class facility and shall be approved in writing by Seattle Center prior to their purchase. The smallwares provided shall include the following:

1. Adequate supply of china, including but not limited to: plates, bowls, cups, saucers, water pitchers, and related items. Unless otherwise directed by Seattle Center, the china will not have the logo of Seattle Center imprinted thereon.
 2. Beverage glassware.
 3. Adequate supply of trays (both service and café style).
 4. Supply of stainless steel and/or silver-plated dining utensils, including but not limited to: knives, forks, spoons, and soup spoons.
 5. Ample supplies of back-of-house servicewares, including but not limited to: kitchen utensils, equipment cleaning aids, and related items.
 6. Buffet and catering equipment i.e.: chafing dishes, transport carts, servicewares, and related items.
 7. Salt and pepper shakers.
 8. Table and service linens
- B. Electronic, computerized point-of-sale cash and inventory control system with all peripheral equipment and interface equipment necessary to be fully compatible with the Seattle Center computer systems. Seattle Center shall approve all control systems, their interface, and the monitoring system thereof before their purchase and implementation.
- C. State of the art menu boards and lighted signage for the food service program wherever necessary.
- D. Desks, chairs, file cabinets, shelving and other equipment to furnish the kitchen office space.
- E. Lockers, chairs, benches, and shelves to furnish the Westin's employee locker room.

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Exhibit B
Furniture
Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between
The City of Seattle
and
The Westin Seattle

Exhibit B provides a general indication of the quantity and type of equipment to be funded by the \$750,000 for food service equipment, mobile carts, catering furniture, and other equipment. The particular items noted below may be modified by the mutual agreement of the City and the Westin.

| Space | Item Description | Qty |
|--|----------------------------------|-----|
| Concessions (6) | | |
| Concessions | Receptacle, Trash, 50 Gallon | 6 |
| Concessions | Receptacle, Recycling, 50 Gallon | 6 |
| Concessions | Floor Mat, Rubber | 12 |
| Concession Storage - through-out | | |
| Concession Storage | Storage, Shelving, Industrial | 3 |
| Catering - support - Donor's Lounge | | |
| Catering | Floor Mat, Rubber | 2 |
| Catering | Receptacle, Trash | 2 |
| Catering | Receptacle, Recycling | 2 |
| Catering - support - Donor's Lounge | | |
| Catering | Floor Mat, Rubber | 2 |
| Catering | Receptacle, Trash | 1 |
| Catering | Receptacle, Recycling | 1 |
| Catering - General Equipment | | |
| Catering | Chair, Stacking, Banquet | 650 |
| Catering | Table, 4' Folding Round | 20 |
| Catering | Table, 6' Folding Round | 75 |

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Exhibit B

| Space | Item Description | Qty |
|--|---------------------------------|-----|
| Catering - General Equipment, cont. | | |
| Catering | Table 6' Folding Rectangle | 5 |
| Catering | Table 8' Folding Rectangle | 5 |
| Catering | Table, High | 10 |
| Catering | Table Truck, 4' Round | 2 |
| Catering | Table Truck, 6' Round | 8 |
| Catering | Table Truck, 6' Rectangle | 1 |
| Catering | Table Truck, 8' Rectangle | 1 |
| Catering | Chair Truck, Banquet Seating | 14 |
| Servery/Catering | | |
| Servery/Catering | Storage, Shelving, Industrial | 3 |
| Catering Storage | | |
| Catering Storage | Storage, Shelving, Industrial | 3 |
| Café | | |
| Café | Chair, Café - interior/exterior | 280 |
| Café | Table, Café - interior/exterior | 70 |
| Café | Receptacle, Trash | 2 |
| Café | Receptacle, Recycling | 2 |
| Café | Receptacle, Trash/Ash, Exterior | 2 |
| Café | Receptacle, Recycling, Exterior | 2 |
| Café | Booster Chair | 20 |
| Café | High Chair | 5 |
| Dry Storage | | |
| Dry Storage | Storage, Shelving, Industrial | 3 |
| Caterer Storage | | |
| Caterer Storage | Storage, Shelving, Industrial | 3 |
| Dish Storage | | |
| Dish Storage | Storage, Shelving, Industrial | 3 |
| Janitor | | |
| Janitor | Receptacle, Trash, 50 Gallon | 1 |

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Exhibit C
Food Service Equipment

Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between the City of Seattle and The Westin Seattle

Exhibit C provides a general indication of the quantity and type of equipment to be funded by the \$750,000 for food service equipment, mobile carts, catering furniture, and other equipment. Where indicated it is anticipated that the purveyor will provide the equipment at no expense. The particular items noted below may be modified by the mutual agreement of the City and the Westin.

Note: Item # refers to corresponding numbers on the construction documents.

| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|---------------------------|
| 1 | 1 | BEVERAGE COOLER |
| 2 | 1 | EVAPORATOR COIL - COOLER |
| 3 | 22 | SHELVING UNIT |
| 4 | 1 | WALK-IN FREEZER |
| 5 | 1 | EVAPORATOR COIL - FREEZER |
| 6 | 8 | SHELVING UNIT |
| 7 | 1 | WALK-IN COOLER |
| 8 | 1 | EVAPORATOR COIL - COOLER |
| 11 | 1 | WALK-IN COOLER |
| 12 | 1 | EVAPORATOR COIL - COOLER |
| 13 | 11 | SHELVING UNIT |
| 14 | 2 | REACH-IN REFRIGERATOR |
| 15 | 1 | ICE MACHINE W/ BIN |
| 16 | 3 | WORK TABLE |
| 17 | 1 | 60-QUART MIXER |
| 18 | 1 | SINK TABLE |
| 21 | 2 | FOOD PROCESSOR |
| 22 | 1 | WALL SHELF |
| 23 | 1 | SLICER |
| 24 | 1 | EXHAUST HOOD |
| 25 | 1 | RANGE |
| 26 | 1 | SPREADER TABLE |
| 27 | 3 | FRYER |
| 28 | 1 | GRIDDLE |
| 31 | 1 | CHARBROILER |
| 32 | 1 | FIRE PROTECTION SYSTEM |

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| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|-----------------------------------|
| 33 | 1 | SINK TABLE |
| 34 | 1 | WALL SHELF |
| 35 | 1 | REACH-IN FREEZER |
| 36 | 2 | DOUBLE CONVECTION OVEN |
| 37 | 1 | TILT SKILLET |
| 38 | 1 | FLOOR TROUGH |
| 41 | 1 | 40-GALLON KETTLE |
| 42 | 1 | FLOOR TROUGH |
| 43 | 1 | EXHAUST HOOD |
| 44 | 1 | PLATING & STAGING TABLE |
| 45 | 2 | BANQUET CART |
| 46 | 3 | HEATED TRANSPORT CABINET |
| 47 | 1 | SOILED DISHTABLE |
| 48 | 1 | DISPOSER |
| 51 | 1 | PRE-RINSE |
| 53 | 1 | STRAIGHT RINSE - INCL. IN ITEM 54 |
| 54 | 1 | DISHWASHER |
| 55 | 1 | PREWASH - INCLUDED IN ITEM 54 |
| 56 | 1 | CLEAN DISHTABLE |
| 57 | 5 | MOBILE DISH DOLLY |
| 58 | 1 | POT SINK |
| 60 | 1 | BEVERAGE COOLER |
| 67 | 1 | REMOTE REFRIGERATION SYSTEM |
| 68 | 1 | COUNTER W/ DISPLAY SHELF |
| 72 | 1 | HAND SINK |
| 73 | 1 | UTILITY RACK - UNIVERSAL ANGLE |
| 74 | 2 | UNDERCOUNTER REFRIGERATOR |
| 76 | 1 | BACK COUNTER |
| 77 | 1 | COFFEE BREWER - BY PURVEYOR |
| 78 | 1 | GRINDER |
| 101 | 1 | REFRIGERATED DELI CASE |
| 102 | 2 | COUNTER |
| 103 | 4 | HAND SINK |
| 104 | 1 | REACH-IN REFRIGERATOR |
| 105 | 3 | COFFEE BREWER - BY PURVEYOR |
| 106 | 2 | GRINDER |
| 107 | 1 | BACK COUNTER |
| 108 | 2 | UNDERCOUNTER REFRIGERATOR |
| 112 | 1 | REACH-IN REFRIGERATOR/FREEZER |
| 113 | 1 | PREP TABLE |
| 120 | 1 | MICROWAVE OVEN |
| 121 | 3 | HEATED CABINET |
| 122 | 1 | HOT / COLD FOOD TABLE |

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| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|----------------------------------|
| 123 | 1 | ICED TEA DISPENSER-BY PURVEYOR |
| 124 | 1 | BEVERAGE DISPENSER |
| 125 | 1 | ICE & SODA DISPENSER-BY PURVEYOR |
| 126 | 1 | BEVERAGE COUNTER |
| 127 | 1 | REACH-IN REFRIGERATOR |
| 128 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 130 | 1 | ICE BIN - PART OF ITEM 131 |
| 131 | 1 | ICE CUBER |
| 132 | 1 | SHELVING UNIT |
| 133 | 1 | WORK TABLE W/ SINK |
| 134 | 1 | WALL SHELF |
| 135 | 1 | THREE COMPARTMENT SINK |
| 136 | 1 | WALL SHELF |
| 138 | 1 | COUNTER |
| 161 | 1 | COUNTER W/ DISPLAY SHELF |
| 162 | 1 | COUNTER W/ DISPLAY SHELF |
| 163 | 4 | UNDERCOUNTER REFRIGERATOR |
| 164 | 2 | COFFEE BREWER - BY PURVEYOR |
| 165 | 3 | GRINDER |
| 166 | 2 | ESPRESSO MACHINE-BY PURVEYOR |
| 168 | 1 | BACK COUNTER |
| 171 | 1 | BACK COUNTER |
| 173 | 1 | HAND SINK |
| 174 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 175 | 5 | SHELVING UNIT |
| 177 | 1 | BACK COUNTER |
| 178 | 1 | HAND SINK |
| 181 | 2 | COUNTER W/ DISPLAY SHELF |
| 201 | 1 | COUNTER W/ DISPLAY SHELF |
| 202 | 1 | BACK COUNTER |
| 203 | 1 | UNDERCOUNTER REFRIGERATOR |
| 204 | 1 | GRINDER |
| 205 | 3 | COFFEE BREWER - BY PURVEYOR |
| 206 | 3 | HAND SINK |
| 207 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 208 | 1 | SHELVING UNIT |
| 212 | 1 | BEVERAGE TABLE |
| 213 | 2 | ICE CUBER |
| 214 | 2 | ICE BIN - PART OF ITEM 213 |
| 217 | 2 | ROLL-IN REFRIGERATOR |
| 221 | 3 | DISH DISPENSER |
| 222 | 2 | PLATING TABLE |
| 223 | 2 | DISH DISPENSER |

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| ITEM | QTY. | EQUIPMENT DESCRIPTION |
|------|------|--------------------------------|
| 225 | 1 | BEVERAGE TABLE |
| 251 | 1 | COUNTER W/ DISPLAY SHELF |
| 252 | 1 | COUNTER W/ DISPLAY SHELF |
| 253 | 3 | UNDERCOUNTER REFRIGERATOR |
| 254 | 1 | BACK COUNTER |
| 256 | 3 | GRINDER |
| 257 | 2 | COFFEE BREWER - BY PURVEYOR |
| 258 | 2 | ESPRESSO MACHINE-BY PURVEYOR |
| 262 | 1 | BACK COUNTER |
| 263 | 1 | HAND SINK |
| 264 | 5 | SHELVING UNIT |
| 265 | 4 | UTILITY RACK - UNIVERSAL ANGLE |
| 267 | 1 | BACK COUNTER |
| 268 | 1 | HAND SINK |
| 271 | 2 | COUNTER W/ DISPLAY SHELF |

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Exhibit D
Food Service Facilities
Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between
The City of Seattle
and
The Westin Seattle

| PREMISES | Exclusive Use Space | Right of Access | Cleaning Responsibility | Utility Payment Responsibility |
|--|---------------------|-----------------|-------------------------|--------------------------------|
| McCaw Hall | | | | |
| LOWER LEVEL | | | | |
| MAIN KITCHEN | X | | Westin | Westin |
| CANTEEN | | X | Seattle Center | Seattle Center |
| MEZZANINE/ORCHESTRA PIT LEVEL | | | | |
| LECTURE HALL CONCESSION | X | | Westin | Seattle Center |
| (1) MOBILE THEMATIC CART W/ (2) POS | X | | Westin | Seattle Center |
| (OR ADD ALTERNATE TO BUILD IN CONC STAND) | | | | |
| LECTURE HALL | | X | Seattle Center (a) | Seattle Center |
| GROUND LEVEL | | | | |
| CAFÉ: | | | | |
| CONCESSION | X | | Westin | Westin |
| CAFÉ SERVERY | X | | Westin | Westin |
| CAFÉ DINING | | X | Westin | Seattle Center |
| LOBBY AREA W/ CAFÉ OVERFLOW | | X | Seattle Center (a) | Seattle Center |
| EXTERIOR TERRACE | | X | Seattle Center (a) | Seattle Center |
| PRESS/RECEPTION ROOM | | X | Seattle Center (a) | Seattle Center |
| PRESS/RECEPTION CATERING PANTRY | X | | Westin | Seattle Center |
| (1) MOBILE CART W/ (1) POS EA. | X | | Westin | Seattle Center |
| ORCHESTRA LEVEL | | | | |
| CONCESSION (South) (Includes Support Pantry) | X | | Westin | Seattle Center |
| CONCESSION (North) | X | | Westin | Seattle Center |
| GRAND LOBBY | | X | Seattle Center (a) | Seattle Center |
| FIRST BALCONY LEVEL | | | | |
| CONCESSION | X | | Westin | Seattle Center |
| PANTRY, DONORS' ROOM (North) | X | | Westin | Seattle Center |
| PANTRY, DONORS' ROOM (South) | X | | Westin | Seattle Center |
| DONORS' ROOM (North and South) | | X | Seattle Center (a) | Seattle Center |
| LOBBY | | X | Seattle Center (a) | Seattle Center |
| SECOND BALCONY LEVEL | | | | |
| CONCESSION (South) (Includes Support Pantry) | X | | Westin | Seattle Center |
| CONCESSION (North) | X | | Westin | Seattle Center |
| LOBBY | | X | Seattle Center (a) | Seattle Center |
| EXHIBITION HALL | | | | |
| CONCESSION | X | | Westin | Seattle Center |

(a) Seattle Center will be responsible for general cleaning of these spaces. If a food service event is held in these spaces, the Westin is responsible to set up and remove tables, tents, staging, and serviceware for food service functions. The Westin will be responsible for skirting and dressing tables on a daily basis. Concessionaire shall be responsible for setting up and tearing down, and maintaining all portable equipment necessary to food service functions.

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Exhibit E
Rental Rates for use of Front of House Spaces in McCaw Hall

Agreement for the Management of Food and Beverage Services

At the Marion Oliver McCaw Hall

And the Exhibition Hall at the Seattle Center

Between The City of Seattle and The Westin Seattle

| <u>Rent for up to 6 hours use</u> | <u>Client Rental Rate</u> | <u>Seattle Center Deduction</u> | <u>Amount to Split 50-50</u> | <u>Room Descriptions</u> | | |
|--|---------------------------|---------------------------------|------------------------------|-----------------------------|--|-----------------|
| | | | | <u>Square Feet</u> | <u>Capacities</u> <u>10/6' Rounds</u> | <u>Standing</u> |
| Promenade Lobby | | | | 9,000 | 250 | 650 |
| Fri / Sat evening | \$2,000 | \$900 | \$1,100 | | | |
| Sun-Thur evening | \$1,500 | \$675 | \$825 | | | |
| Daytime | \$750 | \$450 | \$300 | | | |
| Orchestra Lobby | | | | 12,000 | 350 | 850 |
| Fri / Sat evening | \$2,500 | \$900 | \$1,600 | | | |
| Sun-Thur evening | \$2,000 | \$675 | \$1,325 | | | |
| Daytime | \$1,000 | \$450 | \$550 | | | |
| Orchestra Lobby plus First Tier Lobby + Donor Rooms | | | | 23,050 | 750 | 1,800 |
| Fri / Sat evening | \$4,000 | \$1,400 | \$2,600 | | | |
| Sun-Thur evening | \$3,000 | \$1,050 | \$1,950 | | | |
| Daytime | \$1,500 | \$700 | \$800 | | | |
| First Tier Lobby + Donor Rooms | | | | 5,500 | 150 | 400 |
| Fri / Sat evening | \$2,000 | \$900 | \$1,100 | (for First Tier Lobby only) | | |
| Sun-Thur evening | \$1,500 | \$675 | \$825 | | | |
| Daytime | \$750 | \$450 | \$300 | | | |
| North Donor Room Only | | | | 2,900 | 150 | 300 |
| Fri / Sat evening | \$1,000 | \$400 | \$600 | | | |
| Sun-Thur evening | \$750 | \$300 | \$450 | | | |
| Daytime | \$375 | \$200 | \$175 | | | |
| South Donor Room Only | | | | 2,650 | 100 | 250 |
| Fri / Sat evening | \$850 | \$400 | \$450 | | | |
| Sun-Thur evening | \$650 | \$300 | \$350 | | | |
| Daytime | \$325 | \$200 | \$125 | | | |
| Second Tier Lobby | | | | 7,500 | 220 | 550 |
| Fri / Sat evening | \$1,000 | \$900 | \$100 | | | |
| Sun-Thur evening | \$750 | \$675 | \$75 | | | |
| Daytime | \$500 | \$450 | \$50 | | | |
| Add-On Rooms | | | | | <u>6/4' Rounds</u> | |
| Reception Room | \$150 | \$0 | \$150 | 550 | 24 | 40 |
| Press Room | \$100 | \$0 | \$100 | 350 | 12 | 25 |
| Entire Front of House | | | | 40,450 | 1,256 | 3,065 |
| Fri / Sat evening | \$5,000 | \$1,600 | \$3,400 | | | |
| Sun-Thur evening | \$3,750 | \$1,200 | \$2,550 | | | |
| Daytime | \$1,900 | \$800 | \$1,100 | | | |

Included with Rent:

One or Two Admissions Guards
 One or Two Event Attendants for restrooms
 Facility set-up, utilities, clean-up and tear-down
 Tables and chairs, lecterns, easels

Additional charges:

Food and Beverage
 Catering staff
 Audio / visual systems and operators
 Stages, Theatrical lighting
 Flowers, decorations, etc.

Exhibit F
Agreement for the Management of Food and Beverage Services
At the Marion Oliver McCaw Hall And the Exhibition Hall at the Seattle Center
Between The City of Seattle and The Westin Seattle

MINIMUM PURCHASE SPECIFICATION REQUIREMENTS

| | | |
|------------------------------|--|---|
| BEEF Heifer or Steer | GRADE: YIELD: CONDITION: GROUND BEEF: | USDA Top Choice 3 or under Fresh or Frozen Chuck, 20% fat content |
| PORK | GRADE: YIELD: CONDITION: | US No. 1 1 Fresh or Frozen |
| VEAL Calf | GRADE: CONDITION: | USDA Choice Fresh or Frozen |
| LAMB Under one year old | GRADE: CONDITION: | USDA Choice Fresh or Frozen |
| POULTRY | GRADE: CONDITION: | USDA Inspected Grade A Hens - Fresh or Frozen Fryers - Fresh or Frozen Duckling - Fresh or Frozen Turkey Breast - Fresh or Frozen |
| FISH & SHELLFISH | GRADE: CONDITION: | When graded - A, otherwise top quality Fresh when available, frozen if cost and availability warrant |
| EGGS | GRADE: SIZE: CONDITION: | USDA A, 100% candled Large Fresh |
| BUTTER | GRADE: | USDA AA |
| MILK & MILK PRODUCTS | GRADE: | US Grade A pasteurized |
| NONFAT DRY MILK | GRADE: | US Extra |
| BULK ICE CREAM | | Minimum 12% milk fat, 80-100% overrun |
| FRESH VEGETABLES & FRUITS | GRADE: | US No. 1 or better |
| FROZEN VEGETABLES | GRADE: | A |
| CANNED FRUIT | GRADE: | US Grade A or Fancy in heavy syrup |
| CANNED VEGETABLES | GRADE: | US Grade A or Fancy |
| DRY GOODS | RICE: BEANS: | Fancy or US No. 2 Grade A |
| BAKED PRODUCTS | At Seattle Center's approval | |

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Exhibit G
Capital Investment Proposal
Agreement for the Management of Food and Beverage Services
at the Marion Oliver McCaw Hall
and the Exhibition Hall at the Seattle Center
between The City of Seattle and The Westin Seattle

| | | | Number | Price | Extended |
|---------------------------------|--------|-------------------------------|--------|----------|------------------|
| Point of Sale System | | | | | |
| Fixed Asset | 5 yrs | terminals | 16 | \$3,000 | \$48,000 |
| Fixed Asset | 5 yrs | operating systems | 1 | \$25,000 | \$25,000 |
| Fixed Asset | 5 yrs | printers | 3 | \$350 | \$1,050 |
| Fixed Asset | 5 yrs | cabling | 1 | \$18,000 | \$18,000 |
| Fixed Asset | 5 yrs | Delphi | | | \$10,000 |
| Fixed Asset | 5 yrs | misc | 1 | \$5,000 | \$5,000 |
| Total | | | | | \$107,050 |
| China (Homer Laughlin) | | | | | |
| Inventory | | dinner plate | 400 | \$6.50 | \$2,600 |
| Inventory | | cup/saucer | 1000 | \$3.00 | \$3,000 |
| Inventory | | soup bowl | 350 | \$2.50 | \$875 |
| Inventory | | soup cup | 350 | \$1.75 | \$613 |
| Inventory | | side plates | 2000 | \$2.75 | \$5,500 |
| Inventory | | mugs | 400 | \$2.50 | \$1,000 |
| Inventory | | ramekins | 100 | \$2.50 | \$250 |
| Total | | | | | \$13,838 |
| Glassware | | | | | |
| Inventory | | water/soda | 320 | \$1.75 | \$560 |
| Inventory | | wine | 2000 | \$1.50 | \$3,000 |
| Total | | | | | \$3,560 |
| Dining Utensils | | | | | |
| Inventory | | caf  | | | \$5,000 |
| Inventory | | concessions/catering | | | \$6,000 |
| Total | | | | | \$11,000 |
| Inventory | | Linen | | | \$7,500 |
| Service - front | | | | | |
| Inventory | | cr  ee urns | 10 | \$3,000 | \$30,000 |
| Inventory | | pitchers | 50 | \$8.00 | \$400 |
| Inventory | | buffet trays - jacks | 50 | \$75.00 | \$3,750 |
| Inventory | | trays | 50 | \$3.00 | \$150 |
| Inventory | | salt/pepper | 50 | \$5.00 | \$250 |
| Total | | | | | \$34,550 |
| Service - kitchen | | | | | |
| Fixed Asset | 10 yrs | Misc. Equipment | | | \$20,000 |
| Total | | | | | \$20,000 |
| Menu boards | | | | | |
| Inventory | | Menu boards | | | \$1,000 |
| Inventory | | Signage | | | \$1,000 |
| Total | | | | | \$2,000 |
| Office Equipment | | | | | |
| Fixed Asset | 5 yrs | Desk, chairs, filing cabinets | | | \$1,500 |
| Fixed Asset | 5 yrs | PC and related equipment | | | \$3,500 |
| Total | | | | | \$5,000 |
| Locker-room equipment | | | | | |
| Fixed Asset | 5 yrs | Lockers | | | \$5,000 |
| Inventory | | Uniforms | 25 | 100 | \$2,500 |
| | | | | | \$211,998 |
| Tax | | | | | \$18,056 |
| Freight | | | | | \$5,000 |
| Total Capital Investment | | | | | \$235,653 |

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Exhibit H



**RULES AND REGULATIONS
GOVERNING SEATTLE CENTER**

- Rule 1.** All persons on the Seattle Center grounds shall be governed by the rules and regulations described below and by order and instructions of the City Council and the Seattle Center Director relative to the use or occupation of any part of the Seattle Center grounds or buildings and shall comply with written or oral instructions issued by the Director, Seattle Center employees, or Seattle Police to enforce these regulations.
- Rule 2.** No person, other than tenants, lessees, permittees with approved contracts, or concessionaires, at their respective locations, shall solicit funds for any purpose or offer merchandise or services for sale, or carry on business activity within any building or on any grounds of Seattle Center, except as provided by Rule #3. Business activity conducted by tenants, lessees, permittees with approved contracts, or concessionaires, shall be governed by contractual commitments with Seattle Center, or be approved by the Seattle Center.
- Rule 3.** Persons other than tenants, lessees, permittees with approved contracts, and concessionaires may engage in lawful solicitation of funds for religious, political, or charitable purposes. Those persons doing charitable solicitation shall wear the required permit badge. Persons making solicitations shall confine their activities to those areas permitted by Rule #5.
- Rule 4.** No person shall use the roads or walkways in such a manner as to hinder or obstruct pedestrians or vehicles, nor shall any person or group of persons hinder or obstruct the egress or ingress of any facility, door, loading dock, escalator, elevator, stairway or to the grounds, after having been requested to stop such hindering or obstructing action by an authorized person. (See Rule #1.)
- Rule 5.** The following shall govern speech activities in the Seattle Center complex. The use of Seattle Center for the purpose of engaging in speech activities as defined herein shall not impair or interfere with the rights of other persons or the civic center functions of the Seattle Center. No person shall interfere with regularly scheduled events occurring in the Seattle Center. To assure compliance with this Rule #5, the following standards shall apply and the conduct of speech activities shall be in accordance with the following rules:
- A. Definitions: As used herein, the term "speech activities" shall mean distributing literature, seeking petition signatures, picketing, demonstrating, displaying signs, soliciting funds for religious, political, charitable purposes, or conducting surveys for other than licensed concessionaires, for other than Seattle Center sponsored events or for other than Seattle Center approved activities.
- The term "captive audience" shall mean any person or group of persons waiting in line to obtain tickets, food, or attend any Seattle Center event; attending or being an audience to any Seattle Center sponsored event; or seated in any seating location where foods or beverages are consumed.
- B. Soliciting of funds shall not be permitted in any building except as provided for in Rule #3. Speech activities conducted pursuant to Rule #5 in the buildings shall not be permitted:
1. In any building or portion of a building rented or leased to a promoter, tenant, concessionaire, or person(s) who has a contract with Seattle Center for use of a building or portion of a building without express consent of that promoter, tenant, concessionaire, or person;
 2. In washrooms as this activity would hinder or obstruct the usage of such facilities;
 3. Such that pedestrian traffic flows are hindered or obstructed.

- C. Speech activities conducted pursuant to Rule #5 outside the Seattle Center buildings shall be permitted as provided for in Rule #4.
- D. In addition to the rules set forth above which are specifically applicable to the buildings and grounds of the Seattle Center, the following regulations shall apply throughout the Seattle Center complex:
1. Speech activities shall not be permitted in those portions of the Seattle Center not open to the general public for common use;
 2. No person shall engage in speech activities within thirty (30) feet of any captive audience.
 3. No person shall engage in speech activities within thirty (30) feet of any person engaged in any scheduled event that is sponsored or co-sponsored by Seattle Center.
 4. The use of sound or voice amplifying apparatus in a building or on the grounds is prohibited.
 5. Tables, stands, or other structures shall not be used or placed upon the Seattle Center premises.
 6. There shall be no storage of placards, boxes, or supplies on Seattle Center premises other than in authorized public lockers.
 7. There shall be no posting of signs, literature, notices or the like on the Seattle Center premises.
 8. There shall be no business solicitation on the Seattle Center complex unless a written concession contract has been entered into by Seattle Center and the respective business.
- Rule 6.** Street musician is anyone who engages in the playing of any musical instrument, singing, or vocalizing with or without musical accompaniment and who is not sponsored by the Seattle Center. The following shall govern street musician activities in the Seattle Center complex:
- A. Street musicians shall be considered to be engaging in speech activities, and shall comply with Rule #5 except as herein, modified by Rule #6.
- B. No street musician is allowed in any building.
- C. *Place of Performance.*
1. Musicians may not perform in those locations set forth in Rule 6.E. below.
 2. No devices for the reproduction or amplification of any sound are allowed. Brass instruments, drums, and other loud instruments are not permitted within thirty (30) feet of any captive audience or scheduled event sponsored by Seattle Center.
- D. *Number of Performers.*
There may be no more than two (2) performers per group unless specifically approved in writing by the Special Activities Office (Room 105, Center House).
- E. *Locations.*
In addition to those prohibited by Rule #5, street musicians shall be prohibited from:
1. The Fun Forest.
 2. The covered walkways.
 3. The Monorail terminals and train.
 4. The International Fountain cobblestones area.
 5. Within ten (10) feet of any information kiosk.
- Rule 7.** Any rule or portion of rule found to be invalid shall not effect the other rules or portions of those rules.
- Rule 8.** The Seattle Center grounds are officially open from 7:00 A.M. to midnight daily (by Ordinance 92792).
- Rule 9.** Patrons will wear shirts and shoes at all times while in the Center House building (Ordinance 106356).

STATE OF WASHINGTON - KING COUNTY

--SS.

150870
City of Seattle, Clerk's Office

No. TITLE ONLY ORDINANCE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CTCT:ORD 120944-120952

was published on

10/18/2002

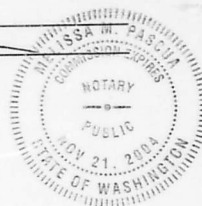
G. Stelman

Subscribed and sworn to before me on

10/18/2002

Michael J. Pask
Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



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