

**AMENDMENT TO CONCESSION AND FRANCHISE AGREEMENT**

**THIS AMENDMENT TO CONCESSION AND FRANCHISE AGREEMENT** (“Amendment”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2016, but effective as of June 1, 2016, by and between **The City of Smyrna, Georgia** (“City” or “the City”), and **Gonna Fly Now, LLC**, a Georgia limited liability company (“Franchisee”).

**WITNESSETH:**

**WHEREAS**, the City and Franchisee are parties to that certain Concession and Franchise Agreement, dated October 16, 1984, as amended and assigned (as amended and assigned, the “Agreement”), concerning the public golf course property now commonly known as Fox Creek Golf Club; and

**WHEREAS**, the City and Franchisee desire to enter into this Amendment for the purpose of evidencing and confirming the extension of the term of the Agreement, the modification to the concession fee schedule, and certain other changes to the Agreement as more specifically set forth hereinbelow.

**NOW, THEREFORE**, for and in consideration of the premises hereto, the keeping and performance of the covenants and agreements hereinafter contained, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree and further amend the Agreement, as follows:

1. **Defined Terms.** All terms used herein and denoted by their initial capitalization shall have the meanings set forth in the Agreement unless set forth herein to the contrary.

2. **Extension of Term of the Agreement.** Effective immediately, the City and Franchisee change and extend the current term of the Agreement to run for thirty-five (35) years from June 1, 2016 through and including May 31, 2051 (such 35-year period of the term of the Agreement is herein sometimes referred to as the “Extended Term”). The City hereby grants unto Franchisee the exclusive concession and license to develop, construct, operate and use the Facility on the Premises during the Extended Term on the same terms and conditions presently set forth in the Agreement, except as otherwise set forth herein to the contrary. Franchisee hereby takes the Facility and Premises during the Extended Term on the same terms and conditions presently set forth in the Agreement, except as otherwise set forth herein to the contrary.

3. **Concession Fees.** From and after the commencement of the Extended Term and throughout the Extended Term, Franchisee shall pay to the City concession fees, as follows (in lieu of the fees set forth in the Agreement):

(a) Franchisee shall pay to the City a base annual concession fee in the amount of Twenty Thousand Dollars (\$20,000) per year (“Base Fee”). The Base Fee shall be paid in two equal installments, \$10,000 on or before each July 1 and \$10,000 on or before each January 1.

(b) In addition to the Base Fee, Franchisee shall pay to the City a fee based on the number of rounds of golf played on the Premises during each 12-month period of the Extended Term running from January 1 to December 31, in an amount equal to the product of (i) Twenty-Five Cents (\$0.25), multiplied by (ii) the number of rounds of golf played on the Premises during the 12-month period in excess of 30,000 rounds of golf (“Rounds Fee”). For illustration purposes only, if 50,000 rounds of golf are played on the Premises during calendar year 2017, then the Rounds Fee for such calendar year would equal \$5,000. The Rounds Fee shall be paid in one lump sum payment on or before each February 1 with respect to the immediately preceding calendar year.

(c) Each of the Base Fee and the Rounds Fee shall be prorated for any partial year during the term of the Agreement. It shall be an Event of Default under the Agreement if Franchisee shall fail to pay any Base Fee or Rounds Fee when it becomes under the terms of the Agreement, as amended, and such failure to pay shall continue for a period of fifteen (15) days after written notice to Franchisee.

(d) For the calendar years 2017 and 2018, Franchisee shall provide the City with a credit in the amount of up to Twenty-Five Thousand Dollars (\$25,000) per year to be used by the City as a credit for green fees, cart fees, and the fees for driving range balls. The credits applied to green fees and cart fees shall be valid only for use of the golf course Monday-Thursday and after 12 p.m. on Friday, Saturday and Sunday. The credit for driving range use shall be valid for use at any time during calendar years 2017 and 2018. Said credits may not be used for any other items such as, without limitation, the purchase of merchandise, food or beverages. Franchisee and the City staff shall work together to determine how golfers may use the credits and how Franchisee will account for them to the satisfaction of both parties. Unused credits may not be carried over into the following year or years. There shall be no such credit for calendar year 2016, and there shall be no such credit for calendar year 2019 and subsequent years.

4. **Other Amendments to Agreement.** The Agreement is hereby further amended, as follows:

(a) **Market Golf Fees and Rates.** Throughout the term of the Agreement, as now or hereafter extended, Franchisee shall charge green fees, cart fees, driving range fees, and other fees and rates generally comparable to the rates and fees charged at similar daily fee golf courses located in the metropolitan Atlanta area.

(b) **Annual City Golf Tournament.** Section 3(c) of the Agreement is hereby deleted and the following is inserted in lieu thereof: “(c) Throughout the term of the Agreement, as now or hereafter extended, Franchisee shall host, at no cost to the City, an annual two-day golf tournament. The tournament dates, times and tournament type shall be determined by the Smyrna Parks and Recreation Department.”

(c) **City Resident and Employee Golf Fee Discount.** Section 3(e) of the Agreement is hereby deleted and the following is inserted in lieu thereof: “(e) Throughout the term of the Agreement, as now or hereafter extended, Smyrna residents (upon proof of residency delivered to Franchisee) and full-time employees of the City (upon proof of employment delivered to Franchisee) shall receive a ten percent (10%) discount on green fees per round of golf played. The discount shall apply only to green fees.”

(d) Notices. Until further notice to the City, notices to Franchisee under the Agreement shall be delivered to the following address:

Gonna Fly Now, LLC  
c/o Mosaic Clubs & Resorts  
1501 Windy Hill Rd SE  
Smyrna, GA 30080  
Attn: Messrs. Whitney Crouse and Steve Willy

With a copy to:

Withrow, McQuade & Olsen, LLP  
3379 Peachtree Road, N.E., Suite 970  
Atlanta, Georgia 30326  
Attn: Steve Olsen, Esq.

(e) Premises. The City and Franchisee agree that the approximate location of the approximately 4 acre “LESS AND EXCEPT” parcel of land described in Exhibit “A” to the Agreement is depicted on the plat annexed hereto as Exhibit A and made a part hereof by reference.

(f) Sale of Alcohol. Subject to Franchisee’s compliance with all applicable legal requirements with respect to the sale of alcohol, Franchisee shall have the right to sell beer, wine and liquor upon the Premises throughout the term of the Agreement. The City shall cooperate with and not object to any request by or on behalf of Franchisee for a license(s), or any renewal thereof, to sell beer, wine and liquor upon the Premises.

(g) Remedies. For purposes of clarity, the City confirms that, except as expressly set forth in Section 16 of the Agreement (captioned “Default and Cure of Default”), the City shall not have the right to terminate the Agreement, as amended.

(h) Right of First Refusal. Franchisee shall have the first right of refusal for extending the term of the Agreement beyond the expiration of the Extended Term for any additional periods as specified in this Section 4(h), below. The City hereby grants to Franchisee the right of first refusal to extend the term of the Agreement following the expiration of the Extended Term, as follows. Franchisee shall have the right of first refusal to match any bona fide offer to enter into a concession agreement with the City with respect to Premises or any portion thereof from a third party which the City may receive at the end of the Extended Term or with respect to any period following the end of the Extended Term (an “Offer”). Franchisee shall have thirty (30) days from the date Franchisee receives written notice from the City of an Offer to exercise its right of first refusal with respect to any such Offer. If the City does not receive any such Offer, then Franchisee shall have the option to extend the Agreement beyond the end of the Extended Term for an additional five (5) year term or ten (10) year term, at Franchisee’s option, upon the same terms set forth in the Agreement, as amended, except the Base Fee and the Rounds Fee shall be increased to a mutually agreed upon Base Fee and Rounds Fee, provided that if the parties cannot mutually agree upon the new, increased Base Fee and Rounds Fee, then the parties shall either mutually agree upon an appraiser who shall determine the new fair market Base Fee

and Rounds Fee, or if the parties cannot mutually agree upon the appraiser, then each party shall choose an appraiser and the Base Fee shall be the average of the two appraised Base Fees taken from the parties' chosen appraisers concerning the further extended term of the Agreement and the Rounds Fee shall be the average of the two appraised Rounds Fees taken from the parties' chosen appraisers concerning the further extended term of the Agreement.

(i) Irrigation. For purposes of clarity, the City confirms that it has no objection to Franchisee's continued exclusive use of the storm water collected in the pond located on the Premises for purposes of the irrigation of the Premises.

(j) Secured Lending. The City hereby ratifies its agreements under the Agreement, and confirms and agrees, that in connection with any assignment contemplated by Paragraph 4(d)(iii) of the Agreement, the City will grant the rights set forth on Exhibit "B" attached hereto and incorporated herein by reference, to the holder of any security interest in Franchisee's rights, title or interest in, to or under the Agreement, as amended, subject to the terms, covenants and conditions of such Exhibit "B".

5. Miscellaneous. This Amendment shall be governed by and construed in accordance with the laws of the State of Georgia, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors, representatives and assigns. In the event of any inconsistency or conflict between the terms of this Amendment and of the Agreement, the terms of this Amendment shall control. This Amendment may not be changed, modified, discharged or terminated orally in any manner other than by an agreement in writing signed by the City and Franchisee or their respective representatives, successors and assigns. Franchisee shall have the right to record this Amendment or, at Franchisee's option, a memorandum hereof shall be executed by the parties and recorded by Franchisee to place the public on record notice of the extension of the term of the Agreement. This Amendment may be executed by the parties in separate counterparts which shall constitute one original when taken together. Franchisee and the City represent and warrant that each has the full right and authority to enter into, deliver, and perform this Amendment. If any clause or provision of this Amendment is illegal, invalid or unenforceable under present or future laws effective during the terms of this Amendment, then and in that event, it is the intention of the parties hereto that the remainder of this Amendment shall not be affected thereby, and it is also the intention of the parties to this Amendment that in lieu of each clause or provision of this Amendment that is illegal, invalid or unenforceable, there shall be added as a part of this Amendment a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable. Except as hereinabove provided, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect, and are hereby ratified and confirmed by the parties hereto.

**[Signatures Begin on Following Page]**

**[Signature Page to Amendment to Concession and Franchise Agreement]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be duly authorized, executed, sealed and delivered as of the day and year first above written.

As to the City, signed, sealed and delivered in the presence of:

**“City”**:

**The City of Smyrna**

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_  
Title: Mayor

\_\_\_\_\_  
Notary Public

Attest: \_\_\_\_\_  
Title: City Clerk

Commission Expiration Date:

[SEAL]

[NOTARIAL SEAL]

As to Franchisee, signed, sealed and delivered in the presence of:

**“Franchisee”**:

**Gonna Fly Now, LLC,**  
a Georgia limited liability company

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_  
James A. Kegley, as Manager

\_\_\_\_\_  
Notary Public

[SEAL]

Commission Expiration Date:

[NOTARIAL SEAL]

Approved As To Form:

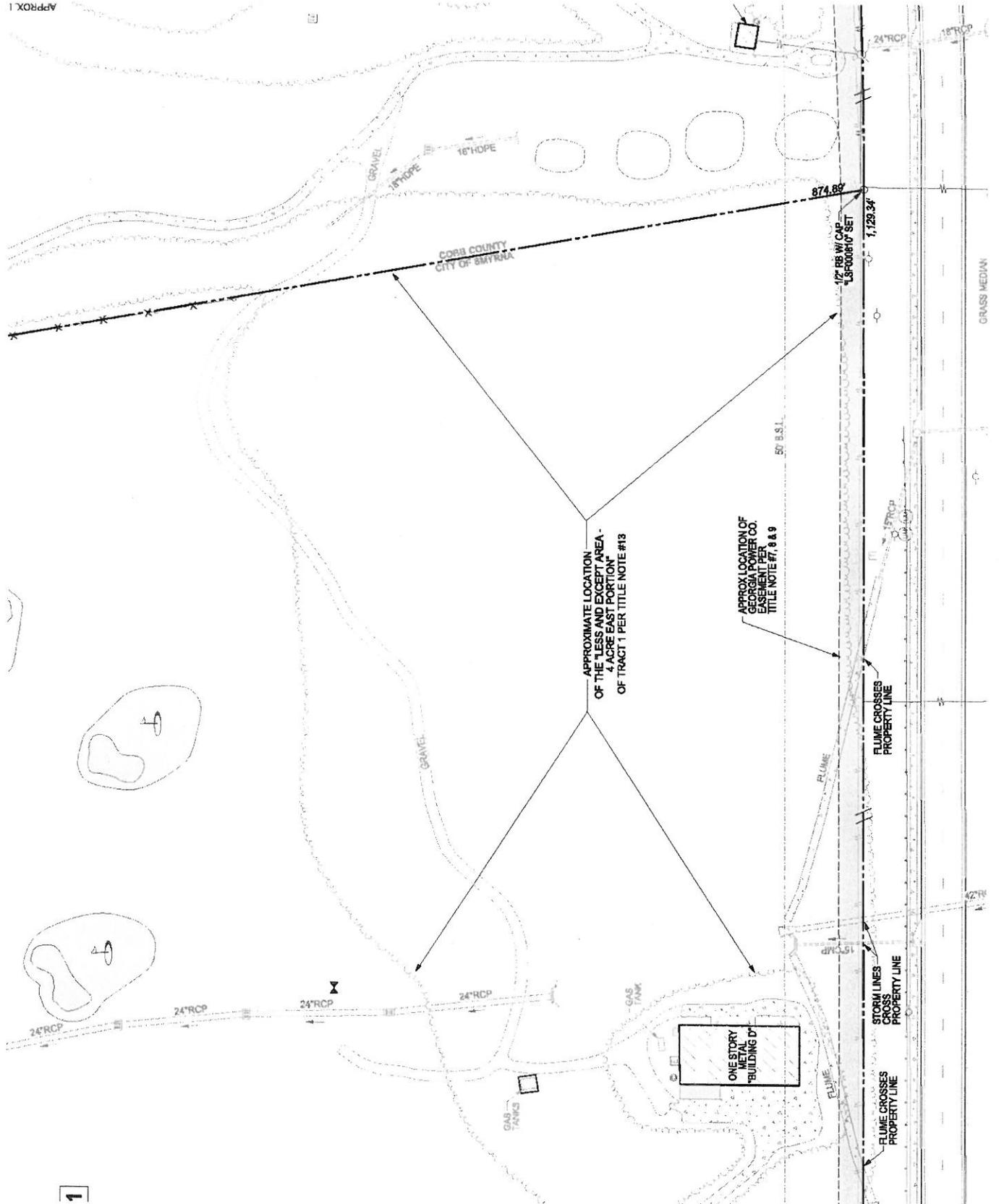
UNITED STATES OF AMERICA  
Acting by and through the National Park Service,  
a Division of the Department of Interior

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "A"**

**Plat showing LESS AND EXCEPT tract follows this page**

APPROX 1



1

APPROXIMATE LOCATION OF THE LESS AND EXCEPT AREA - 1.4 ACRES EAST PORTION OF TRACT 1 PER TITLE NOTE #13

APPROX. LOCATION OF GEORGIA POWER CO. EASEMENT PER TITLE NOTE #7, 8 & 9

ONE STORY METAL BUILDING D

FLUME CROSSES PROPERTY LINE

FLUME CROSSES PROPERTY LINE

FLUME CROSSES PROPERTY LINE

GRASS MEDIAN

CORB COUNTY CITY OF SMYRNA

GRAVEL 18" HOPE 18" HOPE

12" RB W/ CAP 13" R008/10" SET

50' B.S.L.

FLUME

FLUME

FLUME

24" RCP

874.88'

1,233.34'

24" RCP

18" RCP

24" RCP

24" RCP

24" RCP

24" RCP

24" RCP

GAS TANKS

GAS TANK

GRAVEL

**EXHIBIT "B"**  
**TO**  
**AMENDMENT TO CONCESSION AND FRANCHISE AGREEMENT**

RIGHTS OF SECURED LENDER

(a) Franchisee shall have the right at any time and from time to time, without City's prior consent, to assign, convey, pledge or hypothecate all of Franchisee's rights, title, and interests in, to, and under the Agreement (collectively, the "**Contract Rights**") as security for a first or first and second priority secured loan (the "**Secured Loan**") with an Institutional Lender and/or held by Franchisee as a purchase money loan in connection with a sale or assignment by Franchisee of the Agreement or its Contract Rights. "**Institutional Lender**" shall mean a corporate finance company, a securities company, a pension fund, bank (including, without limitation, a bank acting as a trustee under an indenture of trust), trust company, savings and loan association, insurance company, collective investment fund, endowment, foundation, real estate investment trust or any other entity generally regarded in the financing field, at the time in question, as an institutional investor, provided that, to qualify as an Institutional Lender hereunder an entity must have net worth of not less than \$10,000,000.00. No Secured Loan shall be binding upon City in the enforcement of its rights and remedies herein and by the law provided, unless and until an executed counterpart thereof shall have been delivered to City notwithstanding any other form of notice, actual or constructive. As used in this Exhibit "B", the term "**Secured Lender**" shall refer to the named Institutional Lender and/or Franchisee (as the case may be) and their respective successors and assigns, and the term "**Agreement**" shall refer to the Agreement (as defined in the Amendment to Concession and Franchise Agreement to which this Rights of Secured Lender is attached as Exhibit "B"), as now or hereafter amended.

(b) No cancellation or termination by Franchisee, surrender by Franchisee, assignment by Franchisee, modification by Franchisee, or any waiver by Franchisee of any term or provision of the Agreement, or any grant by Franchisee of any consent or approval required by the Agreement, shall be effective as to any Secured Lender unless consented to in writing by such Secured Lender.

(c) If, before any default shall have occurred under the Agreement, notice of a Secured Loan shall have been given to the City, together with written notice, specifying the name and address of the Secured Lender, then the City shall give to Secured Lender a copy of each notice of default by Franchisee at the same time as and whenever any such notice of default shall thereafter be given by City to Franchisee, addressed to such Secured Lender at the address last furnished to City. No notice by City shall be deemed to have been given unless and until a copy thereof shall have been so given to such Secured Lender. From and after the date such notice has been given to a Secured Lender, such Secured Lender shall have the same period, after the giving of such notice upon it, for remedying any default or acts or omissions which are the subject matter of such notice or causing the same to be remedied, as is given Franchisee after the giving of such notice to Franchisee, plus in each instance, the additional periods of time specified in subparagraphs (d) and (e) of this Exhibit "B", to remedy, to commence remedying, or to cause to be remedied the defaults or acts or omissions which are the subject matter of such notice specified in any such notice. Franchisee authorizes each Secured Lender to take any such

action at such Secured Lender's option and does hereby authorize entry upon the Facility and Premises by the Secured Lender for such purposes. City will accept performance by any such Secured Lender of any covenant, condition, or agreement on Franchisee's part to be performed hereunder with the same force and effect as though performed by Franchisee, provided, however, that no such acceptance shall release Franchisee from its obligations under the Agreement.

(d) Anything contained in the Agreement to the contrary notwithstanding, if any default or event shall occur which entitles City to terminate the Agreement, City shall not terminate the Agreement unless, following the expiration of the period of time given Franchisee to cure such default or event or the act or omissions which give rise to such default or event, City shall notify Secured Lender of City's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money, and at least forty-five (45) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of subparagraph (e) below shall apply if during such thirty (30) or forty-five (45) day period, any Secured Lender shall:

(i) pay or cause to be paid all concession fees and other payments then due and in arrears as specified in the termination notice to such Secured Lender and which may become due during such thirty (30) or forty-five (45) day period, and

(ii) commence to comply in good faith and with reasonable diligence with all non-monetary requirements of the Agreement then in default and reasonably susceptible of being complied with by such Secured Lender.

(e) (i) If City shall elect to terminate the Agreement, and a Secured Lender shall have proceeded in the manner provided by subparagraph (d) above, the specified date for the termination of the Agreement as fixed by City in its termination notice shall be extended for a period of six (6) months (but not beyond the term of the Agreement including any extended term or renewal term which has been or is timely exercised), provided that such Secured Lender shall, during such six (6) month period:

A. pay or cause to be paid the concession fees and the other monetary obligations of Franchisee under the Agreement as the same become due, and continue its good faith efforts to perform all of Franchisee's other obligations under the Agreement, excepting the existence of past non-monetary obligations then in default and not reasonably susceptible of being cured by such Secured Lender; and

B. if not enjoined or stayed, take steps to acquire or sell Franchisee's Contract Rights by foreclosure of the Secured Loan or other appropriate means and prosecute the same to completion with due diligence.

(ii) If at the end of such six (6) month period such Secured Lender is complying with subparagraph (e) (i), the Agreement shall not then terminate, and the time for completion by such Secured Lender of its proceedings shall continue so long as such Secured Lender is enjoined or stayed and thereafter for so long as such Secured Lender proceeds to complete steps to acquire or sell Franchisee's interest in the Agreement by foreclosure of the Secured Loan or by other appropriate means with reasonable diligence and continuity. Nothing in this subparagraph (e), however, shall be

construed to extend the Agreement beyond the end of the Extended Term, as same may be further extended by any options to extend the term of the Agreement properly exercised by Franchisee or a Secured Lender who has succeeded to Franchisee's interest in the Agreement, in accordance with the provisions of the Agreement, if any, nor to require a Secured Lender to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Secured Lender shall discontinue such foreclosure proceedings, the Agreement shall continue in full force and effect as if Franchisee had not defaulted under the Agreement.

(iii) If a Secured Lender is complying with subparagraph (e) (i), upon the acquisition of Franchisee's Contract Rights by such Secured Lender or its designee or any other purchaser at a foreclosure sale or otherwise, the Agreement shall continue in full force and effect as if Franchisee had not defaulted under the Agreement.

(iv) For the purpose of the Agreement, the making of a Secured Loan shall not be deemed to constitute an assignment or transfer of the Agreement or of Franchisee's Contract Rights hereby created, nor shall any Secured Lender, as such, be deemed to be an assignee or transferee of the Agreement or of Franchisee's Contract Rights so as to require such Secured Lender, as such, to assume the performance of any of the terms, covenants, or conditions on the part of Franchisee to be performed hereunder, but the purchaser at any sale of the Agreement and of Franchisee's Contract Rights in any proceedings for the foreclosure of any Secured Loan, or the assignee or transferee of the Agreement and of Franchisee's Contract Rights under any instrument of assignment or transfer in lieu of the foreclosure of any Secured Loan, shall be deemed to be an assignee or transferee within the meaning of the Agreement and shall be deemed to have agreed to perform all of the terms, covenants, and conditions on the part of Franchisee to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of Franchisee's Contract Rights; provided that upon any subsequent assignment, the subsequent assignee shall have assumed in writing the obligations of Franchisee under the Agreement. Secured Lender shall forward to City an executed copy of the assignment and the assumption in recordable form.

(v) Any Secured Lender or other acquirer of Franchisee's Contract Rights pursuant to foreclosure, assignment in lieu of foreclosure, or other proceedings or pursuant to a reactivated Agreement (as defined and provided in subparagraph (f) below) may, without consent of City, sell and assign the Agreement and Franchisee's Contract Rights on such terms and to such persons and organizations as are acceptable to such Secured Lender or acquirer and thereafter be relieved of all obligations under this Assignment.

(vi) Notwithstanding any other provisions of the Agreement, any sale of the Agreement and of Franchisee's Contract Rights in any proceedings for the foreclosure of any Secured Loan, or the assignment or transfer of the Agreement and of Franchisee's Contract Rights in lieu of the foreclosure of any Secured Loan, as well as any sale or assignment specified in subparagraph (e)(v) above, shall be deemed to be a permitted sale, transfer, or assignment of the Agreement and of Franchisee's Contract Rights.

(f) In the event of the termination of the Agreement, as a result of Franchisee's default or by operation of law, City shall, in addition to providing the notices of default and termination as required by subparagraphs (b) and (c) above, provide each Secured Lender with written notice that the

Agreement has been terminated, together with a statement of all sums which would at that time be due under the Agreement but for such termination, and of all other defaults, if any, then known to City (“**Notice of Termination**”). City agrees to allow the Secured Lender or its designee to assume all rights, duties, and obligations of Franchisee under the Agreement arising from and after the date of such assumption, and in accordance with all the provisions of this Exhibit “B,” such that Secured Lender acts as Franchisee hereunder. No new agreement shall be required; rather, the Agreement may then be reactivated with respect to the Facility and Premises with such Secured Lender or its designee as the “Franchisee” hereunder (with prior Franchisee not being a party to such reactivated Agreement) or if more than one Secured Lender so requests, with the Secured Lender or its designee holding the Secured Loan which is prior in lien to the other, for the remainder of the term of the Agreement, effective as of the date of termination, at the concession fees and upon the terms, covenants, and conditions of the Agreement, provided:

(i) Such Secured Lender shall make written request upon City for reactivation of the Agreement (a “reactivated Agreement”) within sixty (60) days after the date such Secured Lender receives City’s Notice of Termination of the Agreement given pursuant to this subparagraph (f).

(ii) Such Secured Lender or its designee shall pay or cause to be paid to City at the time of the execution and delivery of the reactivated Agreement, any and all sums which would at the time of execution and delivery thereof be due pursuant to the Agreement but for such termination and, in addition thereto, all reasonable expenses, including reasonable attorney’s fees, which City shall have incurred by reason of such termination and the execution and delivery of the reactivated Agreement and which have not otherwise been received by City from Franchisee or other party in interest under Franchisee, or otherwise.

(iii) Such Secured Lender or its designee shall agree to remedy any of Franchisee’s defaults of which said Secured Lender was notified by City’s Notice of Termination and which are reasonably susceptible of being so cured by Secured Lender or its designee.

(iv) Any reactivated Agreement made pursuant to this subparagraph (f) and any extension or renewal of the reactivated Agreement entered into with a Secured Lender or its designee pursuant to the provisions of the Agreement, shall have the same priority as the Agreement has with respect to any mortgage or other lien, charge, or encumbrance on the City’s interest in the Facility and Premises.

(v) If Secured Lender or a designee owned or controlled in whole or in part directly or indirectly by Secured Lender is the Franchisee under any such reactivated Agreement, such Franchisee shall be liable to perform the obligations imposed on such Franchisee by such reactivated Agreement only during the period such person or entity has ownership of Franchisee’s Contract Rights, provided, that upon any subsequent assignment of the reactivated Agreement, the subsequent assignee shall have assumed in writing the obligations of Franchisee under the reactivated Agreement. Secured Lender shall forward to City an executed copy of the assignment and the assumption in recordable form.

(g) Nothing herein contained shall require any Secured Lender or its designee as a condition to its exercise of right hereunder to cure any default of Franchisee or any event either of which is not reasonably susceptible of being cured by such Secured Lender or its designee, including but not limited

to bankruptcy and insolvency and any provisions and terms of the Agreement which may impose conditions of default not susceptible of being cured by a Secured Lender, or a subsequent owner of Franchisee's Contract Rights through foreclosure, in order to comply with the provisions of subparagraphs (d) or (e) or as a condition of entering into the reactivated Agreement provided for by subparagraph (f).

(h) A standard "mortgagee clause" naming Secured Lender shall be added to any and all insurance policies required to be carried by City or Franchisee hereunder on condition that the insurance proceeds are to be applied in the manner specified in the Agreement.

(i) City shall give each Secured Lender prompt notice of any legal proceedings between City and Franchisee involving obligations under the Agreement.

(j) In the event Franchisee seeks to pledge its Contract Rights or modify or extend any existing Secured Loan, City agrees to amend the Agreement from time to time to the extent reasonably requested by Secured Lender provided that such proposed amendments do not materially and adversely affect the rights of City or its interest in the Facility and Premises as solely determined by City. All reasonable expenses incurred by City in connection with any such amendment shall be paid by Franchisee.

(k) Notices, demands, and requests between City and Secured Lender shall be given in the manner described in the Agreement, and if to Secured Lender to the name and address last furnished in writing to City in accordance with the notice provisions of the Agreement.

(l) No Secured Lender shall be liable under the provisions of the Agreement unless and until such time as it becomes, and then only for as long as it remains, the owner of Franchisee's Contract Rights.