

Amendment to Food Service Management Agreement

This Amendment to Food Service Management Agreement (this "Amendment") is entered into as of March 24, 2016, by and between Ovations Fanfare, L.P., a Pennsylvania limited partnership ("Concessionaire") and the 32<sup>nd</sup> District Agricultural Association, a California state institution (the "District"). District and Concessionaire are sometimes referred to collectively as the "Parties" or singularly as a "Party".

**RECITALS:**

Concessionaire and District are parties to that certain Food Service Management Agreement dated January 1, 2012 (the "Agreement"); and

The Parties now desire to extend and amend the Agreement as provided herein.

**AMENDMENT:**

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Capitalized terms used but not defined in this Amendment shall have the meanings ascribed to such terms in the Agreement.
2. Section C(1) of the Agreement is deleted in its entirety and is hereby replaced with the following:

**"C. TERM OF AGREEMENT**

1. This agreement commences on the Contract Commencement Date and expires on August 1, 2024."
3. The Parties agree to new Section D-1 of the Agreement, as set forth below:

**a. D-1 NEW CAPITAL INVESTMENT**

- i. Concessionaire shall make an additional capital investment of One Million Five Hundred Thousand Dollars (\$1,500,000) at the Facilities over the course of the Seventy-Nine (79) month period commencing on January 1, 2018. The additional capital investment will be for design services, leasehold improvements and/or capital equipment dedicated to the Food Services Facilities and the Foodservices to be performed by Concessionaire during such period. The actual amount invested by Concessionaire under this Section 3 is the "New Capital Investment". District and Concessionaire shall mutually agree upon the specific equipment and improvements to be purchased or made with the New Capital Investment, and the location for such improvements or installation of such equipment.

- ii. Once Identified, the specific equipment and other related tangible personal property to be purchased with the New Capital Investment will be described in detail in a writing to be signed by the Parties and updated by the Parties from time to time as necessary to reflect any additions, deletions, replacements, or substitutions thereof. Title to all equipment, improvements and other items purchased with the New Capital Investment, including all replacement and substitution items will vest in Concessionaire until payment of the Buyout Amount, more fully described in Section C below. District agrees to execute such documents as Concessionaire shall reasonably request evidencing Concessionaire's ownership interest in such improvements and equipment, including financing statements.
- iii. The New Capital Investment shall be amortized on a straight line basis over a Seventy-Nine (79) month period (at the rate of 1/79 per month), commencing on January 1, 2018. Once the New Capital Investment is fully amortized, title to the equipment and improvements will become vested in the District, and Concessionaire agrees to execute all necessary documents to evidence same. In the event the Agreement is terminated for any reason by either Party, District shall within thirty (30) days of termination pay to Concessionaire the unamortized amount of the New Capital Investment ("the Buyout Amount"). In the event that District fails to pay Concessionaire the Buyout Amount under this Section, the Buyout Amount shall accrue interest at the legal rate. Upon payment of the Buyout Amount, title to the equipment and improvements will become vested in the District, and Concessionaire agrees to execute all necessary documents to evidence same. District covenants and agrees not to permit any third-party liens or encumbrances to attach to the leasehold improvements and equipment purchased with the New Capital Investment. The rights of the Parties set forth in this Section shall be in addition to any other rights of the Parties at law or in equity.

4. All references to the Agreement therein, or in any other document referencing the Agreement, shall be deemed to refer to the Agreement as amended hereby. Except for the modifications set forth above, all of the provisions of the Agreement shall remain unmodified and in full force and effect.
5. This Amendment shall be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of law.

IN WITNESS WHEREOF, each party hereto has caused this Food and Beverage Agreement to be executed on behalf of such party by an authorized representative as of the date first set forth above.

32<sup>ND</sup> DISTRICT AGRICULTURAL ASSOCIATION      OVATIONS-FANFARE, L.P.

By: Gerardo Moret  
Name: Gerardo Moret  
Its:

By: Kenneth J. Young  
Name: Kenneth J. Young  
Its: President

By: Kathy Klemek  
Name: Kathy Klemek  
Its: CEO Oc Fair Event Center