

RESOLUTION NO. 2014-083

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA GRANTING AN EXCLUSIVE LICENSE TO PIZZERIAS, LLC, A FLORIDA LIMITED CORPORATION, A LICENSED FRANCHISEE AND DOING BUSINESS AS PAPA JOHN'S PIZZA, TO SELL AND DELIVER PIZZAS AT A REDUCED RATE OR VOLUME DISCOUNT OF \$7.00 FOR EACH ONE TOPPING PIZZA, AS ORDERED BY THE CITY, IN CONNECTION WITH ACTIVITIES CONDUCTED IN CITY OF HIALEAH EVENTS, PROGRAMS, PARKS AND RECREATIONAL FACILITIES; AND FURTHER AUTHORIZING THE MAYOR AND THE ACTING CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER INTO A SPONSORSHIP AGREEMENT WITH PIZZERIAS, LLC, A FLORIDA LIMITED CORPORATION, A LICENSED FRANCHISEE AND DOING BUSINESS AS PAPA JOHN'S PIZZA, IN SUBSTANTIAL CONFORMITY WITH THE AGREEMENT ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1", TO BECOME A HIALEAH PILLAR PARTNER AND BE DESIGNATED THE OFFICIAL PIZZA PARTNER OF THE CITY OF HIALEAH FOR A TERM OF FOUR YEARS, COMMENCING ON JULY 1, 2014 THROUGH JUNE 30, 2018, IN EXCHANGE FOR A TOTAL SPONSORSHIP FEE OF \$75,000.00 PAYABLE PURSUANT TO PAYMENT SCHEDULE, 200 COMPLIMENTARY PIZZAS EACH YEAR OF THE AGREEMENT, A MARKETING BUNDLE INCLUDING ON-SITE, MEDIA, INTERNET, AND DIRECT-MAIL ADVERTISING OPPORTUNITIES, PRESENTATION AT SPECIAL EVENTS AND PROGRAMS, DISCOUNTED ENTRANCE TICKETS TO HIALEAH WATER PARK AND AQUATIC FACILITIES, DISCOUNTS FOR RENTAL FACILITIES, VIP PARKING, PRESENTING SPONSOR AT DESIGNATED EVENTS, SIGNAGE ON HIALEAH TRANSIT BUSES AND MEDIANS, IN RECEIPT OF OTHER PROMOTIONAL ITEMS IN CONNECTION WITH SPECIAL EVENTS AND PROGRAMS; AND FURTHER AUTHORIZING THE NAMING OF THE RECREATION HALL AT MILANDER CENTER AS PAPA JOHN'S

PIZZA RECREATION HALL AT MILANDER PARK,
FOR THE DURATION OF THE AGREEMENT.

WHEREAS, the City of Hialeah finds it in the best interest of the community and residents of the find ways to promote and fund the operation of special municipal events and programs for the community at large and to reach a greater number residents through sponsorship agreements;

WHEREAS, the City of Hialeah finds it in the best interest of the community to grant an exclusive license for four years, to Pizzerias, LLC, doing business as Papa John's Pizza to sell and deliver pizzas at a high-volume discounted rate;

WHEREAS, the City of Hialeah finds it in the best of the health, safety and welfare of the community to offer a Hialeah Pillar Marketing Partnership bundle and designation as Official Pizza Partner of the City of Hialeah to Pizzerias, LLC, doing business as Papa John's Pizza;

WHEREAS, the City of Hialeah authorizes the naming of the Recreation Hall at the Milander Center as the Papa John's Pizza Recreation Hall at Milander Park.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City of Hialeah, Florida hereby grants Pizzerias, LLC, a Florida limited corporation, a licensed franchisee and doing business as Papa John's Pizza, an exclusive license to sell and deliver pizzas at a reduced rate or volume discount of \$7.00 for each one topping pizza, as ordered by the City, in connection with activities conducted in or at City of Hialeah events, programs, parks and recreational facilities for a term of four years, commencing on July 1, 2014 through June 30, 2018, in exchange for a total sponsorship fee of \$75,000.00 payable pursuant to payment schedule, 200 complimentary pizzas each year of the agreement, a marketing bundle including on-site, media, internet, and direct-mail advertising opportunities, presentation at special events and programs, discounted entrance tickets to Hialeah water park and aquatic facilities, discounts for rental facilities, VIP parking, presenting sponsor at designated events, signage on Hialeah Transit buses and medians, and in receipt of other promotional items in connection with special events and programs.

Section 2: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into a License and Sponsorship Agreement for four years in substantial conformity with the Agreement attached hereto and made a part hereof as exhibit "1", to become a Hialeah Pillar Partner and be designated the Official Pizza Partner of the City of Hialeah for four years.

Section 3: The City of Hialeah, Florida hereby authorizes the naming of the Recreation Hall of the Milander Center as Papa John's Pizza Recreation Hall at Milander Park for the duration of the Agreement.

PASSED AND ADOPTED this 24 day of June, 2014.



Isis Garcia-Martinez
Council President

Attest:

Approved on this 7 day of July, 2014.



Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



Lorena Bravo, Acting City Attorney

Resolution was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".

LICENSE AND SPONSORSHIP AGREEMENT

This License Agreement entered into this _____ day of _____, 2014, by and between the City of Hialeah ("City"), a municipal corporation organized and existing by virtue of and under the laws of the State of Florida, 501 Palm Avenue, Hialeah, Florida 33010 and Pizzerias, LLC d/b/a Papa John's Pizza, a Florida limited liability company in good standing ("Licensee"), by and through its duly authorized undersigned agent, 8619 South Dixie Highway, Miami, FL 33143.

RECITALS

WHEREAS, the Licensee would like to obtain the exclusive license to furnish prepared and cooked pizzas to the City, to become the official pizza partner of the City an official and to sponsor activities and special events planned by the City Hialeah Department of Parks and Recreation and the Education and Community Services Department;

WHEREAS, the City has offered and the Licensee has accepted a municipal marketing partnership bundle as part of the designation as a Hialeah Pillar Partner and the Official Pizza Partner of the City of Hialeah, including but not limited to, the naming of Recreation Room at Milander Park as "Papa John's Pizza Recreation Room at Milander Park", on-site advertising opportunities, media, Internet, direct-mail advertising opportunities, presentation at special events and programs, discounted entrance tickets to Hialeah water parks and aquatic facilities, discounts for rental facilities, VIP parking, presenting sponsor at designated events, signage on Hialeah Transit buses on the Marlin and Flamingo routes, and signage on a median, for four years with the option to review for one year on same terms; and

WHEREAS, as the Hialeah Pillar Partner and the Official Pizza Partner of the City of Hialeah, the Licensee has committed to make a minimum guaranteed payment of a total sponsorship fee of \$75,000, selling pizza at a volume discount rate, and providing 200 free pizzas and other promotional items each year during the term of the Agreement at activities and special events throughout the City;

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties, with full right and authority to enter into and fully perform, intending to be legally bound, agree as follows:

I. TERM

This Agreement shall have a duration of four (4) years, commencing on July 1, 2014 and ending on June 30, 2017.

II. EXCLUSIVE LICENSE

A. **Exclusive License; Price.** City hereby grants to the Licensee the exclusive right to market, sell and deliver pizzas in the parks and recreational and educational facilities maintained by the City of Hialeah, Florida upon order of the City at the reduced rate/volume discount of \$7.00 for each plain cheese pizza or one topping pizza, without limitation on the choice of topping. No competing pizza provider will be granted same or similar benefits as those granted Licensee and set forth in this Agreement.

B. **Product Specification; General Delivery Times.** The pizzas will be 16 inches in diameter, containing no less than six equal slices, a minimum of 8.2 ounces of tomato sauce, and in the case of cheese only pizzas, a minimum of 11.46 ounces of cheese or, in the case of all other single topping pizzas, a minimum of 9.55 ounces of cheese. The pizzas will be delivered within 45 minutes after a phone order has been placed or the scheduled time of delivery. Licensee warrants that it has sufficient operational capacity to fulfill all orders and agrees to commit all necessary efforts to deliver pizzas timely, without limitation.

C. **Special High-Volume Events.** Special Events have a high attendance rate, with some exceeding over 10,000 persons, and will require a delivery schedule to be determined in advance of the event. City and Licensee agree to cooperate in creating a mutually convenient delivery schedule and logistics program for each special event in order to coordinate and adequately manage the timing of the availability of the pizzas to participants. Strict adherence and compliance with the predetermined delivery schedule and logistics program is essential. Licensee warrants that it has sufficient operational capacity to fulfill all orders and agrees to commit all necessary efforts to deliver pizzas timely, without limitation. Licensee will provide the City with special event support to include point of sale materials (signage) to enhance sales. Licensee will also provide the City with bag warmers, and equipment deemed necessary to maintain the integrity of product for resale.

III. OFFICIAL DESIGNATION, NAME AND ADVERTISING RIGHTS

A. **Official Designation.** The City grants Licensee the right to promote itself as a "City of Hialeah Pillar Partner" during the term of this Agreement. Licensee grants City the right to promote Licensee as the "Official Pizza Partner of the City of Hialeah". Specifically, Licensee grants City the right to promote Licensee as its Official Pizza Partner at all Special Events and in the City Programs identified on "Schedule A".

B. **Name Rights to Recreation Room at Milander Park.** The City grants Licensee the right to name the Recreation Room at Milander Park and it shall henceforth be named "Papa John's Pizza Recreation Room at Milander Park" during the term of this Agreement, continuously and without interruption. The naming of the Recreation Room shall be commemorated with a ribbon cutting ceremony, at a mutually convenient date and time.

C. **On-site Advertisement at Special Events.** The City grants marketing rights for Licensee to advertise itself at all Special Events listed on "Schedule A" for the entire length of

time the Event is held, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah. The City shall provide and allow Licensee at each Special Event: space to sample, distribute coupons, and promote Licensee's products, in an area not to exceed 100 square feet under tent; the opportunity to make a brief presentation on-stage, announcements over the public announcement system, where available; the opportunity for Licensee's mascot to make an appearance; the opportunity to distribute promotional items and raffle prizes at Licensee's sole cost and expense; and the opportunity to cross-promote with other sponsoring partners with the prior written consent of the City.

D. **Advertising at Milander Park and Othe City Facilities.** Licensee shall have the right to advertise itself throughout the duration of this Agreement, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah. For this purpose, the City shall provide Licensee with the following advertisement space: four (4) framed spaces each not exceeding 11 inches by 17 inches to be placed in close proximity to the bulletin board in the Papa John's Pizza Recreation Room at Milander Park; one (1) framed space not to exceed 11 inches by 17 inches at each of the City facilities listed on "Schedule B" at a location selected at the discretion of the City; two (2) brochure holders not exceeding 8-1/2 inches by 11 inches in the Papa John's Pizza Recreation Room at Milander Park; and one (1) brochure holder not exceeding 8-1/2 inches by 11 inches at each of the City facilities listed on "Schedule B" at a location selected at the discretion of the City. All advertisement must be approved by the City prior to any display. All advertisements must meet the City's sign specifications and file formats.

E. **Other Advertising Opportunities.** Licensee may also exercise the right to advertise itself, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah, through direct-mail, print, e-mail, internet, social media sites (through which the City manages an official account), television and radio, including but not limited to the following means: inclusion in the reverse side of all inserts of the City's choice, for promotion or information of at least 8-1/2 inches by 11 inches, mailed with utility bills; inclusion in all monthly e-mail blasts announcing special events to City employees; inclusion in all monthly e-mail blasts announcing special events to the City's database of e-mail subscribers; inclusion as "stuffer" in employee paychecks two times per year, at the City's choice of time; through distribution of double-sided fliers of 4 inches by 6 inches in size at all City libraries, registration sites for swim lessons, all youth sports leagues, after-school programs, summer programs and early prevention and intervention programs. Other than as specified herein, any details related to number, quality, quantity, frequency, time, intervals, layout or design shall be determined at the City's discretion. Design, production, distribution and postage costs, where applicable, will be paid by the City. All advertisement must be approved by the City prior to any display. In addition, all advertisements must meet the City's sign specifications and file formats. Licensee

shall distribute City of Hialeah special event and program fliers as part of the "box top" when delivering or selling pizzas enclosed in a box top.

F. **Signs.** Licensee shall have the right to advertise itself throughout the duration of this Agreement, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah. All signs and advertisement must be approved by the City prior to any display. In addition, all advertisements must meet the City's sign specifications and file formats. For this purpose, the City shall allow Licensee the right to display the following signs:

1. Exterior sign of recognition at Milander Park, including the display of Licensee's logo and promotional code. Location, size, materials and final artwork to be determined by mutual consent of the parties.

2. Programed advertisement to be displayed in LED signs at Milander Park, Goodlet Park and Bucky Dent Park, including the display of Licensee's logo and promotional code. The frequency of display is at the discretion of the City.

3. Eight (8) double-sided light pole banners displayed throughout the grounds at Milander Park. The exact light poles to be determined by mutual consent of the parties.

4. Eight (8) double-sided light pole banners on Palm Avenue, between Okeechobee Road and 21 Street. The exact light poles to be determined by mutual consent of the parties.

5. Two (2) mesh banners not exceeding 5 feet by 10 feet to be displayed at football/soccer facilities at Ted Hendricks Stadium, baseball facilities at Walker Park, Carl Slade Park, and Bucky Dent Park, basketball gymnasium at Bucky Dent Park, water and aquatic facilities at McDonald Park, Bucky Dent Park, and Milander Park.

6. One (1) mesh banner not exceeding 3 feet by 5 feet at park recreation facilities at Babcock, Bright, O'Quinn, Cotson, Southeast, Sparks, McDonald, Palm Lakes, Goodlet, Wilde and Veteran's Parks.

7. Four (4) coroplast signs not exceeding 3 feet by 5 feet for each of the Special Events listed on "Schedule A".

8. Two (2) of each or a combination of each of high pressure vinyl banner or vinyl wrap not exceeding 42 inches by 96 inches at Goodlet Park.

9. One (1), unless otherwise indicated, high pressure vinyl or vinyl wrap at concession stands at the following locations: Ted Hendricks Stadium (2), Alex Fernandez Field, McDonald Water Park, Bucky Dent Water Park, Goodlet Park, Carl Slade Park, and Bucky Dent Softball field. The size of these signs is to be determined at the mutual consent of the parties and considering the space available given other advertisement obligations owed by the City.

10. One (1) median sign. Sign system, size, design and materials will be determined upon mutual consent of the parties and considering available space. Furthermore, the median sign shall be in harmony with the surrounding and shall not interfere with the safe transit of pedestrian or vehicular traffic.

11. One (1) exterior sign and one interior sign to be displayed on one Hialeah Transit bus in each of the Marlin and Flamingo routes, based on availability of unsold or uncommitted space. The exterior sign, if displayed on the side shall, not exceed 27 inches in

height by 68 inches in width, and if displayed in the rear, shall not exceed 80 inches by 80 inches. The interior sign shall not exceed 11 inches in height by 28 inches in width.

G. **Sign Budget; City's Contribution.** The parties shall determine by mutual consent the amount of money required to be budgeted by Licensee to cover the expense of all signs to be displayed. The parties acknowledge and agree that scheme of advertisement set forth in this agreement is intended to equally promote Licensee's brand and products and the fundraising campaign and promotional code, such that the Licensee will experience increased sales that will result in additional funds paid to the City as contemplated in *Paragraph B, Section IV. License and Sponsorship Fee.* Licensee agrees to create and adequately fund a budget that will accomplish the parties' objectives and pay for the greater majority of the signs contemplated to be displayed in paragraph F. herein. To this end, the City agrees to contribute \$3,000.00 to the expense for signs in paragraph F.

H. In addition to the advertising opportunities, the City shall recognize Licensee's official designation as a Hialeah Pillar Partner and/or the Official Pizza Partner of the City of Hialeah in press releases of all City Special events, through the City's programming on Public Access Channel 77, in the manner and frequency in which the City at its sole discretion sees fit. The City shall recognize Licensee as a presenting sponsor in press releases of all City Special Events and Programs listed on "Schedule A".

I. The City shall name Licensee on its official website as the Official Pizza partner of the City of Hialeah and shall display Licensee's logo and create a hyperlink to Licensee's official website.

J. Licensee shall have the choice of selecting one month in the City's annual calendar to advertise itself, during each year of the Agreement. The sign shall not exceed 2 inches in height by 11 inches in width. The month selected shall be based on the availability of unsold or uncommitted advertising space. The production file must be supplied to the City according to the City's advertisement specifications and file format.

IV. LICENSE AND SPONSORSHIP FEE

A. **Fee.** Licensee shall pay City a guaranteed minimum fee of \$75,000.00 for the term of the Agreement in partial payments in the amounts and on the dates set forth in the following schedule:

	<u>Payment Schedule</u>	
	<u>Fee</u>	<u>Payment</u>
Year 1	\$25,000	Two equal bi-annual payments of \$12,500.00
Year 2	\$12,500	Two equal bi-annual payments of \$6,250.00
Year 3	\$17,500	Two equal bi-annual payments of \$8,750.00
Year 4	\$20,000	Two equal bi-annual payments of \$10,000.00

The first bi-annual payment of \$12,500.00 shall be made by Licensee immediately upon execution of this Agreement. After the first payment is made, each subsequent bi-annual

payment in the sum specified above for each corresponding year shall be paid no later than six months after the preceding payment. No payment shall be paid at any time beyond the expiration of each year to which the payment corresponds. No payment shall be paid beyond the expiration of the term of this Agreement.

B. **Special Promotional Campaign.** Licensee shall operate a promotional campaign continuously throughout the term of this Agreement to raise funds toward costs of renovating the Recreation Building at Milander Park and to fund aquatics and recreation programs. Licensee shall create a promotion code unique to this promotional campaign and the City that will entitle anyone using the code to a \$2.00 discount from their purchase of any Licensee product. Fifty percent (50%) of the revenue received from purchases made utilizing the promotional code can be used toward the guaranteed minimum payment set forth in paragraph A. above for all subsequent payments after the first partial payment. The remaining fifty percent (50%) of the revenue received from purchases made utilizing the promotional code shall be paid to the City as a bonus in a lump sum prior to the expiration of the Agreement. In order to properly account for the revenue generated directly from the application of the promotional code, Licensee shall maintain records of each individual transaction to which the promotional code was applied, clearly indicating the unique identifying code on the record of each transaction, on a monthly basis, and retain all records of these transactions for the term of the Agreement until the payment to the City from the promotional campaign is settled. The total sum of all qualifying transactions shall be reported to the City no later than fifteen (15) days after each month's end. Revenue shall not include any sales tax. Prior to any application of revenue generated from the use of the promotional code to the guaranteed minimum payment as provided for herein, Licensee shall report to City the amount of revenue to be credited towards the guaranteed minimum, the percentage of total revenue to be applied, the total amount of revenue generated and the period of time over which the revenue was generated. The City shall have a right to inspect all records of qualifying transactions and any other business record of Licensee, at any time, for the purpose of ascertaining Licensee's full performance of the provisions of this paragraph of the Agreement, at any time during Licensee's normal business hours, upon reasonable notice to Licensee, at the location where the records are kept in the regular conduct and course of Licensee's business. Licensee shall not create or impose any rule, regulation, instruction or practice to undermine or circumvent the purpose of the promotional campaign. Licensee shall act in good faith in crediting, recording, reporting and accounting of all sums owed to the City pursuant to the terms set forth in this paragraph. The promotional code shall be available to everyone purchasing Licensee's products for delivery in Miami-Dade County. There shall be no limitation in the means used to place the order (whether the order was placed telephonically, via web, via a smartphone application, in person at any location of Licensee within Miami-Dade County or otherwise), the frequency of use of the promotion code by any one individual or entity, or the product type ordered in order to use the promotion code. Licensee shall actively advertise the promotional campaign and the promotional code continuously throughout the term of the Agreement on its website, on its smartphone application and at its locations throughout Miami-Dade County. Licensee shall provide the City of Hialeah with promotional banners to publicize the promotional campaign and code at City programs and special events. Quantity, size and location for display of banners shall be agreed upon the mutual consent of City and Licensee.

C. **Complimentary Pizza; Other Promotional Items.** Licensee shall provide 200 complimentary (free) pizzas for special events and programs conducted by the City on an annual basis for the term of the Agreement. Licensee may provide other promotional items, including sampling new products, at no cost to City, for distribution to the general public at special events and programs. The quantity and type of promotional programs shall be agreed in advance of the special event and upon the mutual consent of the parties.

V. TRADEMARKS AND TRADENAMES

Licensee grants the City a license, permit and authority, throughout the term of this Agreement, to copy, print, display and use its trademarks and tradenames, copyrights, including but not limited to, logos, slogans, tags and web address in connection with any sign, advertisement or announcement contemplated for publication, distribution or display pursuant to the terms of this Agreement. Prior to display, publication or distribution, the City shall submit a proof of the sign, advertisement or announcement to Licensee for approval of the use and display of Licensee's trademarks, tradenames, or copyrights. Licensee represents and warrants that Licensee's trademarks or tradenames do not infringe the trademarks or tradenames of any other person or entity.

City grant Licensee a license, permit and authority, throughout the term of this Agreement, to copy, print, display and use its name and logo in connection with any advertisement, so long as the advertisement is limited solely to publicizing the exclusive license, sponsorship agreement, or official designation granted to Licensee herein. Prior to any copy, print, display, publication or use of the City's name or logo, Licensee shall obtain the City's prior approval.

VI. SPECIAL PRIVILEGES

The City shall provide Licensee the opportunity to rent any of the following recreational facilities, to host corporate events, subject to the rules, regulations and limitations of the chosen facility, on available dates: Milander Center, Wilde Community Center (Activity and Dining Room), Ted Hendricks Stadium, McDonald Water Park, Bucky Dent Water Park, Goodlet Park Theatre and Arena Soccer Complex. The event date must be reserved in advance no later than 3 months but no earlier than 6 months from the planned date of the event. The City will provide a list of rental rates for the facilities identified on an annual basis. The City will provide an annual credit in the total amount of \$3,000.00 to be applied towards the rental rate of the chosen facility or facilities on the date(s) selected. The credit cannot be applied towards any refundable security deposit, late charges, fees or penalties, food, beverage, decorations, music or other costs of entertainment, administrative costs or costs related to required insurance coverage.

The City shall provide Licensee 1,000 entrance tickets, valid for one child or one senior citizen admission, for a total yearly value of \$2,000.00, to all City water parks and aquatic facilities to be used at Licensee's discretion.

Licensee, its officers, directors, employees and guests, not exceeding ten (10) in total, shall be admitted to the VIP section of all Special Events listed in "Schedule A", including a preferred parking pass for each.

VII. INVOICING AND PAYMENT

The City shall pay every 30 days, according to an agreed-upon payment schedule, all accumulated invoices submitted by the Licensee. For each pizza order, the Licensee must provide an invoice for payment.

VII. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Both parties shall comply with all applicable laws, ordinances, codes, rules and regulations of federal, state and local governments. Licensee agrees to abide with all Florida, Miami-Dade County and City of Hialeah laws, ordinances, codes, rules and regulations pertaining to the operation and maintenance of their business premises within the jurisdictional limits of the City, as such laws presently exist and as amended.

VIII. NONDELEGABLE

The obligations and duties of the Licensee pursuant to this Agreement shall not be delegated or assigned, in whole or in part, to any other person or entity without prior written consent of the City.

IX. NONDISCRIMINATION

Licensee agrees that it will not discriminate as to race, gender, color, creed, national origin, age, disability or sexual orientation in connection with its performance of this Agreement.

X. CONSTRUCTION OF LICENSE AND SPONSORSHIP AGREEMENT

This Agreement shall be construed and enforced according to the laws of the State of Florida. The Licensee agrees to be subject to the jurisdiction (subject matter and in personam) of the courts of Dade County, Florida and amenable to process. Venue for any litigation arising out of or in connection with this Agreement shall be in Miami-Dade County, Florida.

XI. AWARD OF LICENSE AND SPONSORSHIP AGREEMENT

Licensee warrants that it has not employed or retained any person employed by the City to solicit or secure this License Agreement and it has not offered to pay, paid, or agreed to pay any person employed by the City any fee, commission, percentage, brokerage fee, or gift of any kind, contingent upon or resulting from the award of this License and Sponsorship Agreement.

XII. CONFLICT OF INTEREST

A. Licensee covenants that no person who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interests, direct or indirect, with the Licensee. The Licensee further covenants that in the performance of this Agreement, no person having such conflicting interest shall be employed by the Licensee. Any conflict of interest attributable to the Licensee must be disclosed in writing to the City immediately upon discovery.

B. Licensee is aware of the conflict of interest laws of the City of Hialeah, particularly Hialeah Code, Chapter 26, Article I and II.; Miami-Dade County, Florida, particularly Code of Miami-Dade County, Florida §§ 2-11.1 et seq; and the State of Florida, particularly Chapter 112, Part III, Florida Statutes and agrees that it shall fully comply in all respects with those provisions.

XIII. INDEPENDENT CONTRACTORS

Licensee, its officers, directors, employees, representatives and agents shall be deemed to be independent contractors, and not agents or employees of the City, and shall not attain any rights or benefits under the civil service or pension laws, rules and regulations of the City, or any rights generally afforded classified or unclassified employees. The Licensee, its officers, directors, employees, representatives and agents shall not be deemed entitled to Florida Workers' Compensation benefits as an employee of the City.

XIV. TERMINATION

The City may terminate this Agreement for cause. Termination for cause shall include the following events or actions:

- A. Failure to comply and/or perform in accordance with this Agreement;
- B. Refusal or failure to provide the City with accurate and complete records in the manner provided herein;
- C. Implementation of Agreement, for any reason, is rendered impossible or unfeasible;
- D. Filing of a voluntary petition in bankruptcy or reorganization, or making any assignment for the benefit of creditors, or seeking any similar relief under any present or future statute, law or regulations relating to relief of debtors;
- E. Adjudicated bankrupt or have any involuntary petition in bankruptcy filed against it; and

If the Licensee causes or commits one or more of the foregoing acts or events that would give rise to termination for cause, then, after thirty (30) days written notice provided to the Licensee by the City within which to cease and/or correct such deficiencies, and upon failure to do so after

such written notice, this License Agreement is hereby revoked and canceled without the need for other or further action by City.

XV. INTEREST CONFERRED BY PERMIT

The provisions of the License Agreement does not constitute a lease and no landlord-tenant relationship is created hereunder. No leasehold interest in the premises is conferred upon the Licensee under the provisions hereof.

XVI. NOTICES

All notices or other communications which shall or may be given pursuant to this License Agreement shall be in writing and shall be delivered by personal service, or by certified mail, return receipt requested, addressed to the other party at the address indicated herein, or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served, or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

City of Hialeah	Pizzerias, LLC
Education and Community Services Dept.	d/b/a Papa John's Pizza
501 Palm Avenue	8619 South Dixie Highway, 2 nd Fl
Hialeah, Florida 33010	Miami, FL 33143

XVII. MISCELLANEOUS PROVISIONS

A. **No waiver.** The failure of the City to insist on the performance or observance by the Licensee of any one or more conditions or covenants of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such covenant or condition, and the Licensee's obligation with respect to such future performance shall continue in full force and effect.

B. **Gender.** The terms City and Licensee, as herein contained, shall include the singular and/or the plural, the masculine, the feminine, and/or the neuter, the heirs, successors, executors, administrators, personal representatives and/or assigns, wherever and whenever, the context so requires or admits.

C. **Captions.** Title and paragraph headings are for convenient reference and are not part of this License Agreement. Such captions shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this Agreement.

D. **Severability.** Should any provision, paragraph, sentence, word, or phrase contained in this License Agreement be determined by a court of competent jurisdiction having precedential

value to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, City or the United States, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform to such laws, or, if nonmodifiable, then same shall be deemed severable, and, in either event, the remaining terms and provisions of this License Agreement shall remain unmodified and in full force and effect.

E. **Successors and assigns.** This Agreement shall be binding upon and inure to the benefit of the parties herein, their heirs, executors, legal representatives, successors and assigns.

F. **Entire agreement.** This License Agreement and its attachments constitute the sole and only License Agreement of the parties hereto. Any prior agreements, promises, negotiations, or representations not expressly set forth in this License Agreement are of no force or effect.

G. **Amendments.** No amendments to this License Agreement shall be binding on either party unless in writing and signed by both parties.

H. **Conflict.** In the event of conflict between the terms of this License Agreement and any terms, conditions or representations contained in any attached document, the terms in this License Agreement shall prevail.

(THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.)

LICENSE AND SPONSORSHIP AGREEMENT

This License Agreement entered into this _____ day of _____, 2014, by and between the City of Hialeah ("City"), a municipal corporation organized and existing by virtue of and under the laws of the State of Florida, 501 Palm Avenue, Hialeah, Florida 33010 and Pizzerias, LLC d/b/a Papa John's Pizza, a Florida limited liability company in good standing ("Licensee"), by and through its duly authorized undersigned agent, 8619 South Dixie Highway, Miami, FL 33143.

RECITALS

WHEREAS, the Licensee would like to obtain the exclusive license to furnish prepared and cooked pizzas to the City, to become the official pizza partner of the City an official and to sponsor activities and special events planned by the City of Hialeah Department of Parks and Recreation and the Education and Community Services Department;

WHEREAS, the City has offered and the Licensee has accepted a municipal marketing partnership bundle as part of the designation as a Hialeah Pillar Partner and the Official Pizza Partner of the City of Hialeah, including but not limited to, the naming of Recreation Hall at Milander Park as "Papa John's Pizza Recreation Hall at Milander Park", on-site advertising opportunities, media, Internet, direct-mail advertising opportunities, presentation at special events and programs, discounted entrance tickets to Hialeah water parks and aquatic facilities, discounts for rental facilities, VIP parking, presenting sponsor at designated events, signage on Hialeah Transit buses on the Marlin and Flamingo routes, and signage on a median, for four years; and

WHEREAS, as the Hialeah Pillar Partner and the Official Pizza Partner of the City of Hialeah, the Licensee has committed to payment of a total sponsorship fee of \$75,000, selling pizza at a volume discount rate, and providing 200 free pizzas and other promotional items each year during the term of the Agreement at activities and special events throughout the City;

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties, with full right and authority to enter into and fully perform, intending to be legally bound, agree as follows:

I. TERM

This Agreement shall have a duration of four (4) years, commencing on the date this Agreement is signed by the parties written above and ending four years thereafter on June _____, 2018. This Agreement may be renewed only upon the written consent of the parties.

II. EXCLUSIVE LICENSE

A. **Exclusive License; Price.** City hereby grants to the Licensee the exclusive right to market, sell and deliver pizzas in the parks and recreational and educational facilities maintained by the City of Hialeah, Florida upon order of the City at the reduced rate/volume discount of \$7.00 for each plain cheese pizza or one topping pizza, without limitation on the choice of topping. This price is inclusive of all other fees and taxes. No competing pizza provider will be granted same or similar benefits as those granted Licensee and set forth in this Agreement.

B. **Product Specification; General Delivery Times.** The pizzas will be 16 inches in diameter, containing no less than six equal slices, a minimum of 8.2 ounces of tomato sauce, and in the case of cheese only pizzas, a minimum of 11.46 ounces of cheese or, in the case of all other single topping pizzas, a minimum of 9.55 ounces of cheese. The pizzas will be delivered within 45 minutes after a phone order has been placed or the scheduled time of delivery. Licensee warrants that it has sufficient operational capacity to fulfill all orders and agrees to commit all necessary efforts to deliver pizzas timely, without limitation.

C. **Special High-Volume Events.** Special Events have a high attendance rate, with some exceeding over 10,000 persons, and will require a delivery schedule to be determined in advance of the event. City and Licensee agree to cooperate in creating a mutually convenient delivery schedule and logistics program for each special event in order to coordinate and adequately manage the timing of the availability of the pizzas to participants. Strict adherence and compliance with the predetermined delivery schedule and logistics program is essential. Licensee warrants that it has sufficient operational capacity to fulfill all orders and agrees to commit all necessary efforts to deliver pizzas timely, without limitation. Licensee will provide the City with special event support to include point of sale materials (signage) to enhance sales. Licensee will also provide the City with bag warmers, and equipment deemed necessary to maintain the integrity of product for resale.

III. OFFICIAL DESIGNATION, NAME AND ADVERTISING RIGHTS

A. **Official Designation.** The City grants Licensee the right to promote itself as a "City of Hialeah Pillar Partner" during the term of this Agreement. Licensee grants City the right to promote Licensee as the "Official Pizza Partner of the City of Hialeah". Specifically, Licensee grants City the right to promote Licensee as its Official Pizza Partner at all Special Events and in the City Programs identified on "Schedule A".

B. **Name Rights to Recreation Hall at Milander Park.** The City grants Licensee the right to name the Recreation Hall at Milander Park and it shall henceforth be named "Papa John's Pizza Recreation Hall at Milander Park" during the term of this Agreement, continuously and without interruption. The naming of the Recreation Hall shall be commemorated with a ribbon cutting ceremony, at a mutually convenient date and time.

C. **On-site Advertisement at Special Events.** The City grants marketing rights for Licensee to advertise itself at all Special Events listed on "Schedule A" for the entire length of time the Event is held, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah. The City shall provide and allow Licensee at each Special Event: space to sample, distribute coupons, and promote Licensee's products, in an area not to exceed 100 square feet under tent; the opportunity to make a brief presentation on-stage, announcements over the public announcement system, where available; the opportunity for Licensee's mascot to make an appearance; the opportunity to distribute promotional items and raffle prizes at Licensee's sole cost and expense; and the opportunity to cross-promote with other sponsoring partners with the prior written consent of the City.

D. **Advertising at Milander Park and Other City Facilities.** Licensee shall have the right to advertise itself throughout the duration of this Agreement, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah. For this purpose, the City shall provide Licensee with the following advertisement space: four (4) framed spaces each not exceeding 11 inches by 17 inches to be placed in close proximity to the bulleting board in the Papa John's Pizza Recreation Hall at Milander Park; one (1) framed space not to exceed 11 inches by 17 inches at each of the City facilities listed on "Schedule B" at a location selected at the discretion of the City; two (2) brochure holders not exceeding 8-1/2 inches by 11 inches in the Papa John's Pizza Recreation Hall at Milander Park; and one (1) brochure holder not exceeding 8-1/2 inches by 11 inches at each of the City facilities listed on "Schedule B" at a location selected at the discretion of the City. All advertisement must be approved by the City prior to any display. All advertisements must meet the City's sign specifications and file formats.

E. **Other Advertising Opportunities.** Licensee may also exercise the right to advertise itself, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah, through direct-mail, print, e-mail, internet, social media sites (through which the City manages an official account), television and radio, including but not limited to the following means: inclusion in the reverse side of all inserts of the City's choice, for promotion or information of at least 8-1/2 inches by 11 inches, mailed with utility bills; inclusion in all monthly e-mail blasts announcing special events to City employees; inclusion in all monthly e-mail blasts announcing special events to the City's database of e-mail subscribers; inclusion as "stuffer" in employee paychecks two times per year, at the City's choice of time; through distribution of double-sided fliers of 4 inches by 6 inches in size at all City libraries, registration sites for swim lessons, all youth sports leagues, after-school programs, summer programs and early prevention and intervention programs. Other than as specified herein, any details related to number, quality, quantity, frequency, time, intervals, layout or design shall be determined at the City's discretion. Design, production, distribution and postage costs, where applicable, will be

paid by the City. All advertisement must be approved by the City prior to any display. In addition, all advertisements must meet the City's sign specifications and file formats. Licensee shall distribute City of Hialeah special event and program fliers as part of the "box top" when delivering or selling pizzas enclosed in a box top.

F. **Signs.** Licensee shall have the right to advertise itself throughout the duration of this Agreement, so long as the advertisement's focal point is promoting the fundraising initiative and encourages the use of the promotional code set forth below in *Paragraph B, Section IV. License and Sponsorship Fee* and identifies prominently Licensee as the Official Pizza Partner of the City of Hialeah. All signs and advertisement must be approved by the City prior to any display. In addition, all advertisements must meet the City's sign specifications and file formats. For this purpose, the City shall allow Licensee the right to display the following signs:

1. Exterior sign of recognition at Milander Park, including the display of Licensee's logo and promotional code. Location, size, materials and final artwork to be determined by mutual consent of the parties.
2. Programed advertisement to be displayed in LED signs at Milander Park, Goodlet Park and Bucky Dent Park, including the display of Licensee's logo and promotional code. The frequency of display is at the discretion of the City.
3. Eight (8) double-sided light pole banners displayed throughout the grounds at Milander Park. The exact light poles to be determined by mutual consent of the parties.
4. Eight (8) double-sided light pole banners on Palm Avenue, between Okeechobee Road and 21 Street. The exact light poles to be determined by mutual consent of the parties.
5. Two (2) mesh banners not exceeding 5 feet by 10 feet to be displayed at football/soccer facilities at Ted Hendricks Stadium, baseball facilities at Walker Park, Carl Slade Park, and Bucky Dent Park, basketball gymnasium at Bucky Dent Park, water and aquatic facilities at McDonald Park, Bucky Dent Park, and Milander Park.
6. One (1) mesh banner not exceeding 3 feet by 5 feet at park recreation facilities at Babcock, Bright, O'Quinn, Cotson, Southeast, Sparks, McDonald, Palm Lakes, Goodlet, Wilde and Veteran's Parks.
7. Four (4) coroplast signs not exceeding 3 feet by 5 feet for each of the Special Events listed on "Schedule A".
8. Two (2) of each or a combination of each of high pressure vinyl banner or vinyl wrap not exceeding 42 inches by 96 inches at Goodlet Park.
9. One (1), unless otherwise indicated, high pressure vinyl or vinyl wrap at concession stands at the following locations: Ted Hendricks Stadium (2), Alex Fernandez Field, McDonald Water Park, Bucky Dent Water Park, Goodlet Park, Carl Slade Park, and Bucky Dent Softball field. The size of these signs is to be determined at the mutual consent of the parties and considering the space available given other advertisement obligations owed by the City.
10. One (1) median sign. Sign system, size, design and materials will be determined upon mutual consent of the parties and considering available space. Furthermore, the median sign shall be in harmony with the surrounding and shall not interfere with the safe transit of pedestrian or vehicular traffic.

11. One (1) exterior sign and one interior sign to be displayed on one Hialeah Transit bus in each of the Marlin and Flamingo routes, based on availability of unsold or uncommitted space. The exterior sign, if displayed on the side shall, not exceed 27 inches in height by 68 inches in width, and if displayed in the rear, shall not exceed 80 inches by 80 inches. The interior sign shall not exceed 11 inches in height by 28 inches in width.

G. **Sign Budget; City's Contribution.** The parties shall determine by mutual consent the amount of money required to be budgeted by Licensee to cover the expense of all signs to be displayed. The parties acknowledge and agree that the scheme of advertisement set forth in this agreement is intended to equally promote Licensee's brand and products and the fundraising campaign and promotional code, such that the Licensee will experience increased sales that will result in additional funds paid to the City as contemplated in *Paragraph B, Section IV. License and Sponsorship Fee.* Licensee agrees to create and adequately fund a budget that will accomplish the parties' objectives and pay for the greater majority of the signs contemplated to be displayed in paragraph F. herein. To this end, the City agrees to contribute \$3,000.00 to the expense for signs in paragraph F.

H. In addition to the advertising opportunities, the City shall recognize Licensee's official designation as a Hialeah Pillar Partner and/or the Official Pizza Partner of the City of Hialeah in press releases of all City Special Events, through the City's programming on Public Access Channel 77, in the manner and frequency in which the City at its sole discretion sees fit. The City shall recognize Licensee as a presenting sponsor in press releases of all City Special Events and Programs listed on "Schedule A".

I. The City shall name Licensee on its official website as the Official Pizza Partner of the City of Hialeah and shall display Licensee's logo and create a hyperlink to Licensee's official website.

J. Licensee shall have the choice of selecting one month in the City's annual calendar to advertise itself, during each year of the Agreement. The sign shall not exceed 2 inches in height by 11 inches in width. The month selected shall be based on the availability of unsold or uncommitted advertising space. The production file must be supplied to the City according to the City's advertisement specifications and file format.

IV. LICENSE AND SPONSORSHIP FEE

A. **Fee.** Licensee shall pay City a guaranteed minimum fee of \$75,000.00 for the term of the Agreement in partial payments in the amounts and on the dates set forth in the following schedule:

	<u>Fee</u>	<u>Payment</u>
Year 1	\$25,000	Two equal bi-annual payments of \$12,500.00
Year 2	\$12,500	Two equal bi-annual payments of \$6,250.00
Year 3	\$17,500	Two equal bi-annual payments of \$8,750.00
Year 4	\$20,000	Two equal bi-annual payments of \$10,000.00

The first bi-annual payment of \$12,500.00 shall be made by Licensee immediately upon execution of this Agreement. After the first payment is made, each subsequent bi-annual payment in the sum specified above for each corresponding year shall be paid no later than six months after the preceding payment. No payment shall be paid at any time beyond the expiration of each year to which the payment corresponds. No payment shall be paid beyond the expiration of the term of this Agreement.

B. **Special Promotional Campaign.** Licensee shall operate a promotional campaign continuously throughout the term of this Agreement to raise funds toward costs of renovating the Recreation Building at Milander Park and to fund the City of Hialeah Summer Recreation Program at Milander Park. Licensee shall create a promotion code unique to this promotional campaign. The code may be used by anyone purchasing products from Licensee. Each time the code is used in connection with a purchase, Licensee shall donate \$2.00 to the City. Fifty percent (50%) of the total donation amount resulting from purchases made utilizing the promotion code shall be applied toward the guaranteed minimum payment set forth in paragraph A. above for all subsequent installment payments after the first payment. The remaining fifty percent (50%) of the total donation amount resulting from purchases made utilizing the promotion code shall be paid to the City as a bonus in a lump sum prior to the expiration of the Agreement. For illustration purposes only, if in any given month, Licensee reports 100 transactions utilizing the promotion code, Licensee shall donate \$200.00 [100 x \$2.00] to the City, of which \$100.00 can be applied to the guaranteed minimum payment and \$100.00 shall be paid as a bonus to the City prior to the expiration of the Agreement, in lump sum. In order to properly account for the number of purchases made using the promotion code, Licensee shall maintain records of each individual transaction to which the promotion code was applied, clearly indicating the unique identifying code on the record of each transaction, on a monthly basis, and retain all records of these transactions for the term of the Agreement until the payment to the City from the promotional campaign is settled. The total sum of all qualifying transactions shall be reported to the City no later than fifteen (15) days after each month's end. Prior to any credit for any sum donated as a result of the use of the promotion code to the guaranteed minimum payment as provided for herein, Licensee shall report to City the number of transactions utilizing the promotion code and the period of time over which the transactions are accounted for. The total sum to be donated shall be calculated based on the formula set forth above. The City shall have a right to inspect all records of qualifying transactions and any other business record of Licensee, at any time, for the purpose of ascertaining Licensee's full performance of the provisions of this paragraph of the Agreement, at any time during Licensee's normal business hours, upon reasonable notice to Licensee, at the location where the records are kept in the regular conduct and course of Licensee's business. Licensee shall not create or impose any rule, regulation, instruction or practice to undermine or circumvent the purpose of the promotional campaign. Licensee shall act in good faith in crediting, recording, reporting and accounting of all sums owed to the City pursuant to the terms set forth in this paragraph. The promotion code shall be available to everyone purchasing Licensee's products. The promotion code shall be available for online-transactions only; i.e. purchases made via the Licensee's webpage or smartphone applications. There shall be no limitation in geographic area, the frequency of use of the promotion code by any one individual or entity, or the product type

ordered in order to use the promotion code. Licensee shall actively advertise the promotional campaign and the promotion code continuously throughout the term of the Agreement on its website, on its smartphone application and at its locations throughout Miami-Dade and Broward County. Licensee shall provide the City of Hialeah with banners to publicize the promotional campaign and code at City programs and special events. Quantity, size and location for display of banners shall be agreed upon the mutual consent of City and Licensee.

C. **Complimentary Pizza; Other Promotional Items**. Licensee shall provide 200 complimentary (free) pizzas for special events and programs conducted by the City on an annual basis for the term of the Agreement. Licensee may provide other promotional items, including sampling new products, at no cost to City, for distribution to the general public at special events and programs. The quantity and type of promotional programs shall be agreed in advance of the special event and upon the mutual consent of the parties.

V. TRADEMARKS AND TRADENAMES

Licensee grants the City a license, permit and authority, throughout the term of this Agreement, to copy, print, display and use its trademarks and tradenames, copyrights, including but not limited to, logos, slogans, tags and web address in connection with any sign, advertisement or announcement contemplated for publication, distribution or display pursuant to the terms of this Agreement. Prior to display, publication or distribution, the City shall submit a proof of the sign, advertisement or announcement to Licensee for approval of the use and display of Licensee's trademarks, tradenames, or copyrights. Licensee represents and warrants that Licensee's trademarks or tradenames do not infringe the trademarks or tradenames of any other person or entity.

City grants Licensee a license, permit and authority, throughout the term of this Agreement, to copy, print, display and use its name and logo in connection with any advertisement, so long as the advertisement is limited solely to publicizing the exclusive license, sponsorship agreement, or official designation granted to Licensee herein. Prior to any copy, print, display, publication or use of the City's name or logo, Licensee shall obtain the City's prior approval.

VI. SPECIAL PRIVILEGES

The City shall provide Licensee the opportunity to rent any of the following recreational facilities, to host corporate events, subject to the rules, regulations and limitations of the chosen facility, on available dates: Milander Center, Wilde Community Center (Activity and Dining Room), Ted Hendricks Stadium, McDonald Water Park, Bucky Dent Water Park, Goodlet Park Theatre and Arena Soccer Complex. The event date must be reserved in advance no later than 3 months but no earlier than 6 months from the planned date of the event. The City will provide a list of rental rates for the facilities identified on an annual basis. The City will provide an annual credit in the total amount of \$3,000.00 to be applied towards the rental rate of the chosen facility or facilities on the date(s) selected. The credit cannot be applied towards any refundable security deposit, late charges, fees or penalties, food, beverage, decorations, music or other costs of entertainment.

The City shall provide Licensee 1,000 entrance tickets, valid for one child or one senior citizen admission, for a total yearly value of \$2,000.00, to all City water parks and aquatic facilities to be used at Licensee's discretion.

Licensee, its officers, directors, employees and guests, not exceeding ten (10) in total, shall be admitted to the VIP section of all Special Events listed in "Schedule A", including a preferred parking pass for each.

VII. INVOICING AND PAYMENT

The City shall pay every 30 days, according to an agreed-upon payment schedule, all accumulated invoices submitted by the Licensee. For each pizza order, the Licensee must provide an invoice for payment.

VII. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Both parties shall comply with all applicable laws, ordinances, codes, rules and regulations of federal, state and local governments. Licensee agrees to abide with all Florida, Miami-Dade County and City of Hialeah laws, ordinances, codes, rules and regulations pertaining to the operation and maintenance of their business premises within the jurisdictional limits of the City, as such laws presently exist and as amended.

VIII. NONDELEGABLE

The obligations and duties of the Licensee pursuant to this Agreement shall not be delegated or assigned, in whole or in part, to any other person or entity without prior written consent of the City.

IX. NONDISCRIMINATION

Licensee agrees that it will not discriminate as to race, gender, color, creed, national origin, age, disability or sexual orientation in connection with its performance of this Agreement.

X. CONSTRUCTION OF LICENSE AND SPONSORSHIP AGREEMENT

This Agreement shall be construed and enforced according to the laws of the State of Florida. The Licensee agrees to be subject to the jurisdiction (subject matter and in personam) of the courts of Dade County, Florida and amenable to process. Venue for any litigation arising out of or in connection with this Agreement shall be in Miami-Dade County, Florida.

XI. AWARD OF LICENSE AND SPONSORSHIP AGREEMENT

Licensee warrants that it has not employed or retained any person employed by the City to solicit or secure this License Agreement and it has not offered to pay, paid, or agreed to pay any

ordered in order to use the promotion code. Licensee shall actively advertise the promotional campaign and the promotion code continuously throughout the term of the Agreement on its website, on its smartphone application and at its locations throughout Miami-Dade and Broward County. Licensee shall provide the City of Hialeah with banners to publicize the promotional campaign and code at City programs and special events. Quantity, size and location for display of banners shall be agreed upon the mutual consent of City and Licensee.

C. **Complimentary Pizza; Other Promotional Items.** Licensee shall provide 200 complimentary (free) pizzas for special events and programs conducted by the City on an annual basis for the term of the Agreement. Licensee may provide other promotional items, including sampling new products, at no cost to City, for distribution to the general public at special events and programs. The quantity and type of promotional programs shall be agreed in advance of the special event and upon the mutual consent of the parties.

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City grants Licensee a license, permit and authority, throughout the term of this Agreement, to copy, print, display and use its name and logo in connection with any advertisement, so long as the advertisement is limited solely to publicizing the exclusive license, sponsorship agreement, or official designation granted to Licensee herein. Prior to any copy, print, display, publication or use of the City's name or logo, Licensee shall obtain the City's prior approval.

VI. SPECIAL PRIVILEGES

The City shall provide Licensee the opportunity to rent any of the following recreational facilities, to host corporate events, subject to the rules, regulations and limitations of the chosen facility, on available dates: Milander Center, Wilde Community Center (Activity and Dining Room), Ted Hendricks Stadium, McDonald Water Park, Bucky Dent Water Park, Goodlet Park Theatre and Arena Soccer Complex. The event date must be reserved in advance no later than 3 months but no earlier than 6 months from the planned date of the event. The City will provide a list of rental rates for the facilities identified on an annual basis. The City will provide an annual credit in the total amount of \$3,000.00 to be applied towards the rental rate of the chosen facility or facilities on the date(s) selected. The credit cannot be applied towards any refundable security deposit, late charges, fees or penalties, food, beverage, decorations, music or other costs of entertainment.

person employed by the City any fee, commission, percentage, brokerage fee, or gift of any kind, contingent upon or resulting from the award of this License and Sponsorship Agreement.

XII. CONFLICT OF INTEREST

A. Licensee covenants that no person who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interests, direct or indirect, with the Licensee. The Licensee further covenants that in the performance of this Agreement, no person having such conflicting interest shall be employed by the Licensee. Any conflict of interest attributable to the Licensee must be disclosed in writing to the City immediately upon discovery.

B. Licensee is aware of the conflict of interest laws of the City of Hialeah, particularly Hialeah Code, Chapter 26, Article I and II.; Miami-Dade County, Florida, particularly Code of Miami-Dade County, Florida §§ 2-11.1 et seq; and the State of Florida, particularly Chapter 112, Part III, Florida Statutes and agrees that it shall fully comply in all respects with those provisions.

XIII. INDEPENDENT CONTRACTORS

Licensee, its officers, directors, employees, representatives and agents shall be deemed to be independent contractors, and not agents or employees of the City, and shall not attain any rights or benefits under the civil service or pension laws, rules and regulations of the City, or any rights generally afforded classified or unclassified employees. The Licensee, its officers, directors, employees, representatives and agents shall not be deemed entitled to Florida Workers' Compensation benefits as an employee of the City.

XIV. TERMINATION

The City may terminate this Agreement for cause. Termination for cause shall include the following events or actions:

- A. Failure to comply and/or perform in accordance with this Agreement;
- B. Refusal or failure to provide the City with accurate and complete records in the manner provided herein;
- C. Implementation of Agreement, for any reason, is rendered impossible or unfeasible;
- D. Filing of a voluntary petition in bankruptcy or reorganization, or making any assignment for the benefit of creditors, or seeking any similar relief under any present or future statute, law or regulations relating to relief of debtors;

E. Adjudicated bankrupt or have any involuntary petition in bankruptcy filed against it; and

If the Licensee causes or commits one or more of the foregoing acts or events that would give rise to termination for cause, then, after thirty (30) days written notice provided to the Licensee by the City within which to cease and/or correct such deficiencies, and upon failure to do so after such written notice, this License Agreement is hereby revoked and canceled without the need for other or further action by City.

XV. INTEREST CONFERRED BY PERMIT

The provisions of the License Agreement does not constitute a lease and no landlord-tenant relationship is created hereunder. No leasehold interest in the premises is conferred upon the Licensee under the provisions hereof.

XVI. NOTICES

All notices or other communications which shall or may be given pursuant to this License Agreement shall be in writing and shall be delivered by personal service, or by certified mail, return receipt requested, addressed to the other party at the address indicated herein, or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served, or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

City of Hialeah
Education and Community Services Dept.
501 Palm Avenue
Hialeah, Florida 33010

Pizzerias , LLC
d/b/a Pap John's Pizza
8619 South Dixie Highway, 2nd Fl
Miami, FL 33143

XVII. MISCELLANEOUS PROVISIONS

A. **No waiver.** The failure of the City to insist on the performance or observance by the Licensee of any one or more conditions or covenants of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such covenant or condition, and the Licensee's obligation with respect to such future performance shall continue in full force and effect.

B. **Gender.** The terms City and Licensee, as herein contained, shall include the singular and/or the plural, the masculine, the feminine, and/or the neuter, the heirs, successors, executors, administrators, personal representatives and/or assigns, wherever and whenever, the context so requires or admits.

C. **Captions.** Title and paragraph headings are for convenient reference and are not part of this License Agreement. Such captions shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this Agreement.

D. **Severability.** Should any provision, paragraph, sentence, word, or phrase contained in this License Agreement be determined by a court of competent jurisdiction having precedential value to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, City or the United States, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform to such laws, or, if nonmodifiable, then same shall be deemed severable, and, in either event, the remaining terms and provisions of this License Agreement shall remain unmodified and in full force and effect.

E. **Successors and assigns.** This Agreement shall be binding upon and inure to the benefit of the parties herein, their heirs, executors, legal representatives, successors and assigns.

F. **Entire agreement.** This License Agreement and its attachments constitute the sole and only License Agreement of the parties hereto. Any prior agreements, promises, negotiations, or representations not expressly set forth in this License Agreement are of no force or effect.

G. **Amendments.** No amendments to this License Agreement shall be binding on either party unless in writing and signed by both parties.

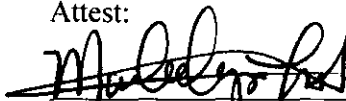
H. **Conflict.** In the event of conflict between the terms of this License Agreement and any terms, conditions or representations contained in any attached document, the terms in this License Agreement shall prevail.

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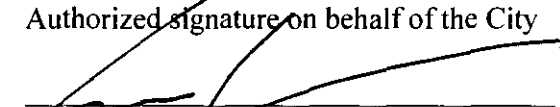
IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective proper officers duly authorized thereunto, the day and year first above written.

CITY OF HIALEAH, FLORIDA
501 Palm Avenue
Hialeah, Florida 33010
Authorized signature on behalf of the City

Attest:

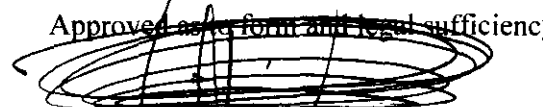
 7/29/14

Marbelys Fatjo Date
City Clerk
(SEAL)



Mayor Carlos Hernandez Date

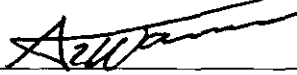
Approved as to form and legal sufficiency:



Lorena E. Bravo, Acting City Attorney

Pizzerias, LLC
d/b/a Papa John's Pizza
8619 South Dixie Highway, 2nd Floor
Miami, FL 33143
Authorized signature on behalf of

Pizzerias, LLC
d/b/a Papa John's Pizza

By:  7/16/14

Ricardo Warman Date
Sole Managing Member

State of Florida
County of Miami-Dade


Sworn to and subscribed before me on this 16 day of July, 2014, by Ricardo Warman, as sole managing member and on behalf of Pizzerias, LLC, d/b/a Papa John's Pizza.

Personally known or
 Produced valid photo identification

Commission:

s:\web\contracts\department\ecs\licenseagreement\papajohns_finalrev1.doc



Yngrid Salazar 

Notary Public, State of Florida
COMMISSION # 55314039
EXPIRES: AUG. 27, 2014
WWW.AARONNOTARY.com

LICENSE AND SPONSORSHIP AGREEMENT

This License Agreement entered into this 29 day of July, 2014, by and between the City of Hialeah ("City"), a municipal corporation organized and existing by virtue of and under the laws of the State of Florida, 501 Palm Avenue, Hialeah, Florida 33010 and Pizzerias, LLC d/b/a Papa John's Pizza, a Florida limited liability company in good standing ("Licensee"), by and through its duly authorized undersigned agent, 8619 South Dixie Highway, Miami, FL 33143.

RECITALS

WHEREAS, the Licensee would like to obtain the exclusive license to furnish prepared and cooked pizzas to the City, to become the official pizza partner of the City an official and to sponsor activities and special events planned by the City Hialeah Department of Parks and Recreation and the Education and Community Services Department;

WHEREAS, the City has offered and the Licensee has accepted a municipal marketing partnership bundle as part of the designation as a Hialeah Pillar Partner and the Official Pizza Partner of the City of Hialeah, including but not limited to, the naming of Recreation Room at Milander Park as "Papa John's Pizza Recreation Room at Milander Park", on-site advertising opportunities, media, Internet, direct-mail advertising opportunities, presentation at special events and programs, discounted entrance tickets to Hialeah water parks and aquatic facilities, discounts for rental facilities, VIP parking, presenting sponsor at designated events, signage on Hialeah Transit buses on the Marlin and Flamingo routes, and signage on a median, for four years with the option to review for one year on same terms; and

WHEREAS, as the Hialeah Pillar Partner and the Official Pizza Partner of the City of Hialeah, the Licensee has committed to make a minimum guaranteed payment of a total sponsorship fee of \$75,000, selling pizza at a volume discount rate, and providing 200 free pizzas and other promotional items each year during the term of the Agreement at activities and special events throughout the City;

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties, with full right and authority to enter into and fully perform, intending to be legally bound, agree as follows:

I. TERM

This Agreement shall have a duration of four (4) years, commencing on July 1, 2014 and ending on June 30, 2017.