



Oakland-Alameda County
Coliseum Authority

OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY
Zoom Meeting

NOTICE AND AGENDA
BOARD OF COMMISSIONERS
May 21, 2021
Friday, 8:30 a.m.

Hi there,
You are invited to a Zoom webinar.
When: May 21, 2021 08:30 AM Pacific Time (US and Canada)
Topic: OACCA Board Meeting 5.21.21 at 8:30 a.m.

Please click the link below to join the webinar:

<https://zoom.us/j/93275530162?pwd=VTQzYTAvQm1hbIVJaXUrQkpmMjRpdz09>

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1. CALL TO ORDER

2. ROLL CALL

2a. Welcome & Introduction of New Board Members: Carl Chan and George Vukasin

3. APPROVAL OF MINUTES

4. OPEN FORUM

5. REPORTS

5a. Executive Director Report

- 1. FEMA/OES Vaccination Operations**
- 2. Mass Vaccination Task Force**
- 3. Food and Beverage Contract**
- 4. Third Quarter Budget Report**

5b. General Manager Report

6. New Business

6a. RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE ARENA CONCESSION LICENSE AGREEMENT WITH LEVY PREMIUM FOODSERVICES LIMITED PARTNERSHIP MANAGEMENT AND OPERATION OF ALL FOOD AND BEVERAGE SERVICES AT THE OAKLAND-ALAMEDA COUNTY ARENA.

7. Closed Session

8. REPORT FROM COUNSEL ON CLOSED SESSION

9. ADJOURNMENT



Oakland-Alameda County
Coliseum Authority

Oakland-Alameda County Coliseum Authority
March 19, 2021
Zoom Board Meeting Minutes

CALL TO ORDER

Chair Miley called the meeting to order at 8:32a.m.

ROLL CALL

Chair Miley	Commissioner Haubert
V. Chair Kaplan	Commissioner Reid
Commissioner Hill	Commissioner Thompson at 8:33a.m.
Commissioner Linton	Commissioner De La Fuente (joined at 9:39 a.m.)

APPROVAL OF MINUTES

The minutes for February 19, 2021, was submitted for approval. Commissioner Kaplan moved to approve minutes and Commissioner Haubert seconded the motion. Commissioners, Kaplan Miley, Hill, Linton, Reid and Haubert approved. The motion was approved by consensus.

OPEN FORUM

Speakers: Zennie Abraham request the Board to consider adding a Business Board as a branch of the OACCA Board.

REPORTS

Reports taken out of agenda order:

Oakland Athletics President Dave Kaval Report

5e. Oakland A's President Dave Kaval spoke on restrictions and accommodations that will be made for the baseball season. The team will recognize the 20% attendance mandated by the pandemic requirement. Mr. Kaval recognized and commended the JPA, ASM staff and others for their support. Tickets will go on sale to the general public on March 23, for April 1, opening day. Commissioners ticket program is utilized to insure equity for all in the youth and seniors in the surrounding coliseum area.

Public Speakers

Zennie Abraham commended Dave Kaval for his positive support to Oakland Community

Audit Presentation

5c. Melissa Wilk introduced Anne Louie independent auditor from MGO. Ms. Louie reviewed the audit report for FY 2019-20

Commissioner Kaplan Report on Mass Vaccination

5d. V. chair reported on the positive and negative issues regarding Coliseum Mass vaccination location. A large concern Myturn website is not operating according to expectations. Oakland zip code areas are not being targeted. Expansion of mobile sites within the community. Request for a follow up Letter to FEMA from the County

Speakers:

Commissioner Thompson commended, Commissioners Kaplan, Reid and ED Gardner for commitment and support. Continuing to address the outstanding issues is crucial. The request for the County representation to stay involved. The county is the main communication between the FEMA, the State and JPA Vaccination Committee.

Commissioner Reid will continue efforts to assist to insure equity for the Oakland communities that are hardest affected by the pandemic. Commissioner Reid commended the Commissioner Kaplan, Reid, and ED. Gardner and all county representatives.

Commissioner Haubert states the need for local representation stay involved.

Chair Miley commended the task force for all their support and communication with the vaccination task force and county staff.

Executive Director Report

5a. Executive Director, Henry Gardner spoke about the positive operations at the Coliseum Mass Vaccination Site. Negotiations with Levy have resulted in a new contract. Discussions on when the arena may be able to open for events..

Speaker

Dr. Moss County Health Officer spoke giving thanks and gratitude to the hard work from all involved on the Coliseum Mass Vaccination. Dr. Moss gave recommendations to prevent surges to remain cautious gradual opening remaining to distance and events outdoors and continue to wear mass.

Zennie Abraham recommended a survey on increasing the air circulation in the arena and what would be the cost.

General Manager Report

5b. General Manager Nicole Strange reported a survey has been completed to address the air filter system in the arena. A detailed report will be given. Arena events are scheduled for June. Ms. Strange gave detail on parking lot events and operations currently taking place at the Coliseum. Ms. Strange recommended a tour to the commissioners that is offered at the coliseum site. Ms. Strange expressed excitement of Oakland A's opening day. opening day will allow

Speakers:

Zennie Abraham ask how will you manage the food to be free from virus. Ms. Strange stated the Oakland A's handle food services and could not answer question at the time.

NEW BUSINESS

Adopt a Resolution Approving An Amendment to the FY2020-21 Budget to transfer \$850,000 from budgeted capital contingency line items to Arena (\$640,000) and Stadium (\$190,000) operations line items was submitted for approval. Chair Kaplan moved to approve, and Commissioner De La Fuente seconded the motion. Roll call on the vote: Commissioners: Miley, Kaplan, Reid, Haubert, Linton, Thompson, De La Fuente, Linton approved. The vote was approved by consensus.

Closed Session

No closed session

Report from Counsel on Closed Session

REPORT OF FINAL ACTION TAKEN BY THE OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY ("AUTHORITY") BOARD.

AT ITS FEBRUARY 19, 2021 MEETING IN CLOSED SESSION

MATTER: Arbitration proceeding against the Authority captioned *Golden State Warriors, LLC v Oakland Alameda County Coliseum Authority, American Arbitration Association Case No. 02-17-0006-0157*

ACTION TAKEN: Board approved and authorized the Board Chair of the Authority to execute that certain *Agreement Between the Authority and Golden State Warriors, LLC* (“GSW”) to Resolve Fees, Costs and Disbursements Owed to Date in Arbitration and State Court Action (“Agreement”).

VOTES: 1 Recused: Commissioner Hill-7 Affirmative Votes: Commissioners: Miley, Kaplan, Linton, Haubert, Reid, Thompson and De la Fuente

BACKGROUND:

- Pursuant to the terms of a license agreement, GSW and the Authority participated in an arbitration to settle a dispute regarding the payment of annual bond debt payments.
- After a hearing, a final arbitration amount of \$816,317.13, consisting of attorneys’ fees and costs, was awarded to the Authority on January 17, 2019 by Honorable Rebecca J. Westerfield.
- In February 2019, GSW initiated a California Superior Court Action, appealing the arbitration award.
- The Superior Court affirmed in favor of the Authority.
- GSW appealed to the California Court of Appeals, which, on August 18, 2020, affirmed the Superior Court ruling.
- GSW a petition for review to the California Supreme Court, which denied review on December 9, 2020.
- The Supreme Court’s denial of GSW’s petition ended the arbitration proceeding.
- The Agreement requires GSW to pay the Authority a sum of \$1.2Million of fees, costs and disbursements consisting of: (1) \$816,317.13 awarded to the Authority in the original arbitration matter; (2) post judgment accrued interest; and (3) fees and costs incurred by the Authority since the Superior Court Action.

Adjournment

Meeting adjourned at 10:13a.m.

OACCA Secretary

May 21, 2021

Honorable Chairperson Nate Miley and Commissioners of the Authority

5a

1.

FEMA/OES Vaccinations Operations

FEMA announced a month ago it is extending the operations until May 9, 2021. They had previously announced that the operations would cease on April 11, 2021. The County of Alameda has taken over the operations with some assistance from CalOES effective May 10, 2021. The County plans to cease operations May 23, 2021 and CalOES will commence demobilization.

When the announcement was first made in February that the Coliseum site would be designated for mass vaccinations, we engaged in many meetings and negotiations with FEMA, CalOES and the State Department of General Services regarding the terms and conditions for use of the site, including monthly rent of \$100,000, reimbursement for direct staff costs and excess utility costs. Tremendous efforts and resources were committed to make sure the operation would be efficient and successful.

At the time of this writing, nearly 450,000 have been vaccinated at the Coliseum and mobile units. The site is open from 9 a.m. to 7 p.m. seven days a week. The feedback from users has been very favorable. Initial issues regarding traffic congestion were immediately addressed and were infrequent, and never a major issue longer than a few hours.

We have had some other uses at the Coliseum operating simultaneously with the vaccinations operations and have been able to accommodate those with no conflicts. The A's had their first game on April 1, 2021 with a maximum permitted attendance of 11,000 fans. This was the first test of having several thousands on the site at the same time as the vaccinations operations. With a few minor hiccups on the day of the first game, things flowed smoothly. If the A's are permitted to increase the capacity to 20,000, we think lessons learned from the first event will prepare us well for an increase.

2.

Mass Vaccinations Task Force

The Mass Vaccinations Task Force is winding down its work. The Task Force was created to serve as a forum to improve coordination and communications among a number of agencies, institutions, and community-based organizations to provide for the orderly operations at the Coliseum and to ensure maximum access to underserved communities in Oakland and Alameda County. The Task Force was established and held its first meeting on January 25, 2021, before the Governor announced in mid-February the site had been designated by the federal government for mass vaccinations. The initial effort was focused on the County Incident Management Team as the lead agency responsible for the logistics and staffing for the vaccinations. Several medical providers, including Kaiser, Sutter, Curative and others had approached the Authority regarding use of the site. It was immediately apparent that to have an orderly and efficient process, these efforts and scheduling needed to be coordinated by the JPA, rather than scheduling the use on an as requested basis.

When FEMA and CalOES assumed responsibility, the scale and complexity were greatly increased. Instead of coordination with only the County Health Department and the IMT, we moved to communications and coordination with FEMA, CalOES, and the California Department of General Services. By the time the site was fully operational, there were 1,000 persons working at the site.

We have had weekly meetings on Mondays since January 25, 2021. There was only one instance where we had two meetings the same week and that was on Thursday, April 8, 2021 because FEMA had announced that it would not extend its operations after April 11, 2021. A few days before April 8, FEMA announced that it would extend its operations until May 9, 2021, providing time for an orderly transfer to the County.

We have attached the Purpose of the Task Force to this report. The Task Force has fulfilled its mission by serving as the central coordinating committee for these multiple agencies, institutions and community-based organizations. It has been a very successful undertaking and recognized as an important component of the government and community efforts and collaboration.

Once FEMA, CalOES and the California Department of General Services took over the operations, this became a massive operation with enormous complications of communications and coordination. At one point there were 1,000 persons on the site giving vaccinations and providing logistics support. The Mass Vaccinations Task Force became the central place where all of the parties had weekly meetings to check on progress, challenges, and communications networking. These weekly meetings were held from mid-February to mid-May. Members of the Task Force, through their official elected positions, were in frequent communications with state and federal officials advocating for funding, improvements with My Turn registration and additional vaccine supply. The core mission of the Task Force was to ensure that Alameda County residents and low-income communities, especially those communities in and around the Coliseum area, had adequate access to vaccinations. I think that mission has been largely

accomplished but more work is needed. Now that the County has taken over the vaccinations for the County, that focus is very much a part of their efforts.

The Task Force can be proud of the work that it was able to accomplish working with FEMA, CalOES, the Department of General Services, CBOs, Faith based organizations, medical providers and most especially the very capable and expert professional guidance from the County Health Department. Now that the mass vaccination site is being terminated, the coordination of the Task Force is no longer needed. We should all compliment the Task Force for its enormous dedication and commitment.

3.

Food and Beverage Contract for the Arena

A resolution has been prepared for your approval to enter into a concession license agreement with Levy Premium FoodServices Limited Partnership to provide food and beverage services at the Oakland Arena. This item is on the agenda as item number **6a**.

Levy Premium FoodServices has provided food and beverage services at the Arena since 2004. In the fall of 2020 the Board authorized engaging a consultant to assist in developing a Request for Proposals (RFP) for providing the services once the then Levy contract expired. We hired the Bigelow Companies to work with staff to gather the necessary information and documentation to develop the draft RFP. That work has been ongoing.

As the date was approaching for the termination of the last extension agreement with Levy in November 2020, several members of the union requested that the Board take action to ensure that there was no interruption in their health insurance coverage or reduction in their seniority or other workers benefits. They requested several courses of actions, including having the Oakland-Alameda County Coliseum Authority make them Authority employees.

The Board did not accept that proposal, and instead directed the Executive Director to pursue a parallel course by entering into negotiations with Levy for a new contract and continue with the RFP process should the negotiations with Levy prove unsuccessful.

With the assistance of Board members Ignacio DeLaFuente and Christin Hill, we have reached a tentative agreement with Levy. The key terms are as follows:

1. A four-year term

2. Concession rates as attached, modified from the rates in the Sixth Amendment to reflect a gradual start-up as increased attendance is allowed by health authorities

3. Authority to assume repairs and cleaning costs not to exceed \$75,000

4. Commencement date to be determined once we have more definitive information of when the Arena can open and first events can be held.

4.

Third Quarter Budget Report

Based on the third quarter results we are estimating that we will be balanced with revenues and expenditures by June 30, 2021. This has been, without question, a very challenging year for the Authority. We have had very few events since March 2020 in the Stadium, all A's on a modified season and none in the Arena. We have had a few parking lot rentals that have yielded only modest revenues. The major exception has been the unanticipated rent from CalOES for the use of the parking lot for mass vaccinations. That agreement resulted in rental income of \$100,000.00 per month for approximately three (3) months. The agreement terminates on May 23, 2021. Being on track for a balanced year end has been the result of closely managing and monitoring expenses and only incurring costs that have been essential or non-avoidable (unanticipated repairs or utility costs). ASM has tightly controlled the expenditures and they have been able to accomplish this with a fifty-six percent (56%) reduction in staff.

The adopted budget for FY2020-21 is \$36,997,500 in revenues and \$36,997,500 in expenditures. The Third Quarter Report shows revenues at \$32,635,596, which represents eighty-eight percent (88%) at seventy-five percent (75%) of the fiscal year. Revenues running ahead of budget at this point are largely due to the payments by the City and County of \$20,750,000. The other large revenue source paid to date is the Warrior's payment of \$9,250,660. The A's lease payment of \$1,250,000 is the other large revenue source. All of these have been received.

As stated above, expenditures have been well managed and are eighty-eight percent (88%) at seventy-five percent (75%) of the budget year. This reflects the debt service payments on the Arena and Stadium of \$22,057,731 that have already been paid. This is the largest expense category. Coliseum operations is the next largest category and is currently at sixty-nine percent (69%) of budget. Administration costs are fifty-seven percent (57%) and legal expenses are eleven percent (11%) of budget.

Staying on track, and barring any unforeseen circumstances, we may have a very modest surplus at the end of the year.

Respectfully submitted,

Henry L. Gardner
Executive Director

Purpose of Task of Force

Provide leadership around overall coordination of planning and execution for successful mass vaccinations at Coliseum site

Seek funding from State, corporations and foundations

Develop clear and coherent communications strategies for the press and general public

Develop outreach plan with specific emphasis on underserved communities and communities of color

Communicate with mayors, city council members, city managers of Alameda County plans for mass vaccinations, timing, tiers for vaccinations, etc.



OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY
Budget to Actual Schedule
For the Nine Months Ended March 31, 2021
(Estimated Based on Actuals to Date)

	Stadium		Arena		Total	
	Budget	Actual	Budget	Actual	Budget	Actual
REVENUES:						
Interest	350,000	229,276	350,000	226,978	700,000	456,255
Raiders Rent	525,000	87,500	-	-	525,000	87,500
Warriors Debt Service	-	-	9,300,000	9,250,660	9,300,000	9,250,660
Athletics Rent	1,250,000	-	-	-	1,250,000	-
Advertising	500,000	375,000	500,000	375,000	1,000,000	750,000
Cell Tower Lease	145,000	105,430	115,000	122,266	260,000	227,696
Facility Fees	67,500	-	345,000	-	412,500	-
Fund Balance	1,400,000	-	1,400,000	-	2,800,000	-
City and County Contributions	16,284,680	16,284,680	4,465,320	4,465,320	20,750,000	20,750,000
Miscellaneous	-	2,804	-	1,113,486	-	1,113,486
Total Revenues	20,522,180	17,084,690	16,475,320	15,553,710	36,997,500	32,635,596
EXPENDITURES:						
Current						
Administration	450,000	259,157	450,000	259,157	900,000	518,314
Legal	125,000	7,910	575,000	-	700,000	7,910
Audit	26,000	24,589	26,000	24,589	52,000	-
Coliseum Operations	5,928,580	3,207,018	4,881,920	4,278,455	10,810,500	7,485,473
Management Fees	27,500	-	237,500	-	265,000	-
Total Current Expenditures	6,557,080	3,498,674	6,170,420	4,562,201	12,727,500	8,011,697
Capital Outlay	1,145,100	722,472	1,004,900	619,640	2,150,000	1,342,112
Debt Service						
Principal	10,035,000	10,035,000	7,600,000	7,600,000	17,635,000	17,635,000
Interest	2,772,250	2,772,250	1,650,481	1,650,481	4,422,731	4,422,731
Other	12,750	-	49,519	-	62,269	-
Total Debt Service Expenditures	12,820,000	12,807,250	9,300,000	9,250,481	22,120,000	22,057,731
Total Expenditures	\$ 20,522,180	\$ 17,028,396	\$ 16,475,320	\$ 14,432,322	\$ 36,997,500	\$ 31,411,540

ASM Global Oakland
General Manager's Board Report
May 21, 2021

Event Activity

Added Events:

- **Pepe Aguilar (September 17, 2021)**

Postponed Events (new date):

- Celine Dion (September 4, 2021)
- Martin Lawrence (November 20, 2021)
- The Weeknd (March 8, 2022)
- Andre Rieu (March 21, 2022)
- **Rage Against the Machine (April 26, 2022)**
- **Rage Against the Machine (April 28, 2022)**
- **My Chemical Romance (October 5, 2022)**
- Pearl Jam (TBD)
- Feed the Streetz Tour: Rick Ross, Jeezy, TI, Yo Gotti (TBD)
- Aventura: Immortal (TBD)
- The Millennium Tour (TBD)

Cancelled Events:

- **A.R. Rahman**
- Lauren Daigle
- Ana Gabriel
- Wild 'N Out
- Alejandro Fernandez
- The Oakland Panthers 2020 Season (Indoor Football League)

Other Events:

- **OPD, ACSO, OFD, Bart PD on-going trainings**
- **Verizon Commercial Shoot (April 12, 2021)**
- **John Lewis Voting Rights Advancement Day (May 8, 2021)**
- **California Nurses Association Vigil (May 12, 2021)**
- **Alameda County EMS Agency Booster Seat Giveaway (May 15, 2021)**
- **Mass Vaccination Site (February 16 - May 23, 2021)**

OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY

RESOLUTION NO. 2021-___

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO NEGOTIATE AND ENTER INTO A FOOD SERVICES AGREEMENT WITH LEVY PREMIUM FOODSERVICE LIMITED PARTNERSHIP FOR THE OAKLAND ALAMEDA COUNTY ARENA, FOR A TERM TO INCLUDE THE COVID-19 PERIOD PLUS 48 MONTHS THEREAFTER, WITH AN EXPENDITURE OF UP TO \$75,000 BY THE AUTHORITY FOR REPAIRS AND REPLACEMENT EQUIPMENT AND PAYMENT OF COMMISSIONS BY LEVY TO THE AUTHORITY RANGING FROM 20%-45% OF GROSS RECEIPTS

WHEREAS, the Oakland-Alameda County Coliseum Authority ("Authority") and Levy Premium Foodservice Limited Partnership, an Illinois limited partnership ("Levy") entered into that certain Arena Concession License Agreement, dated June 15, 2004, as amended multiple times, most recently with the Seventh Amendment approved by the Authority Board on April 17, 2020 (collectively, the "Old Agreement") for the exclusive right to manage and operate all of the food and beverage concession services (collectively, "Food Services") in designated areas within the Oakland-Alameda County Arena ("Arena"); and

WHEREAS, the Term of the Old Agreement expired on November 30, 2020; and

WHEREAS, the Authority Board authorized the Executive Director to engage The Bigelow Companies, Inc., based in Kansas City, Missouri ("Bigelow"), a nationwide firm providing design and management advisory services for the foodservice needs of clients with public assembly facilities, to assist in conducting a nationwide procurement to select a vendor for Arena Food Services; and

WHEREAS, due to the COVID-19 pandemic, events at the Arena have been suspended, and the schedule of future events is uncertain and subject to evolving regulatory restrictions related to indoor public events; and

WHEREAS, Levy is best equipped to mobilize its longstanding local employee base on an unpredictable schedule, without significant new investment on the part of the Authority; and

WHEREAS, with the advice of Bigelow, the Executive Director has negotiated a new agreement with Levy ("New Agreement") that provides for a term that to include the current COVID-19 pandemic period plus 48 months thereafter, as more fully set forth in the proposed term sheet attached hereto as Exhibit A (the "Term Sheet"); and

WHEREAS, the New Agreement would obligate the Authority to expend up to \$75,000 for necessary repairs and replacement of equipment; and

WHEREAS, the New Agreement would require Levy to pay the Authority commissions ranging from 35% to 45% on concession gross receipts and 20% to 25% on premium gross receipts, as more particularly set forth in the Term Sheet; and

WHEREAS, the New Agreement would allow either party to terminate the New Agreement, without cause, upon six months' notice; and

WHEREAS, all other terms of the New Agreement not reflected in the Term Sheet would be substantially the same as those terms set forth in the Original Agreement; and

NOW THEREFORE BE IT RESOLVED that Board does hereby approve the Term Sheet, a copy of which is attached to this Resolution; and

BE IT FURTHER RESOLVED that the Board does hereby authorize the Authority's Executive Director to negotiate and execute a New Agreement with Levy based on the Term Sheet, in the form that is substantially the same as the Original Agreement except for such terms reflected in the Term Sheet; and

BE IT FURTHER RESOLVED that, to the extent there is inconsistency between the Term Sheet and the Old Agreement, the terms of the Term Sheet shall apply; and

BE IT FURTHER RESOLVED that the Authority's Executive Director is further authorized to negotiate and include in the New Agreement any additional terms not reflected in the Term Sheet as may be necessary to finalize the New Agreement, so long as any such additional terms do not materially increase the costs to or obligations of the Authority and are in a form approved by the Authority's legal counsel; and

BE IT FURTHER RESOLVED that the Authority's Executive Director is authorized to implement the New Agreement and to perform the Authority's financial obligations set forth in the New Agreement.

PASSED AND ADOPTED by the governing board of the Oakland-Alameda County Coliseum Authority, this 21st day of May, 2021, by the following vote:

Ayes:

Noes:

Absent:

NATE MILEY, CHAIR

ATTEST:

SECRETARY

EXHIBIT A
Arena Concession License Agreement
Proposed Term Between the
Oakland Alameda County Coliseum Authority and Levy Premium Foodservice

1. Parties. Oakland-Alameda County Coliseum Authority, a joint powers authority (the "Concession Licensor") and Levy Premium Foodservice Limited Partnership, an Illinois limited partnership ("Concession Licensee")
2. Agreement. The Parties agree to execute a form of agreement substantially in the form the previous Arena Concession License Agreement dated June 15, 2004, as amended ("Prior Agreement"), except as modified herein. Capitalized terms used herein but otherwise not defined shall have the meaning given to them in the Prior Agreement.
3. Term.
 - a. Effective Date. The Effective Date of the Agreement will be the later to occur of July 1, 2021 or the full execution and delivery of the Agreement.
 - b. Interim Term. The Interim Term shall commence as of the Effective Date and continue on such date that the Alameda County Health Officer or the State of California permits Arena occupancy at fifty percent (50%) or greater.
 - c. Regular Term. The Regular Term shall commence upon the expiration date of the Interim Term and continue for four calendar years thereafter, subject to (d) below.
 - d. Periodic Interruptions of Regular Term. Should the Alameda County Health Officer or the State of California reduce Arena occupancy below fifty percent (50%) at any time after the commencement of the Regular Term, such periods of interruption shall be treated as Interim Terms and the Regular Term shall be extended day for day for the total days of such periodic interruptions.
4. Concession Licensor's Investment. The Concession Licensor agrees to expend up to \$75,000 towards the cost of necessary repairs or replacement of equipment, including upgrades to the point of sale system to ensure PCI compliance. Such expenditures shall be made upon submittal of appropriate documentation by Concession Licensee, including an explanation of the need for such expenditure and third party invoices. In the event incremental capital is required in order to make the building clean and fully code compliant, Concession Licensee shall make such investment subject to Concession Licensor approval. Such approved excess investment shall be reimbursable to Concession Licensee in the form of a future commission reduction.
5. Concession Licensee's Services. The Concession Licensee shall provide the services previously provided in the Prior Agreement.

6. Comission Rates:

- a. During the Regular Term, Concession Licensee shall pay the following commissions on Gross Reciepts:

Regular Term Year 1

Area	Year 1 Comission Rate
Concessions	\$0 - \$4,000,000 @ 35.0% \$4,000,000 - \$5,500,000 @ 42.5% \$5,500,000+ @ 45.0%
Premium	\$0 - \$650,000 @ 20% \$650,000+ @ 25%

Regular Term Year 2

Area	Year 2 Comission Rate
Concessions	\$0 - \$3,500,000 @ 35.0% \$3,500,000 - \$5,500,000 @ 42.5% \$5,500,000+ @ 45.0%
Premium	\$0 - \$650,000 @ 20% \$650,000+ @ 25%

Regular Term Years 3-4

Area	Years 3-4 Comission Rate
Concessions	\$0 - \$3,000,000 @ 35.0% \$3,000,000 - \$5,500,000 @ 42.5% \$5,500,000+ @ 45.0%
Premium	\$0 - \$650,000 @ 20% \$650,000+ @ 25%

- b. During the Interim Term, Concession Licensee shall pay the same Commission Rates as set forth above for Regular Term Year 1.
- c. Commissions tiers are considered on the increment.

7. No Team: Concession Licensee acknowledges and agrees that there is no Team at the Arena and no guaranteed number or type of events is being given by Concession Licensor.

8. Right to Terminate. Either party shall have the right to terminate this Agreement (a) for cause, upon 30 days' written notice, due to the other party's failure to adequately provide Services or breach any material obligation set forth herein; or (b) without cause, upon 6 months written notice.