

Paula Hazlewood - Advanced Southwest Iowa Update

Eric Wilson - Ribfest

Review Agenda

Strategy Session



**City Council Meeting Minutes
July 9, 2018**

CALL TO ORDER

A regular meeting was called to order by Mayor Matthew J. Walsh on Monday July 9, 2018 at 7:00 p.m.
Council Member Present: Melissa Head, Roger Sandau, Nate Watson, Sharon White and Mike Wolf.
Staff Present: Jodi Quakenbush and Richard Wade.

CONSENT AGENDA

Approval of Agenda & tape recordings of these proceedings to be incorporated into the official minutes.

Reading, correction and approval of the June 25, 2018 City Council Meeting Minutes.

Resolution 18-211

Resolution of intent to dispose and setting Public Hearing for July 23, 2018 at 7:00 p.m. for City property legally described as Lot 11 excluding the East 17 ½ feet, Block 4, Park Addition. Location: Formerly addressed as 222 11th Avenue. OTB-18-024

Resolution 18-212

Resolution of intent to release permanent and perpetual easements and setting Public Hearing for July 23, 2018 at 7:00 p.m. granted for utility purposes across the previously vacated alleys abutting Lots 1 through 10, Block 4, Hagg's First Addition, Lots 1 through 8, Huber & Walters Terrace, Lots 1 through 6, Block 5, extension of Hagg's Addition and Lots 1 and 14, Block 6, extension of Hagg's Addition and across vacated Thomas Street right-of-way abutting Blocks 5 & 6, extension of Hagg's Addition. Location: North of Nicholas Street and South of Ridge Street, lying between East Broadway Street/East Kaneshville Boulevard and East Pierce Street. MIS-18-003

Resolution 18-213

Resolution accepting the work of RPL Utility, LLC as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the 28th Street Storm Sewer. Project # PW18-20A

Mayor's Appointments

Municipal Housing Agency

Claims

Melissa Head and Nate Watson moved and seconded approval of Consent Agenda. Unanimous, 5-0 vote.

MAYORS PROCLAMATIONS

PUBLIC HEARINGS

Ordinance 6338

Ordinance to amend the zoning map as adopted by reference in Section 15.02.070, and setting a Public Hearing for July 9, 2018 at 7:00 p.m. by rezoning property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park from BC/Bakken Commercial District to C-1/Commercial District as defined in Chapter 15.14. Location: 4409 Piute Street. ZC-18-008

Sharon White and Melissa Head moved and seconded approval of Second Consideration of Ordinance 6338. Unanimous, 5-0 vote.

Sharon White and Nate Watson moved and seconded approval of Motion to Waive Third Consideration. Ordinance passes into Law.. Unanimous, 5-0 vote.

Resolution 18-214

Resolution to vacate and dispose of the East/West alley in Block 31, Fleming and Davis Addition. Location: Lying south of 14th Avenue between South 15th and South 16th Streets. SAV-18-010

Roger Sandau and Nate Watson moved and seconded approval of Resolution 18-214. Unanimous, 5-0 vote.

Resolution 18-215

Resolution to dispose of City property legally described as Lot 18, Nash Subdivision Replat 1. Location: Property is located on Avenue M Way. OTB-18-022

Sharon White and Melissa Head moved and seconded approval of Resolution 18-215. Unanimous, 5-0 vote.

Resolution 18-216

Resolution to dispose of City property legally described as Lot 19, Nash Subdivision Replat 1. Location: Property is located on Avenue M Way. OTB-18-023

Roger Sandau and Melissa Head moved and seconded approval of Resolution 18-216. Unanimous, 5-0 vote.

Resolution 18-217

Resolution approving the authorization for right-of-way in connection with the West Broadway Reconstruction, Segment 3. Project # PW19-20

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-217. Unanimous, 5-0 vote.

ORDINANCES ON 2ND READING

Ordinance 6339

An ordinance to amend Title 9 "Traffic" by amending "Chapter 9.32.255 - Angle Parking."

Nate Watson and Mike Wolf moved and seconded approval of Second Consideration of Ordinance 6339. Unanimous, 5-0 vote.

Nate Watson and Mike Wolf moved and seconded approval of Motion to Waive Third Consideration. Ordinance passes into Law.. Unanimous, 5-0 vote.

RESOLUTIONS

Resolution 18-208 (Continued from 6-25-18)

Resolution authorizing the Mayor to execute the document entitled "Management Agreement between the City of Council Bluffs, Iowa and Harrah's Iowa Arena Management, LLC".

Nate Watson and Sharon White moved and seconded approval of

Resolution 18-208, with the changes as drafted by Richard Wade before Council Meeting.. Unanimous, 5-0 vote.

Resolution 18-218

Resolution assessing removal of solid waste nuisance from private property and public right-of-way or for removal of solid waste nuisance deemed an emergency.

Roger Sandau and Melissa Head moved and seconded approval of Resolution 18-218. Unanimous, 5-0 vote.

Resolution 18-219

Resolution assessing unpaid costs of weed abatement against properties.

Sharon White and Melissa Head moved and seconded approval of Resolution 18-219. Unanimous, 5-0 vote.

Resolution 18-220

Resolution rejecting all bids and authorizing the City Clerk to re-advertise for bids for the River's Edge Subdivision Improvement Project – Piazza Parking and Improvements to the south side of Avenue B from 40th to 42nd Street.

Nate Watson and Sharon White moved and seconded approval of Resolution 18-220. Unanimous, 5-0 vote.

APPLICATIONS FOR PERMITS AND CANCELLATIONS

Liquor License Renewals

- 1) American Legion, 716 4th Street
- 2) Casey's General Store, 701 32nd Avenue
- 3) Fox Run Golf Course, 3001 Mac Ineery Drive
- 4) Hooters, 2910 23rd Avenue
- 5) Hy-Vee Drug Store, 757 W Broadway
- 6) Jonsey's Taco House, 1117 16th Avenue
- 7) Main Street Tavern, 519 South Main Street
- 8) Pilot Travel Center, 2647 South 24th Street

Liquor License - Special Events

- 1) Taco Fest, August 2nd August 5th, 2018 - River's Edge Park

Cigarette Permits

Roger Sandau and Melissa Head moved and seconded approval of Application for Permits and Cancellations, Items 7A, 7B & 7C.. Unanimous, 5-0 vote.

CITIZENS REQUEST TO BE HEARD

Heard from:

Darlene Kofoed, 2627 Avenue J, regarding fireworks;

Mark Evan, 212 South 3rd Street, regarding fireworks;

Wayne Graff, 2445 Avenue H, regarding fireworks;

Bruce Kelly, 864 McKenzie Avenue, regarding additional lane & bike trail;

Gordan Sorenson, 2029 Avenue D, regarding dead tree; and

Larry Kofoed, 2627 Avenue J, regarding fireworks.

OTHER BUSINESS

ADJOURNMENT

Mayor Walsh adjourned the meeting at 7:36 p.m.

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the City Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Matthew J. Walsh, Mayor

Attest: Jodi Quakenbush, City Clerk

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by: Jodi Quakenbush

Approval of Agenda & tape recordings of these
proceedings to be incorporated into the official
minutes.

Council Action: 7/9/2018

Description

Background/Discussion

Recommendation

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by: Jodi Quakenbush

Reading, correction and approval of the June 25,
2018 City Council Meeting Minutes.

Council Action: 7/9/2018

Description

Background/Discussion

Recommendation

ATTACHMENTS:

Description

[6-25-18 Minutes](#)

Type

Other

Upload Date

7/2/2018



City Council Meeting Minutes June 25, 2018

CALL TO ORDER

A regular meeting was called to order by Mayor Matthew J. Walsh on Monday June 25, 2018 at 7:00 p.m.

Council Member Present: Melissa Head, Roger Sandau, Nate Watson, Sharon White and Mike Wolf.

Staff Present: Jodi Quakenbush and Richard Wade.

CONSENT AGENDA

Approval of Agenda & tape recordings of these proceedings to be incorporated into the official minutes.

Reading, correction and approval of the June 11, 2018 & June 13, 2018 City Council Meeting Minutes.

Resolution 18-192

Resolution of intent to vacate and setting a Public Hearing for July 9, 2018 at 7:00 p.m. for the east/west alley in Block 31, Fleming and Davis Addition. Location: Lying south of 14th Avenue between South 15th and South 16th Streets. SAV-18-010

Resolution 18-193

Resolution of intent to dispose of City property and setting a Public Hearing for July 9, 2018 at 7:00 p.m. for property legally described as Lot 18, Nash Subdivision Replat 1. Location: The property is located on Avenue M Way. OTB-18-022

Resolution 18-194

Resolution of intent to dispose of City property and setting a Public Hearing for July 9, 2018 at 7:00 p.m. for property legally described as Lot 19, Nash Subdivision Replat 1. Location: The property is located on Avenue M Way. OTB-18-023

Resolution 18-195

Resolution setting a public hearing for 7:00 p.m. on July 9, 2018 for right-of-way authorization in connection with the West Broadway Reconstruction, Segment 3. Project # PW19-20

Resolution 18-196

Resolution accepting the work of Omni Engineering for the Bass Pro Shop Parking Lot Repair Project as complete and authorizing the Finance Director to issue the final payment and retainage in the amount of \$5,485.49 in 30 days.

Ordinance 6338

Ordinance to amend the zoning map as adopted by reference in Section 15.02.070, and setting a Public Hearing for July 9, 2018 at 7:00 p.m. by rezoning property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park from BC/Bakken Commercial District to C-1/Commercial District as defined in Chapter 15.14. Location: 4409 Piute Street. ZC-18-008

Claims, Notice of Right of Redemption

Mayor's Appointments

1) Board of Library Trustees

2) Council Bluffs Arena & Convention Center Commission

May 2018 Financial Reports

Nate Watson and Sharon White moved and seconded approval of Consent Agenda, with amending the agenda to move item 6C, Resolution 18-203 to Public Hearings as Item 4F. Unanimous, 5-0 vote.

PUBLIC HEARINGS

Resolution 18-197

Resolution authorizing the certification of funds for the abatement of a dangerous building and for public hearing on the assessment of demolition costs against the property for collection in the same manner as a property tax under Iowa Code 364.12(3)(h).

Roger Sandau and Sharon White moved and seconded approval of Resolution 18-197. Unanimous, 5-0 vote.

Resolution 18-198

Resolution approving the plans and specifications for the Kenmore Avenue and Harrison Street Sanitary Sewer Rehab. Project # PW19-07.

Melissa Head and Mike Wolf moved and seconded approval of Resolution 18-197. Unanimous, 5-0 vote.

Resolution 18-199

Resolution to dispose of City property legally described as Lot 20, Nash Subdivision. Replat 1. Location: Avenue M Way. OTB-18-018

Sharon White and Nate Watson moved and seconded approval of Resolution 18-199. Unanimous, 5-0 vote.

Resolution 18-200

Resolution to dispose of City property legally described as Lots 3 and 4, Block 5, Van Brunt and Rice's Addition. Location: Property formerly known as 2007 6th Avenue. OTB-18-019

Roger Sandau and Melissa Head moved and seconded approval of Resolution 18-200. Unanimous, 5-0 vote.

Resolution 18-201

Resolution to dispose of City property legally described as Lot 7, Block 5, Everett's Addition. Location: Formerly known as 1810 2nd Avenue. OTB-18-020

Heard from Travis Jelken, 11311 Queens Drive, Omaha
Sharon White and Nate Watson moved and seconded approval of Resolution 18-201. Unanimous, 5-0 vote.

Resolution 18-203

Resolution authorizing the Mayor and City Clerk to execute a pipeline easement in connection with a water line relocation by the Council Bluffs Water Works located along 7th Avenue at Indian Creek.

Roger Sandau and Mike Wolf moved and seconded approval of Resolution 18-203. Unanimous, 5-0 vote.

ORDINANCES ON 1ST READING

Ordinance 6339

An ordinance to amend Title 9 "Traffic" by amending "Chapter 9.32.255 - Angle Parking."

Nate Watson and Sharon White moved and seconded approval of First Consideration of Ordinance 6339, as amended to add under Section 1 (A) (3); Additional locations for back-in angle parking may be established at the discretion of City's Traffic Engineer, who shall maintain the official records of where back-in angle parking is permitted. All such locations shall be properly marked and signed in a manner to provide reasonable notice to the motoring public. Second Consideration to be July 9, 2018 at 7:00 pm.. Unanimous, 5-0 vote.

RESOLUTIONS

Re-Consideration of Resolution 18-167

Resolution approving a wage increase for non-union employees effective 7/1/2018.

Discussion by all Council Members,
Melissa Head and Mike Wolf moved and seconded approval of Motion to Amended Resolution 18-167 to change increase to 2.5%. Passed, 3-2 vote. (Nays: Watson, White)

Resolution 18-202

Resolution confirming the appointment of Sara E. Bauer as Assistant City Attorney II and declaring an effective date.

Melissa Head and Mike Wolf moved and seconded approval of Resolution 18-202. Unanimous, 5-0 vote.

Resolution 18-204

Resolution approving Change Order #2 adding \$29,317.89 to the contract amount for the Levee Certification Project, Drainage MR_2. Project # FY17-06B

Melissa Head and Roger Sandau moved and seconded approval of Resolution 18-204. Unanimous, 5-0 vote.

Resolution 18-205

Resolution accepting the bid of Eriksen Construction Co. Inc. in the amount of \$390,700.00 for the I-80 Pump Station Trash Rack Rehab. Project #PW18-14

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-205. Unanimous, 5-0 vote.

Resolution 18-206

Resolution accepting the bid of Compass Utility, LLC in the amount of \$1,092,599.51 for the East Manawa Sewer Rehab, Phase VII. Project #PW19-09

Melissa Head and Roger Sandau moved and seconded approval of Resolution 18-206. Unanimous, 5-0 vote.

Resolution 18-207

Resolution approving a contract in the amount of \$180,000.00 to Dostals Construction Co., Inc. for the Kimball Park Improvement Project.

Nate Watson and Mike Wolf moved and seconded approval of Resolution 18-207. Unanimous, 5-0 vote.

Resolution 18-208

Resolution authorizing the Mayor to execute the document entitled "Management Agreement between the City of Council Bluffs, Iowa and Harrah's Iowa Arena Management, LLC".

Sharon White and Nate Watson moved and seconded approval of Motion to Postpone Resolution 18-208 to July 9, 2018 at 7:00 p.m. and to approve of a 30 day extension of the current agreement. Unanimous, 5-0 vote.

Resolution 18-209

Resolution to update parking meter locations and time limits.

Roger Sandau and Mike Wolf moved and seconded approval of Resolution 18-209. Unanimous, 5-0 vote.

Resolution 18-210

Resolution to update Personnel Policies to include all employees instead of all non-union employees.

Sharon White and Nate Watson moved and seconded approval of Resolution 18-210. Unanimous, 5-0 vote.

APPLICATIONS FOR PERMITS AND CANCELLATIONS

Liquor License Renewals: 1) Barley's, 114 W Broadway, 2) Dollar General, 2731 East Kanesville Blvd

Liquor License - New Application: 1) 1) Super Convenience Store, 2547 2nd Avenue

Liquor License - Special Events: 1) Lighthouse Lounge, September 7th, 8th & 9th, 2018, 2) Lobsterfest, River's Edge Park, June 29th, 30th & July 1, 2018

Cigarette Permits (13)

Roger Sandau and Melissa Head moved and seconded approval of Application for permits and cancellations, Items 7A through 7D inclusive. Unanimous, 5-0 vote.

CITIZENS REQUEST TO BE HEARD

Request by Patti Wiggins

Request of Patti Wiggins to purchase City property legally described as Westerly 1/2 of Lot 5 Excluding the South 11 feet, Block 10, Grimes Addition. Location: Lot at 10th and Avenue A. OTB-18-021 (Property classified as transitional preserve.)

Heard from Patti Wiggins.

Nate Watson and Mike Wolf moved and seconded approval of Motion to Receive and File Item from Patti Wiggins. Unanimous, 5-0 vote.

Heard from Bruce Kelly, 864 McKenzie Avenue.

Heard from Bonnie Winther, 6200 Aurora, Urbandale, IA

Heard from Jeff Shudak, 120 Ivy Drive

ADJOURNMENT

Mayor Adjourned the Meeting at 8:00 p.m.

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the City Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Matthew J. Walsh, Mayor

Attest: Jodi Quakenbush, City Clerk

Council Communication

Department: Community Development
Case/Project No.: OTB-18-024
Submitted by: Chris Meeks

Resolution 18-211

Council Action: 7/9/2018

Description

Resolution of intent to dispose and setting Public Hearing for July 23, 2018 at 7:00 p.m. for City property legally described as Lot 11 excluding the East 17 ½ feet, Block 4, Park Addition. Location: Formerly addressed as 222 11th Avenue. OTB-18-024

Background/Discussion

See attachment.

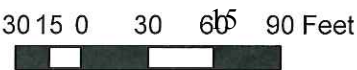
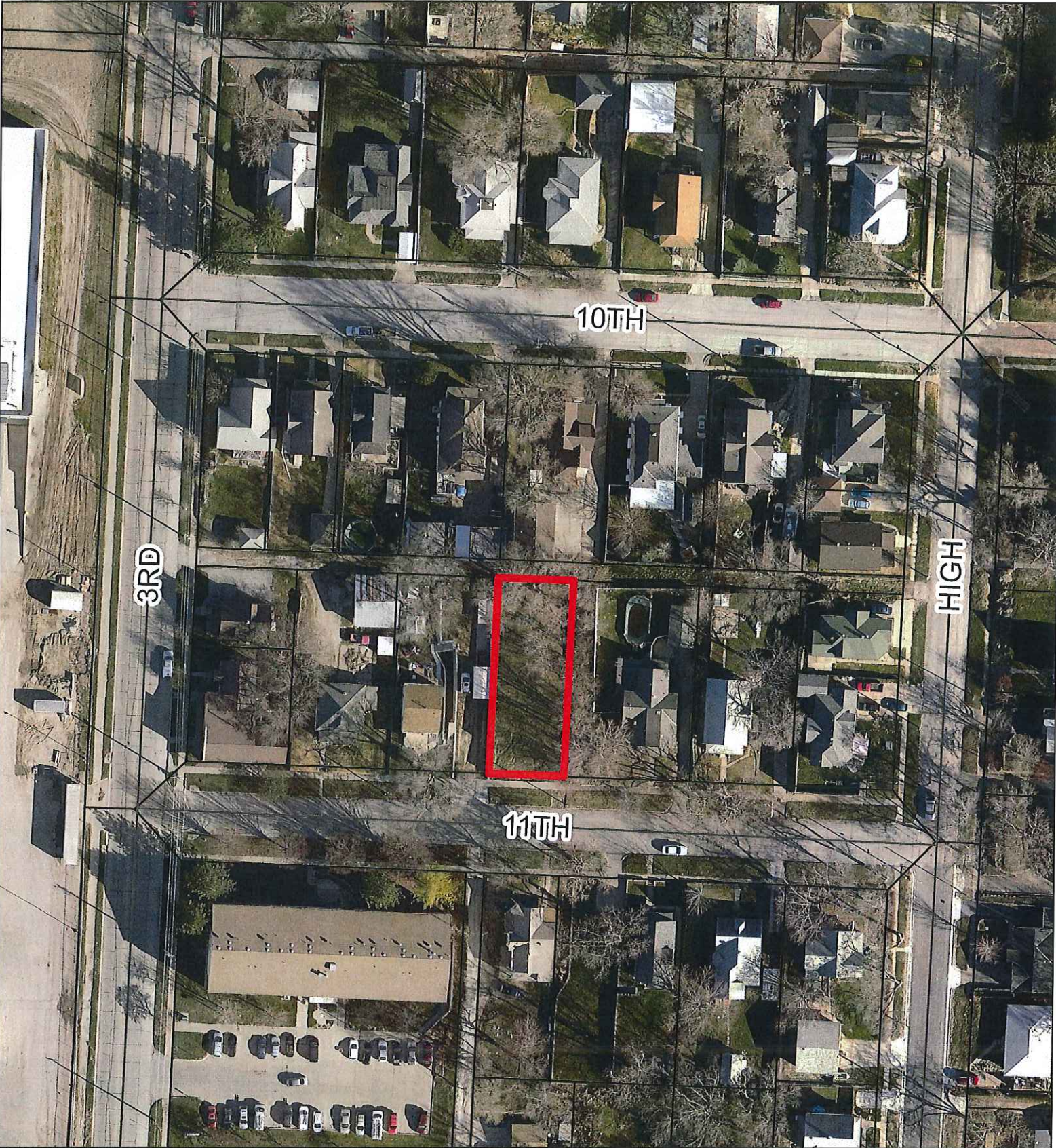
Recommendation

ATTACHMENTS:

Description	Type	Upload Date
OTB-18-024 Thoms Staff Report Including Map (7-9-18) CC	Other	6/28/2018
OTB-18-024 Thoms PH Notice (7-9-18) CC	Other	6/28/2018
Resolution 18-211	Resolution	7/2/2018

Council Communication

Department: Community Development CASE #OTB-18-024 Applicant: David Thoms Construction, LLC 17402 Burdette Circle Omaha, NE 68116	Resolution of Intent No. _____ Resolution to Dispose No. _____	Set Public Hearing: 7/9/2018 Public Hearing: 7/23/2018
Subject/Title		
Request of David Thoms Construction, LLC, represented by David Thoms, to purchase property legally described as Lot 11 excluding the East 17.5 feet, Block 4, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa. The property was formerly addressed as 222 11 th Avenue.		
Background/Discussion		
<p>The City has received an offer to purchase the property described above. The property is classified as 'transitional dispose' and 'buildable'. According to the adopted policy of April 23, 2018, the property should be priced at the appraised value or the amount most recently established by the Pottawattamie County Assessor, which was \$10,300 in June of 2017. The applicant has offered \$12,000.00 to be paid within 6 months to purchase the property.</p> <p>No City departments have indicated any costs incurred on this property at this time.</p> <p>The applicant has indicated he intends to build a single family home on the lot within two years.</p>		
Recommendation		
The Community Development Department recommends setting a public hearing on the disposal of the property legally described as Lot 11 excluding the East 17.5 feet, Block 4, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa, on the July 23, 2018 City Council meeting.		
Attachment: Location map. Prepared By: Chris Meeks, Planner, Community Development Department		



**NOTICE OF PUBLIC HEARING
ON INTENT TO DISPOSE AND CONVEY CITY PROPERTY**

TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on the request to dispose of property legally described as Lot 11 excluding the East 17.5 Feet, Block 4, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

You are further notified that a public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 23rd day of July, 2018, in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.

Jodi Quakenbush

City Clerk

CWM

Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 890-5261

RESOLUTION NO. 18-211

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY LEGALLY DESCRIBED AS LOT 11 EXCLUDING THE EAST 17 ½ FEET, BLOCK 4, PARK ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the City has received an offer from David Thoms Construction, LLC, represented by David Thoms, to purchase the City owned property legally described as Lot 11 excluding the East 17 ½ Feet, block 4, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of City owned property legally described as Lot 11 excluding the East 17 ½ Feet, block 4, Park Addition, City of Council Bluffs, Pottawattamie County, Iowa; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for July 23, 2018.

ADOPTED
AND
APPROVED:

July 9, 2018

Matthew J. Walsh Mayor

ATTEST: _____
Jodi Quakenbush City Clerk

(Case #OTB-18-024)

Council Communication

Department: Community Development
Case/Project No.: MIS-18-003
Submitted by: Christopher Gibbons

Resolution 18-212

Council Action: 7/9/2018

Description

Resolution of intent to release permanent and perpetual easements and setting Public Hearing for July 23, 2018 at 7:00 p.m. granted for utility purposes across the previously vacated alleys abutting Lots 1 through 10, Block 4, Hagg's First Addition, Lots 1 through 8, Huber & Walters Terrace, Lots 1 through 6, Block 5, extension of Hagg's Addition and Lots 1 and 14, Block 6, extension of Hagg's Addition and across vacated Thomas Street right-of-way abutting Blocks 5 & 6, extension of Hagg's Addition. Location: North of Nicholas Street and South of Ridge Street, lying between East Broadway Street/East Kanesville Boulevard and East Pierce Street. MIS-18-003

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report	Other	6/29/2018
Resolution 18-212	Resolution	7/2/2018

City Council Communication

<p>Department: Community Development Department</p> <p>Case #MIS-18-003</p> <p>Applicant: Jennie Edmundson Memorial Hospital c/o Steve Baumert 933 E. Pierce Street Council Bluffs, IA 51503</p> <p>Representative: Olsson Associates c/o Kellen Heideman 2111 South 67th Street, Ste. 200 Omaha, NE 68106</p>	<p>Resolution of Intent No. _____</p> <p>Resolution to Dispose No. _____</p>	<p>City Council: 7/09/2018</p> <p>Public Hearing: 7/23/2018</p>
---	--	---

Subject/Title

Request for the release of perpetual and permanent utility easements located across vacated alleys abutting Lots 1 through 10, Block 4, Hagg's First Addition; Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition, Lots 1 and 14, Block 6, Extension of Hagg's Addition; and across vacated Thomas Street right-of-way lying between Blocks 5 & 6, Extension of Hagg's Addition, City of Council Bluffs, Pottawattamie County, Iowa.

Location: North of Nicholas Street and South of Ridge Street, lying between East Broadway Street/East Kaneshville Boulevard and East Pierce Street

Background/Discussion

On May 21, 2018, the Council Bluffs City Council approved Resolution No. 18-161, which granted final plat approval for a one-lot commercial subdivision to be known as Jennie Edmundson Addition (see Case #SUB-18-009). Included in the subdivision are three vacated alleys and two vacated right-of-way sections (Kimball Avenue and Thomas Street) which have perpetual and permanent utility easements located across them. The applicant, Jennie Edmundson Hospital, has requested these utilities easements be released, except for the easement over vacated Kimball Avenue, so that they can move forward with executing their final plat for the Jennie Edmundson Addition as well as finalize the design/layout of their new medical office building on this property. The easements to be released are as follows:

1. The perpetual and permanent utility easement across the vacated alley abutting Lots 1 through 10, Block 4, Hagg's First Addition which were established by Resolution No. 18-17 on January 22, 2018 (See Attachment B);
2. The perpetual and permanent utility easements across the vacated alleys abutting Lots 1 through 8, Huber & Walters Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition, Lot 1 and Lot 14, Block 6, Extension of Hagg's Addition and across the vacated Thomas Street right-of-way abutting Lot 3, Block 5, Extension of Hagg's Addition and Lot 1, Block 6, Extension of Hagg's Addition, which were established by Ordinance No. 5038 on July 8, 1991 (see Attachment C); and;
3. The perpetual and permanent utility easements across that portion of vacated Thomas Street right-of-way abutting part of Lot 14, Block 6, Extension of Hagg's Addition and part of Lot 4, Block 5, Extension of Hagg's Addition, which were established by Ordinance No. 3909 on May 18, 1970 (see Attachment D).

Comments

All City departments and local utility companies were notified of the proposed request and were specifically asked if they oppose the release of these easements. The following comments were received:

1. Council Bluffs Fire Department stated they have no comments for the request.
2. The Community Development Department has received authorizations to release interest in the easement(s) from: Black Hills Energy and Cox Communications (see Attachments E & F).
3. Council Bluffs Water Works stated they have no utilities within the subject vacated alleys/right-of-way and are not opposed to releasing the easements. The Council Bluffs Water Works Board is scheduled to approve the authorization to release interest in the easement(s) at their July 17, 2018 meeting. The signed release form will then be returned to the Community Development Department for record keeping purposes.
4. Council Bluffs Public Works Department provided the following comments:
 - a. There is a sanitary sewer line within the vacated Thomas Street right-of-way and is protected by a utility easement. The line can be moved or abandoned to accommodate their proposed medical office building.
 - b. If the sanitary sewer line is to be abandoned it should be determined whether or not there is anything connected to the line. If there is nothing connected to the line it can be abandoned and the utility easement released.
 - c. If the line is to be used for the office building it can be relocated and become a private lateral and the easement can be released.
5. Century Link stated they have telecommunication utilities located within the vacated alley in Block 4, Hagg's First Addition and will release their interest in the easement once the applicant pays the cost to relocate their utility lines.
6. Mid-American Energy Company stated they have overhead utilities in the vacated alley in Block 4, Hagg's First Addition. Mid-American Energy has requested the applicant provide them with an updated site plan for their medical office project so that they can determine where their overhead lines can be relocated, and if any new easements are necessary.

Recommendation

The Community Development Department recommends approval to release perpetual and permanent easements granted for utility purposes across previously vacated alley abutting Lots 1 through 10, Block 4, Hagg's First Addition, Lots 1 through 8, Huber & Walters Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition and Lots 1 and 14, Block 6, Extension of Hagg's Addition along with the previously vacated Thomas Street right-of-way abutting Blocks 5 & 6, Extension of Hagg's Addition, all in the City of Council Bluffs, Pottawattamie County, Iowa, subject to the following condition:

1. The release of the perpetual and permanent utility easements across said vacated alleys and Thomas Street right-of-way, as legally described above, shall become effective once all local utility providers submit a signed authorization form, which releases their interest(s) in said utility easements, to the City of Council Bluffs.

Attachments

Attachment A – Jennie Edmundson Addition – Utility Easement Release Exhibit
Attachment B - Copy of Resolution No. 18-17, approved on January 22, 2018
Attachment C – Copy of Ordinance No. 5038, approved on July 8, 1991
Attachment D – Copy of Ordinance No. 3909. Approved on May 18, 1970
Attachment E – Signed authorization form to release utility easements from Black Hills Energy
Attachment F - Signed authorization form to release utility easements from Cox Communications
Prepared by: Christopher N. Gibbons, AICP, Planning Coordinator



2018-00980

RECORDER MARK BRANDENSURG

POTTAWATTAMIE COUNTY, IA

FILE TIME: 01/25/2018 10:59:06 AM

RECORDING FEE	30.00
AUDITOR FEE	5.00
RMA FEE	1.00
ECM FEE	1.00

C R FEE \$ 30.00 RMA \$ 1.00

A FEE \$ 5.00 ECOM \$ 1.00

T TAX \$ _____

Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 - Phone: 328-4616
Prepared by: Community Development Dept., Co. Bluffs, IA 51503 - Phone: 328-4629

RESOLUTION NO. 18-17

A RESOLUTION TO VACATE AND DISPOSE OF THE EASTERLY/WESTERLY ALLEY FROM THE NORTH RIGHT-OF-WAY LINE OF NICHOLAS STREET TO THE SOUTH RIGHT-OF-WAY LINE OF KIMBALL AVENUE, AS WAS PLATTED AS PART OF BLOCK 4, HAGG'S 1ST ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: The easterly/westerly alley located in Block 4, Hagg's 1st Addition, City of Council Bluffs, Pottawattamie County, Iowa is of no benefit to the public and should be vacated; and

WHEREAS, the subject 11th Avenue right-of-way measures 12' x 249' more or less and is unimproved but does have known utilities located within in it; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s); and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the above-described city right-of-way is hereby vacated and conveyed as follows:

Jennie Edmundson Memorial Hospital and all successors in interest: The North ½ of the vacated alleyway abutting the North 11 feet of Lot 4, Block 4, Hagg's First Addition; and the South ½ of the vacated alleyway abutting Lot 5, Block 4, Hagg's First Addition; and Lot 8, Block 4, Hagg's First Addition; and

Loess Hill Properties LLC and all successors in interest: The North ½ of the vacated alleyway abutting Lots 1, 2, 3, and the South 39 feet of Lot 4, Block 4, Hagg's First Addition; and the South ½ of the vacated alleyway abutting Lots 6, 7, 9, and 10, Block 4, Hagg's First Addition.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described right-of-way; and

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED
AND
APPROVED:

January 22, 2018


Matthew J. Walsh, Mayor

ATTEST:


Jodi Quakenbush, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this 22nd day of January, 2018, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Matthew J. Walsh and Jodi Quakenbush, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Matthew J. Walsh and said Jodi Quakenbush, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.




Notary Public in and for said State

COMPARED

Fe 15th 907

Return to: City Clerk
209 Pearl

ORDINANCE NO. 5038

AN ORDINANCE to vacate Thomas Street (except that portion previously vacated by Ordinance No. 3909), the alley abutting Lots 1-8, Huber and Walter Terrace, and Lots 1-6, Block 5, Haggs Extension, and that portion of the alley in Block 6, Haggs Extension, abutting Lots 1 and 14.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That City-owned right-of-way located in Council Bluffs, Pottawattamie County, Iowa, generally described as Thomas Street (except that portion previously vacated by Ordinance No. 3909), the alley abutting Lots 1-8, Huber and Walter Terrace, and Lots 1-6, Block 5, Haggs Extension, and that portion of the alley in Block 6, Haggs Extension, abutting Lots 1 and 14, be and the same is hereby vacated.

SECTION 2. That this City Council does hereby declare its intent and proposal to dispose of the above described city right-of-way by selling same to the abutting property owner.

SECTION 3. That the Mayor and City Clerk be and are hereby authorized, empowered and directed to execute a city deed conveying the city's interest in said property described above to the abutting property owner, subject to retaining utility easements and abandonment of existing sanitary and storm sewers.

SECTION 4. Repealer. That all other ordinances, rules and regulations, or portions thereof, in conflict herewith, be and the same are hereby repealed.

SECTION 5. Effective date. That this ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED July 8, 1991


THOMAS P. HANAFAN Mayor

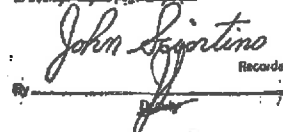
Attest:


OLGA ARELLANO-ANDERSON City Clerk

FIRST CONSIDERATION: June 10, 1991
SECOND CONSIDERATION: June 24, 1991
PUBLIC HEARING: June 24, 1991
THIRD CONSIDERATION: July 8, 1991

Planning Case No. SAV-91-008

STATE OF IOWA, Pottawattamie County
Filed for record the 23 day of July
1991 at 11:15 o'clock A. M. and recorded
in book 22 page 1973

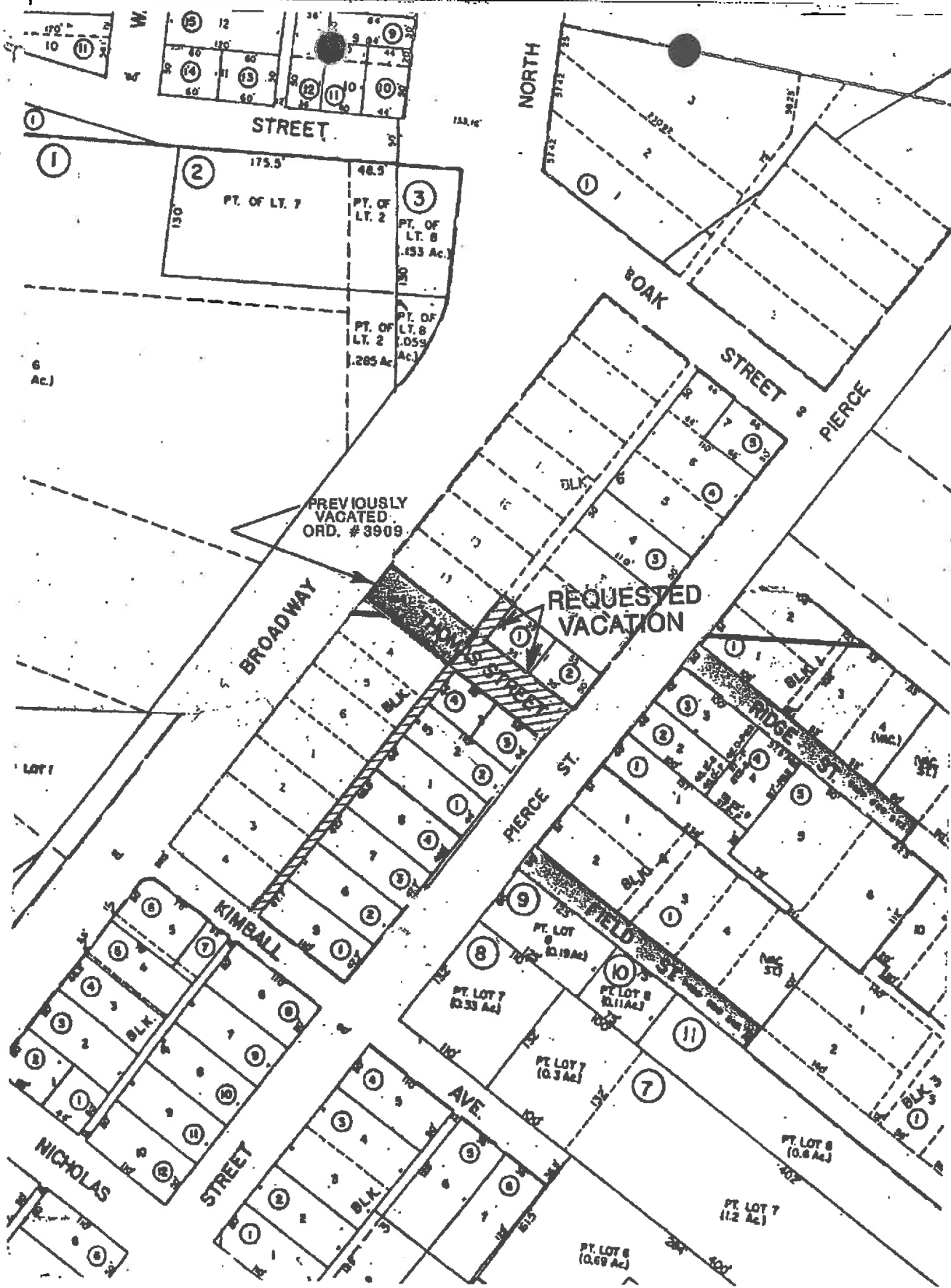

John Segortino Recorder

ATTACHMENT C

92 1973

1-396 1-391

COMPARED



CASE #SAV-91-008

92 1974

Passed to 2nd Reading Board to 3rd
4-20-70 S-4-90
5-11-70
4-H

Public Hearing
5-18-70
8 PM

Return to City Clerk
209 Pearl
Fee 15 308

COMPARED

May 18, 1970

CITY ORDINANCE NUMBER 3909

AN ORDINANCE to vacate that portion of the Southerly Half of Thomas Street which abuts Lot 4 in Block 5, Hagg's Extension, and that portion of the Northerly Half of Thomas Street which abuts Lot 14 in Block 6, Hagg's Extension, in Council Bluffs, Iowa; providing for the conveyance thereof to the Board of Park Commissioners of the City of Council Bluffs, Iowa, under the terms and conditions herein-after set forth; and repealing all other Ordinances, Rules and Regulations, or portions thereof, in conflict herewith.

WHEREAS, the Board of Park Commissioners of the City of Council Bluffs, Iowa has requested the vacation and conveyance of the above-described portions of Thomas Street for purposes of beautification;

and

WHEREAS, the request of said Board has been referred to the City's Planning Commission and after study and public hearing held by said Commission the request for such vacation and conveyance has been approved by said Commission and its written recommendation has been filed with this City Council in accordance with the determination reached by said Commission;

and

WHEREAS, after study and consideration, and being otherwise fully advised in the matter, this City Council has determined that the best interests of the City will be served by the vacation and conveyance of said portion of Thomas Street, as aforesaid:

NOW, THEREFORE, BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the portion of the Southerly Half of Thomas Street which abuts Lot 4 in Block 5, Hagg's Extension, and the portion of the Northerly Half of Thomas Street which abuts Lot 14 in Block 6, Hagg's Extension, in Council Bluffs, Iowa, be and the same is hereby vacated.

SECTION 2. That the property vacated by this Ordinance shall be subject always to a permanent and perpetual easement of way being granted to and reserved in the City of Council Bluffs, Iowa and its licensees and/or franchise grantees, for the maintenance of any and all public utilities equipment presently in place, and for such reconstruction, re-emplacment and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary, advisable and proper.

STATE OF IOWA, Polk County
Filed for record this 20th day of July
1970 at 11:20 o'clock AM and recorded
in book 42 page 1976
John S. Giortino
Recorder

COMPARED

City Ordinance

2.

SECTION 3. That following the final passage, approval and publication of this Ordinance, and upon payment of the sum of \$1.00 in consideration thereof the Mayor and City Clerk are hereby authorized, empowered and directed to execute and deliver a Quit Claim Deed conveying the property herein vacated to the Board of Park Commissioners of the City of Council Bluffs, Iowa, said conveyance to be made pursuant to the terms and conditions herein prescribed.

SECTION 4. That all Ordinances, Rules and Regulations, or portions thereof, in conflict herewith, are hereby repealed.

SECTION 5. That this Ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

Passed
and
Approved May 18, 1970

Kenneth G. Jensen
Kenneth G. Jensen Mayor

Attest: Elmer F. Westphal
Elmer F. Westphal City Clerk

RELEASE OF A PERMANENT AND PERPETUAL EASEMENTS GRANTED FOR UTILITY PURPOSES ACROSS THE PREVIOUSLY VACATED ALLEYS ABUTTING LOTS 1 THROUGH 10, BLOCK 4, HAGG'S FIRST ADDITION, LOTS 1 THROUGH 8, HUBER & WALTERS TERRACE, LOTS 1 THROUGH 6, BLOCK 5, EXTENSION OF HAGG'S ADDITION AND LOTS 1 AND 14, BLOCK 6, EXTENSION OF HAGG'S ADDITION ALONG WITH VACATED THOMAS STREET RIGHT-OF-WAY ABUTTING BLOCKS 5 & 6, EXTENSION OF HAGG'S ADDITION, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, north/south alley abutting Lots 1 through 4, part of Lot 5, and Lots 6 through 10, Block 4, Hagg's First Addition was vacated by Resolution No. 18-17 on January 22, 2018 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting part of Lot 14, Block 6, Extension of Hagg's Addition and part of Lot 4, Block 5, Extension of Hagg's Addition was vacated by Ordinance No. 3909 on May 18, 1970 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting Lot 3, Block 5, Extension of Hagg's Addition and Lot 1, Block 6, Extension of Hagg's Addition along with the alleys abutting Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition along with north/south alley abutting Lots 1 and 14, Block 6, Extension of Hagg's Addition were vacated by Ordinance No. 5038 on July 8, 1991 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, Black Hills Energy is a Utility this easement was reserved for; and

WHEREAS, I am an authorized representative of said Utility and by placing my signature below I do hereby support the grant of the release of said easement described above.

Dated this 1ST, day of June 2018.

[Signature]
Signature

Utility Planner
Title

Black Hills Energy
Organization

RELEASE OF A PERMANENT AND PERPETUAL EASEMENTS GRANTED FOR UTILITY PURPOSES ACROSS THE PREVIOUSLY VACATED ALLEYS ABUTTING LOTS 1 THROUGH 10, BLOCK 4, HAGG'S FIRST ADDITION, LOTS 1 THROUGH 8, HUBER & WALTERS TERRACE, LOTS 1 THROUGH 6, BLOCK 5, EXTENSION OF HAGG'S ADDITION AND LOTS 1 AND 14, BLOCK 6, EXTENSION OF HAGG'S ADDITION ALONG WITH VACATED THOMAS STREET RIGHT-OF-WAY ABUTTING BLOCKS 5 & 6, EXTENSION OF HAGG'S ADDITION, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, north/south alley abutting Lots 1 through 4, part of Lot 5, and Lots 6 through 10, Block 4, Hagg's First Addition was vacated by Resolution No. 18-17 on January 22, 2018 and retained a permanent and perpetual easement for utility purposes; and

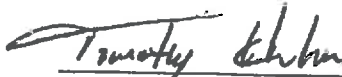
WHEREAS, that portion of Thomas Street right-of-way abutting part of Lot 14, Block 6, Extension of Hagg's Addition and part of Lot 4, Block 5, Extension of Hagg's Addition was vacated by Ordinance No. 3909 on May 18, 1970 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, that portion of Thomas Street right-of-way abutting Lot 3, Block 5, Extension of Hagg's Addition and Lot 1, Block 6, Extension of Hagg's Addition along with the alleys abutting Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg's Addition along with north/south alley abutting Lots 1 and 14, Block 6, Extension of Hagg's Addition were vacated by Ordinance No. 5038 on July 8, 1991 and retained a permanent and perpetual easement for utility purposes; and

WHEREAS, Cox Communications, is a Utility this easement was reserved for; and

WHEREAS, I am an authorized representative of said Utility and by placing my signature below I do hereby support the grant of the release of said easement described above.

Dated this 5th, day of June, 2018.



Signature

Row Agent

Title

Cox Communications

Organization

Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629

Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 18-212

A RESOLUTION OF INTENT TO RELEASE PERMANENT AND PERPETUAL EASEMENTS GRANTED FOR UTILITY PURPOSES ACROSS THE PREVIOUSLY VACATED ALLEYS ABUTTING LOTS 1 THROUGH 10, BLOCK 4, HAGG’S FIRST ADDITION, LOTS 1 THROUGH 8, HUBER & WALTERS TERRACE, LOTS 1 THROUGH 6, BLOCK 5, EXTENSION OF HAGG’S ADDITION AND LOTS 1 AND 14, BLOCK 6, EXTENSION OF HAGG’S ADDITION AND ACROSS VACATED THOMAS STREET RIGHT-OF-WAY ABUTTING BLOCKS 5 & 6, EXTENSION OF HAGG’S ADDITION, ALL IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Jennie Edmundson Memorial Hospital has requested the release of a perpetual and permanent easement located across the vacated alleys abutting Lots 1 through 10, Block 4, Hagg’s First Addition; Lots 1 through 8, Huber and Walter Terrace, Lots 1 through 6, Block 5, Extension of Hagg’s Addition, Lots 1 and 14, Block 6, Extension of Hagg’s Addition; and across vacated Thomas Street right-of-way lying between Blocks 5 & 6, Extension of Hagg’s Addition, City of Council Bluffs, Pottawattamie County; and

WHEREAS, this City Council hereby declares its intent to consider release of this easement by conveying all of its easement interest to the abutting property owner(s).

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council hereby declares its intent to consider disposition of the above described easement interests; and

BE IT FURTHER RESOLVED

That a public hearing on the City’s intent to dispose of this property is hereby set for July 23, 2018.

ADOPTED
AND
APPROVED:

July 9, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.: PW18-20A
Submitted by: Matthew Cox, City Engineer

Resolution 18-213

Council Action: 7/9/2018

Description

Resolution accepting the work of RPL Utility, LLC as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the 28th Street Storm Sewer. Project # PW18-20A

Background/Discussion

West Broadway is major arterial street and critical to the City's roadway network. It serves as a significant commercial corridor and commuter route and its reconstruction is an essential part of the economic redevelopment plan for the west end of Council Bluffs. There is also a strong community desire to enhance the aesthetics of the corridor and to create a connection between the Riverfront and downtown Council Bluffs.

Segment 1 of the planned reconstruction is now substantially complete and Segment 2 is underway.

As part of the corridor reconstruction, drainage along West Broadway will now be collected through a series of curb inlets. The 28th Street Storm Sewer project constructed a new storm sewer from West Broadway south to 1st Avenue and tied into the existing 1st Avenue trunk sewer. This sewer will provide a connection for discharging the collected storm water.

The work associated with the 28th Street relief sewer was identified as a separate project that could be accomplished ahead of the West Broadway Segment 2 work.

This project is partnered with the West Broadway Reconstruction. As a condition of the Transfer of Jurisdiction, Iowa DOT has provided \$20 million in funding for assuming ownership of the roadway previously identified as US-6. The FY18 CIP also included \$1,500,000 in Sales Tax Funds. Council Bluffs Water Works has significant facilities within West Broadway and replacement of a portion of the water main in conflict with the proposed storm sewer was included in the project. The Division V costs for the water main improvements will be reimbursed.

	Division I <u>General</u>	Division II <u>Pavement</u>	Division III <u>Storm Sewer</u>	Division IV <u>San Sewer</u>	Division V <u>Water</u>	Division VI <u>Traffic Signalization</u>	<u>Total</u>
Original Contract Amount	\$72,567.16	\$50,456.10	\$216,525.69	\$11,567.06	\$373,865.32	\$66,291.94	\$791,273.27
Change Orders (-34.92%)	\$5,408.77	\$846.45	(\$3,707.45)	(\$755.78)	(\$278,129.17)	\$0.00	(\$276,337.17)
Final Contract Amount	\$77,975.93	\$51,302.55	\$212,818.25	\$10,811.28	\$95,736.15	\$66,291.94	\$514,936.10
Less Previous Payments	\$74,077.13	\$48,737.42	\$202,177.34	\$10,270.72	\$90,949.34	\$62,977.34	\$489,189.29
Retainage Due Contractor	\$3,898.80	\$2,565.13	\$10,640.91	\$540.56	\$4,786.81	\$3,314.60	\$25,746.81

The Contractor completed the project on time and did not receive any non-compliance notices.

Recommendation

Approval of this resolution.

ATTACHMENTS:

Description

[Resolution 18-213](#)

Type

Resolution

Upload Date

7/2/2018

**RESOLUTION
NO 18-213**

**RESOLUTION ACCEPTING THE WORK OF
RPL UTILITY, LLC IN CONNECTION WITH
THE 28th STREET STORM SEWER
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE
A CITY CHECK IN THE AMOUNT OF \$25,746.81
PROJECT #PW18-20A**

- WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with RPL Utility, LLC, Minden, IA for the 28th Street Storm Sewer; and
- WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the city clerk; and
- WHEREAS, a request for final payment in the amount of \$25,746.81 to RPL Utility, LLC, has been submitted to the city council for approval and payment; and
- WHEREAS, final payment is due 30 days after acceptance of the work; and
- WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$25,746.81 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$25,746.81 payable to RPL Utility, LLC from budget codes Division I, Z30000-676000; Division II, Z30000-676200; Division III, Z30000-676500; Division IV, Z30000-676700; Division V, Z30000-678000, Division VI, Z30000-676800 Project #1820A.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues

ADOPTED
AND
APPROVED

July 9, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by:

Mayor's Appointments

Council Action: 7/9/2018

Description

Municipal Housing Agency

Background/Discussion

With City Council concurrence, I would like to make the following appointment:

MUNICIPAL HOUSING AGENCY

Appoint the following with term expiring 7/31/2020:

Kathryne Cutler
808 Birchwood Cir
(712) 256-7902

Brett Ryan
554 Cogleywood
(712) 328-9461

Jody Jackson
17213 P St
(402) 578-2722

Recommendation

Approval

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by:

Claims

Council Action: 7/9/2018

Description

Background/Discussion

Recommendation

ATTACHMENTS:

Description
[Claims](#)

Type
Other

Upload Date
6/29/2018

RETURN TO: CITY OF COUNCIL BLUFFS, IOWA
ATTN: CITY LEGAL DEPARTMENT
OR CITY CLERK
209 PEARL STREET
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. 18-PW-1896

NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: Don Ring DAY PHONE: 712-249-5889
ADDRESS: 105 Hillside Dr. DOB: 6-10-81

DATE & TIME OF LOSS/ACCIDENT: See Accident Report
LOCATION OF LOSS/ACCIDENT: See Accident Report
DESCRIPTION OF LOSS/ACCIDENT: See Accident Report

(USE BACK OF FORM, IF NECESSARY)

TOTAL DAMAGES CLAIMED: \$ 3,200
WITNESS(ES) (Name(s), Address(es), Phone No(s)): See Accident Report

WAS POLICE REPORT FILED ☐ YES ☒ NO

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

HAVE YOU RESUMED NORMAL ACTIVITIES? ☒ YES ☐ NO

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY OTHER RELEVANT INFORMATION:

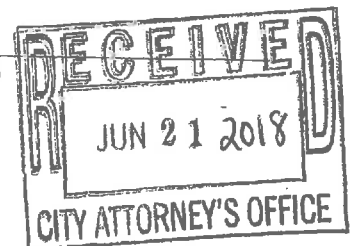
LIST INSURANCE PROVIDER AND COVERAGE:

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

6-21-18
DATE

[Signature]
CLAIMANT'S SIGNATURE





City of Council Bluffs

Vehicle/Equipment Accident Investigation Forms

Employee's Accident Report

(To be completed by the employee.)

Employee's name: Dan Ring Male: ☒ Female: ☐
Present dept./classification: Fleet Maintenance/Mechanic Equipment # or type: CL105
Date of accident: 11/15/17 Time of accident: 11:45 am
Location of accident: Fleet Maintenance facility
Weather: sunny Road conditions: good

What were you doing when the accident occurred? What machine or tool were you using? What type of operation?

Pulled CL105 forward off hoist to repair light bar. I had just done front brakes and forgot to pump up brakes. The vehicle went forward unable to stop and sandwiched my tool box between CL105 and BR488.

Describe bodily injury sustained (be specific about body part(s) affected):
no injury

Recommendation on how to prevent this accident from recurring:

Prior to moving vehicle after repairing brakes, make sure pedal is pumped up.

Name of supervisor: Donnie Gittins Phone: 712-328-4698
Name of witness(es): Darrell Marean Phone: 712-328-4698

When did you report the accident to your supervisor? right away

To whom did you report the accident? Donnie Gittins & Dave McDermott

Did you require medical attention? Yes: ☐ No: ☒

Signature of employee: Dan Ring

Date: 11/15/17

RETURN TO: CITY OF COUNCIL BLUFFS, IOWA
ATTN: CITY LEGAL DEPARTMENT
OR CITY CLERK
209 PEARL STREET
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. 18-PW-1898

NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: Joan Ward DAY PHONE: (402) 515-2064
ADDRESS: 1216, 21st AVE (Council Bluffs, IA) DOB: 325-0455
DATE & TIME OF LOSS/ACCIDENT: 6-11-18 51501
LOCATION OF LOSS/ACCIDENT: 8th 23 AVE
DESCRIPTION OF LOSS/ACCIDENT: _____

(USE BACK OF FORM, IF NECESSARY)

TOTAL DAMAGES CLAIMED: \$ 878 83
WITNESS(ES) (Name(s), Address(es), Phone No(s)) _____

WAS POLICE REPORT FILED ☒ YES ☐ NO

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

HAVE YOU RESUMED NORMAL ACTIVITIES? ☒ YES ☐ NO

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY OTHER RELEVANT INFORMATION: _____

LIST INSURANCE PROVIDER AND COVERAGE: STATE FARM Linda Primer
LIABILITY

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

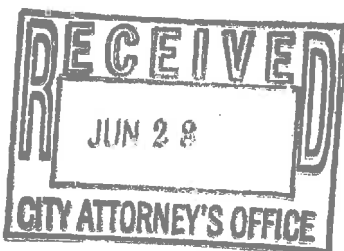
DATE _____

CLAIMANT'S SIGNATURE _____

CLERK RCV

28 JUN 18

PM 2:52



RETURN TO: CITY OF COUNCIL BLUFFS, IOWA
ATTN: CITY LEGAL DEPARTMENT
OR CITY CLERK
369 PEARL STREET
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. 18-PW-1897

NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: CenturyLink / co JNR Adjustment DAY PHONE: 800-279-2567
ADDRESS: PO Box 27070 Minneapolis MN DOB: _____

DATE & TIME OF LOSS/ACCIDENT: 7/06/17
LOCATION OF LOSS/ACCIDENT: Railroad Hwy near E Kanesville Council bluffs IA
DESCRIPTION OF LOSS/ACCIDENT: CenturyLink utility hole/vault

(USE BACK OF FORM, IF NECESSARY)

TOTAL DAMAGES CLAIMED: \$ 885.64

WITNESS(ES) (Name(s), Address(es), Phone No(s)) _____

WAS POLICE REPORT FILED _____ YES ☒ NO

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

HAVE YOU RESUMED NORMAL ACTIVITIES? _____ YES _____ NO

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY
OTHER RELEVANT INFORMATION: _____

LIST INSURANCE PROVIDER AND COVERAGE: _____

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY
CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

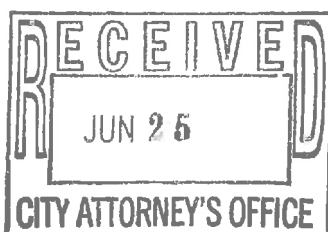
NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A
FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

6/12/18
DATE

[Signature]
CLAIMANT'S SIGNATURE

CLERK RCD
25 JUN 18

PM2:45



Council Communication

Department: City Clerk
Case/Project No.: ZC-18-008
Submitted by: Christopher Gibbons

Ordinance 6338

Council Action: 7/9/2018

Description

Ordinance to amend the zoning map as adopted by reference in Section 15.02.070, and setting a Public Hearing for July 9, 2018 at 7:00 p.m. by rezoning property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park from BC/Bakken Commercial District to C-1/Commercial District as defined in Chapter 15.14. Location: 4409 Piute Street. ZC-18-008

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
ZC-18-008 4409 Piute St Staff Report Including Attach A, B and C (6-25-18) CC	Other	6/13/2018
ZC-18-008 4409 Piute St PH Notice (6-25-18) CC	Other	6/13/2018
Ordinance 6338	Ordinance	6/19/2018

Council Communication

Department: Community Development Case # ZC-18-008 Applicant/Owner: John Butterbaugh 23003 Three Bridge Road Council Bluffs, IA 51503	Ordinance No. _____	City Council: 06/25/18 Public Hearing: 07/09/18 Planning Commission: 06/12/18
Subject/Title		
<p>Request: Repeal the BC/Bakken Commercial District contract zoning approved by Ordinance No. 5064 on property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, Block 1, Hannan Park and to rezone said property to C-1/Neighborhood Commercial District.</p> <p>Location: 4409 Piute Street, Council Bluffs, Iowa</p>		
Background/Discussion		
<p>In December 1986, Robert and Ruth Bakken filed an application to rezone Lots 5, 6, 24, 25 and 26, Block 1, Hannan Park Addition from R-3/Low Density Multi-family Residential District to C-2/General Commercial in order to expand their business (Manawa Bait and Tackle). The request (Case #ZC-87-003) was subsequently denied by the City Council out of concern it would 'spot-zoning' the subject properties. After five years of litigation, a settlement was reached between the Bakken family and the City of Council Bluffs. This agreement was approved the Council Bluffs City Council on January 27, 1992 (Ordinance No. 5064) and established the BC/Bakken Commercial District 'contract-zoning' over the subject properties stated above.</p> <p>The applicant, John Butterbaugh, owns the property located at 4409 Piute Street, which is, zoned BC/Bakken Commercial District. He has operated an insurance agency at this location for nearly a decade and has a prospective buyer who would like use the property as a beauty salon. An insurance agency and a beauty salon are not permitted in the BC/Bakken Commercial 'contract-zoning'. The applicant has requested to repeal the BC/Bakken Commercial District 'contract zoning' and to rezone said property to C-1/Neighborhood Commercial District (see Attachment B) in order to bring his insurance agency into conformance with City zoning requirements and to apply a commercial zoning designation that is more compatible with the surrounding area.</p> <p><i>Land Use & Zoning</i></p> <p>The subject property is comprised of 5,600 square feet (0.13 acres) of land and is zoned BC/Bakken Commercial District. A business professional office (insurance agency) operates on the subject property.). Surrounding zoning includes R-3/Low Density Multi-Family Residential District to the east, north and south along with A-2/Parks, Estates and Agricultural District to the west (see Attachment C). Existing land uses in the general vicinity include residential dwellings to the north, east and south along with a golf course (Council Bluffs Country Club) to the west.</p> <p>The future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan designated the subject property as Low-Density Residential. The BC/Bakken Commercial District and the C-1/Neighborhood Commercial District are not consistent with the future land use plan of the Bluffs Tomorrow: 2030 Plan.</p>		

Exhibit A: Below is a 2016 aerial image of the subject property and surrounding area.



The following attachments are included with this report for reference purposes:

Attachment A: Copy of BC/Bakken Commercial District Ordinance No. 5064 dated January 27, 1992.

Attachment B: Copy of Chapter 15.14 C-1/Commercial District of the Municipal Code (Zoning Ordinance)

Attachment C: Zoning/location map

Comments

All property owners within 200 feet of the subject property were notified of the proposed rezoning. No comments for the rezoning have been received as of the date of this report. have been received for this request as of the date have been received as of the date of this report.

All City departments and local utility providers were notified of the proposed rezoning. The following comments were received:

1. Council Bluffs Building Division stated they have no comments for the proposed rezoning.
2. Council Bluffs Public Works Department stated they have no comments for the proposed rezoning.
3. Council Bluffs Fire Department stated they have no comments for the proposed rezoning.
4. Council Bluffs Community Development Department provided the following comments for the request:
 - The BC/Bakken Commercial District 'contract zoning' was applied to five properties (Lots 5-6 and Lots 24-26, Block 1, Hannan Park) when Ordinance No. 5064 was adopted by City Council on January 27, 1992. On March 8, 1999, the Council Bluffs City Council adopted Ordinance No. 5444 which rezoned property commonly known as 4407 Piute Street (Lots 5-6 and Lot 26 and all of Lot 25, except the North 10 feet, Block 1, Hannan Park) from BC/Bakken Commercial District to R-3/Low Density Multi-Family Residential District. The purpose of this rezoning was to allow Habitat for Humanity to build a new residential on the subject lots. With the passage of Ordinance No. 5444 the size of the BC/Bakken Commercial District was reduced from five lots to two lots and is now only applicable to property at 4409 Piute Street.

- The BC/Bakken Commercial District ‘contract zoning’ contains a list of 13 permitted uses and two conditional uses. All of the uses are very specific to a certain type of retail use and/or consumer service establishment. There are also few light-industrial land uses that are allowed in the BC District such as frozen food lockers and contractor shops. Rezoning the property from BC District to C-1/ Neighborhood Commercial District would remove the possibility of any light industrial land uses occurring on the property, which are not compatible with the surrounding neighborhood area. The proposed C-1/Neighborhood Commercial District would allow for the development of retail, offices and minor commercial facilities on the subject property that could provide a variety of goods and services to residents of Lake Manawa.
 - The BC/Bakken Commercial ‘contract zoning’ references several Council Bluffs Municipal Code sections that are either non-existent or no longer applicable. Additionally, many of the development standards (e.g. lot size, building setbacks, building heights, etc.) stated in the BC District ‘contract zoning’ are unique to the subject properties and are not consistent with standards applied to other commercially zoned properties in the City. Repealing the BC District ‘contract zoning’ and rezoning the subject property to C-1/Neighborhood Commercial District allows a standardized list of development standards (e.g., building setbacks, land uses, signage, etc.) to be applied to the property. The proposed C-1 District development standards would allow the landowner to use their property for commercial purposes but in a manner that is compatible with surrounding residential land uses.
 - It is the opinion of the Community Development Department that repealing the BC/Bakken Commercial ‘contract zoning’ and rezoning the subject property to C-1/Neighborhood Commercial District does not constitute ‘spot-zoning’. The subject property is zoned BC/Bakken Commercial District and is surrounded by residential zoning to the north, east and south. The proposed C-1 District is intended to be located adjacent to neighborhood residential areas and is closely compatible to the purpose and intent of the BC District.
5. Council Bluffs Water Works (CBWW) stated they have no comments for the proposed rezoning request.
6. MidAmerican Energy Company stated they have no objection to the rezoning request.

Recommendation

The Community Development Department recommends repealing the BC/Bakken Commercial District ‘contract zoning’ approved by Ordinance No. 5064 on property legally described as Lot 24 and the Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park and rezoning said property C-1/Neighborhood Commercial District, based on reasons stated above.

Public Hearing

Speakers in favor:

1. John Butterbaugh, 23003 Three Bridge Road, Council Bluffs, IA 51503

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommends repealing the BC/Bakken Commercial District ‘contract zoning’ approved by Ordinance No. 5064 on property legally described as Lot 24 and the Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park and rezoning said property C-1/Neighborhood Commercial District, based on reasons stated above.

VOTE: AYE 6 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 4 Motion: Carried

Attachments

Attachment A: Copy of BC/Bakken Commercial District Ordinance No. 5064 dated January 27, 1992.

Attachment B: Copy of Chapter 15.14 C-1/Commercial District of the Municipal Code (Zoning Ordinance)

Attachment C: Zoning/location map

Prepared By: Christopher Gibbons, Planner, Community Development Department

COMPARED

9825 ✓ See 30⁰⁰

ORDINANCE NO. 5064

AN ORDINANCE CHANGING THE DESIGNATION OF CERTAIN GROUNDS, PROPERTY AND PREMISES LEGALLY DESCRIBED AS LOTS 5, 6, 24, 25 AND 26, BLOCK 1, HANNAN PARK ADDITION, COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM R-3 TO THE BAKKEN COMMERCIAL DISTRICT.

WHEREAS, it is the intent of this City Council to rezone Lots 5, 6, 24, 25 and 26, Block 1, Hannan Park Addition from R-3 to the Bakken Commercial District; and

WHEREAS, development of the Bakken Commercial District shall be in strict accordance with the Bakken Commercial District Contract attached as Exhibit "A" and incorporated by reference; and

WHEREAS, the Planning Commission has approved this rezoning; and

WHEREAS, City staff also recommends the approval of this rezoning request.

B E I T O R D A I N E D
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the zoning be and the same is hereby amended by changing the designation of certain grounds, property and premises legally described as Lots 5, 6, 24, 25 and 26, Block 1, Hannan Park Addition, Council Bluffs, Pottawattamie County, Iowa, from R-3 to the Bakken Commercial District.

Section 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as be law provided.

PASSED
AND
APPROVED January 27, 1992

Thomas P. Hanafan
THOMAS P. HANAFAN Mayor

Attest: Olga Arellano-Anderson
OLGA ARELLANO-ANDERSON City Clerk

FIRST CONSIDERATION: Dec. 30, 1991
SECOND CONSIDERATION: Jan. 13, 1992
PUBLIC HEARING: Jan. 27, 1992
THIRD CONSIDERATION: Jan. 27, 1992

ZC-91-010

SEATS OF KWA, Pottawattamie County
Filed for record the 3 day of March
1992 at 8 o'clock AM and recorded
in Book 22, Page 20353
John Sciorano Recorder
By George Farnley Deputy

92 20353

ATTACHMENT A

COMPARED

Exhibit "A"

BAKKEN COMMERCIAL DISTRICT CONTRACT

This district is intended to provide for the orderly development of the area known as Block 1; Hannan Park Addition to the city of Council Bluffs, Iowa.

The parties to this contract are the city of Council Bluffs, Iowa (city) and Robert and Ruth Bakken parties in interest, or owners of lots 5, 6, 7, 24, and 25, Block 1, Hannan Park Addition to the city of Council Bluffs, Iowa.

In consideration of approval, the city and owners agree and covenant that the following uses shall be permitted in the Bakken Commercial District:

1. Bakeries
2. Camera shops
3. Cigar stores
4. Clubs and lodges of an eleemosynary or philanthropic nature
5. Confectionery stores
6. Custom dressmaking and tailor shops
7. Dress shop
8. Hardware stores
9. Hat or millinery shops
10. Jewelry stores
11. Music stores
12. Plumbing, electrical, cabinet, carpenter, sign painting and upholstery shops
13. Bait and tackle shops, which means a retail business which has as its purpose to supply to boaters, or fishers, goods or services including but not limited to the sale of beer subject to acquisition of the proper permit, the sale of oil, and other lubricants for use in boats, the sale of groceries, and the sale of products ordinarily and customarily used by boaters and fishers.

The above terms shall mean the same as they are defined in Title 15, Council Bluffs Municipal Code.

The following uses shall be permitted as conditional uses upon the approval of the Council Bluffs Zoning Board of Adjustment:

1. Fish markets
2. Frozen food lockers

92 20354

COMPARED

Signage utilized in the Bakken Commercial District must be in compliance with Chapter 15.33 Signs, Chapter 3.10 Billboards and Bulletin Boards, and Chapter 3.53 Signs and Sign Structures of the Municipal Code of Council Bluffs, Iowa, as adopted and amended.

This district shall be considered one zoning lot. The minimum lot size for this district shall be as follows:

The minimum area shall be sixteen thousand square feet.

The minimum width at the front of the building line shall be eighty feet.

The minimum depth shall be one hundred sixty feet.

This district shall meet the following setback requirements:

The front setback shall be at least fifteen feet for principal structures. The sideyard setback shall be at least ten feet for principal structures. The sideyard setbacks for other than principal structures shall be at least five feet.

The following accessory structures may be located in a required front or side yard as long as said structures comply with all other applicable ordinances and resolutions: attached canopies, signs, parking, loading and unloading areas, and landscaping/screening. Other intrusions into required yards are permitted which comply with Section 15.20.040 of Title 15, Municipal Code of Council Bluffs.

In this district the maximum height of a building shall not exceed twenty-five (25) feet.

In this district buildings shall not occupy an area in excess of thirty (30%) percent of the total lot area upon which same is situated.

In this district, none of the adult entertainment activities as defined in Chapter 15.03, Municipal Code of Council Bluffs, and no taverns, fortune tellers, palm readers, spiritual mediums or seance centers shall be allowed.

In this district, unless waived by the abutting property owners, a fence shall be required on all sides of the property which abut residential uses. Another fence shall be required for any open storage area. Such a fence must block all view of

4-A

92 20355

COMPARED

the storage area at or beyond the property line. The fences shall be provided by one of the following methods:

1. A wood and/or masonry fence, at least fifty (50%) percent opaque, six feet in height.
2. A vegetation fence capable of providing a substantially opaque barrier and attaining a height of six feet within three years of planting.
3. Any combination of the described methods that achieves a cumulative height of six feet.

Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

Pursuant to section 414.5 Code of Iowa, the parties enter into this contract, and agree that the above conditions are imposed to satisfy public needs created by this change, and as outlined in section 414.3 Code of Iowa. Further, the parties agree that these conditions are reasonable.

Interpretations of this contract on the part of city officials shall be appealable to the Council Bluffs Zoning Board of Adjustment, and shall be conducted pursuant to chapter 15.24 Municipal Code of Council Bluffs, and Chapter 414, Code of Iowa.

This contract is subject to the approval of the City Council pursuant to chapter 414 Code of Iowa.

Dated this 14th day of NOVEMBER, 1991.

OWNERS:

CITY:

Robert E. Bakken

Robert Bakken

George Scott

George Scott 04/19/91
Director of Community Development

Ruth Bakken

Ruth Bakken

Robert L. Olson, 11/13/91

Asst City Atty

Chapter 15.14

C-1 COMMERCIAL DISTRICT

Sections:

- 15.14.010 Statement of intent
- 15.14.020 Principal uses
- 15.14.030 Conditional uses
- 15.14.040 Accessory uses
- 15.14.050 Site development regulations
- 15.14.060 Additional regulations
- 15.14.070 Signs

15.14.010 Statement of intent. The C-1 district is intended to provide for the development of retail, office, and minor commercial facilities adjacent to neighborhood residential areas. This district allows a large variety of commercial and service uses.

15.14.020 Principal uses. The following principal uses shall be permitted outright in a C-1 district:

01. Business, professional office
02. Business service establishment
03. Club or lodge
04. Commercial recreation (indoor)
05. Consumer service establishment
06. Cultural service
07. Financial service
08. General government use
09. Local utility service
10. Parks and recreation service
11. Religious assembly
12. Restaurant (limited)
13. Retail shopping establishment
14. School
15. Veterinary service

(Ord. #6092, Sec. 1, 7/26/10)

15.14.030 Conditional uses. The following conditional uses shall be permitted in a C-1 district, in accordance with the requirements set forth in Chapter 15.02
(Ord. #6092, Sec. 2, 7/26/10)

01. Automobile service establishment
02. Communication tower
03. Day care services
04. Restaurant (drive-in/fast food and general)

15.14.040 Accessory uses. The following accessory uses shall be permitted in a C-I district:

01. Uses of land or structure customarily incidental and subordinate to one of the principal uses in a C-I district, unless otherwise excluded.

15.14.050 Site development regulations

Minimum Lot size

Lot area: 5,000 square feet

Lot width: 50 feet

Lot depth 100 feet

Minimum Setbacks
Structure

Principal Structure

Accessory

Front yard: 20 feet 20 feet

Interior side yard: 5 feet 5 feet

Street side yard: 15 feet 15 feet

Rear yard: 20 feet 5 feet

Maximum height: 35 feet 18 feet

Lot coverage - all structures 50% maximum

15.14.060 Additional regulations

01. All business, service, repair, processing, storage, and merchandise display shall be conducted or located within an enclosed building, with the exception of off-street parking and loading areas, drive-in windows, and minor service for motor vehicles when accessory to a principal or approved conditional use.

15.14.070 Signs. Signage in this district shall comply with Chapter 15.33 "Signs".

(Ord. 5458, Sec. 1, 7/99)

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASE #ZC-18-008 LOCATION/ZONING MAP

Map Legend

- CASE #ZC-18-008 Subject Property
- Parcels

0 50 100
1 Inch = 100 Feet

2016 Aerial Photograph



Note: Subject properties are highlighted in red.



Last Amended: 5/18/18



Council Bluffs Community
Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328-4629

DISCLAIMER

This map is for informational purposes only and does not constitute a legal document. It is based on the best available information and is subject to change without notice. The City of Council Bluffs is not responsible for any errors or omissions on this map. Users of this map should consult with a professional surveyor or attorney for legal advice.



NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a Public Hearing on an ordinance to amend the zoning map as adopted by reference in Section 15.02.070, by rezoning property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park, City of Council Bluffs, Pottawattamie County, Iowa from BC/Bakken Commercial District to C-1/Commercial District.

You are further notified that the Public Hearing on said matters will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 9th day of July, 2018, in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.

Jodi Quakenbush, City Clerk

ORDINANCE NO. 6338

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.070 OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REZONING PROPERTY LEGALLY DESCRIBED AS LOT 24 AND LOT 25, EXCEPT THE NORTH 10 FEET THEREOF, ALL IN BLOCK 1, HANNAN PARK FROM BC/BAKKEN COMMERCIAL DISTRICT TO C-1/ COMMERCIAL DISTRICT AS DEFINED IN CHAPTER 15.14 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.070 of the 2015 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by repealing the BC/Bakken Commercial District contract zoning approved by Ordinance No. 5064 on property legally described as Lot 24 and Lot 25, except the North 10 feet thereof, all in Block 1, Hannan Park and by rezoning said property to C-1/ Commercial District.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND _____ 2018
APPROVED

MATTHEW J. WALSH Mayor

Attest:

JODI QUAKENBUSH City Clerk

First Consideration: 6-25-18

Second Consideration: 7-9-18

Public Hearing: 7-9-18

Third Consideration:

Planning Case No. #ZC-18-008

Council Communication

Department: Community Development
Case/Project No.: SAV-18-010
Submitted by: Chris Meeks

Resolution 18-214

Council Action: 7/9/2018

Description

Resolution to vacate and dispose of the East/West alley in Block 31, Fleming and Davis Addition. Location: Lying south of 14th Avenue between South 15th and South 16th Streets. SAV-18-010

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
SAV-18-010 JLS Investments, LLC Staff Report Including Attach A and B (7-9-18) CC	Other	6/28/2018
Resolution 18-214	Resolution	7/2/2018

Council Communication

Department: Community Development	Resolution of Intent No. _____	City Council: 06/25/18
Case #SAV-18-010	Resolution to Dispose No. _____	Public Hearing: 07/09/18
Applicant: JLS Investments, LLC Attn: Matt Sain 1401 S. 16 th Street Council Bluffs, IA 51501		Planning Commission: 06/12/18

Subject/Title

Request: Public hearing on the request of JLS Investments, LLC, represented by Matt Sain, to vacate and dispose of the east/west alley located in Block 31, Fleming and Davis Addition.

Location: Lying south of 14th Avenue between South 15th and South 16th Streets.

Background

The Community Development Department has received an application from JLS Investments, LLC, represented by Matt Sain, to vacate and dispose of a section of undeveloped east/west alleyway running between South 16th Street and the undeveloped South 15th Street, as is platted in Block 31, Fleming and Davis Addition. The subject alleyway is unimproved. The applicant wishes to acquire their portion of alleyway to allow them the additional setback space required for a future expansion of their building.

The following attachments have been included for reference:

Attachment A: Location and Zoning Map

Attachment B: Site Photos

On August 25, 2003 the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations*. The objectives of the amended Policy are as follows:

1. *To provide due process and citizen participation in the application and review process for vacations.*

There are four separate property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:

North – Commercial Building owned by JLS Investments, LLC (1401 S. 16th Street)

South – Single Family Dwelling owned by Jason D. Hannah (1508 15th Avenue)

Single Family Dwelling owned by Rosa D. Orellana (1512 15th Avenue)

Single Family Dwelling owned by Edwin A. Atherton III (1516 15th Avenue)

Single Family Dwelling owned by Gregory J. Smith Jr. (1520 15th Avenue)

All abutting property owners were mailed petitions asking if they are in favor of/opposed to and/or willing to/not willing to acquire the portion of the alley that abuts their property, if vacated. Responses to these petitions are summarized in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access.*

Access to the adjacent properties will not be changing as a result of this vacation.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.* This request is to vacate the entirety of the alley.
4. *To reduce or eliminate hazardous and dangerous traffic conditions.* The subject right-of-way is unimproved and is not used for vehicular and/or pedestrian traffic.
5. *To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.*

All City Departments and utilities were notified of the request. The following responses were received:

- Public Works Department stated they have no infrastructure within the subject right-of-way.
- The Fire Marshall stated he has no comments.
- Council Bluffs Water Works stated they have no utilities in the subject alleyway.
- MidAmerican Energy stated they have no objections to the proposed vacation, though they have existing overhead facilities, so a utility easement must remain.

Based on the information above, if vacated, a utility easement over said right-of-way will be retained.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* Not applicable.
7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* This request is to vacate the entirety of the alleyway.
8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request is consistent with the local access and circulation objectives stated in Chapter 6, Transportation of the Bluffs Tomorrow: 2030 Plan (comprehensive plan).
9. *To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments.* Not applicable.
10. *To establish an equitable price for surplus public property.* All abutting property owners were notified about this vacation request. The following responses were received:
 - Rosa D. Orellana, who owns the property addressed as 1512 15th Avenue, stated she is in favor of the request and willing to acquire her portion of right-of-way.
 - Erwin Atherton, who owns the property addressed as 1516 15th Avenue, stated he is in favor of the request and willing to acquire his portion of right-of-way.
 - JLS Investments, who own property addressed as 1401 S. 16th Street, stated they are in favor of the request and willing to acquire their portion of right-of-way.

Recommendation

The Community Development Department recommends approval of the request to vacate and dispose of the east/west alley located in Block 31, Fleming and Davis Addition, with the owners of 1512 15th Avenue and 1516 15th Avenue each acquiring the southern ½ of the former alleyway adjacent to their property, and JLS Investments acquiring the remainder. The approval is subject to the following conditions:

1. A permanent utility easement will be maintained over the entirety of the former right-of-way.

Public Hearing

Speakers in favor:

1. Christopher Gibbons, Community Development Department, presented the request on behalf of the applicant.

Speakers against: None

Planning Commission Recommendation

The Planning Commission recommends approval of the request to vacate and dispose of the east/west alley located in Block 31, Fleming and Davis Addition, with the owners of 1512 15th Avenue and 1516 15th Avenue each acquiring the southern ½ of the former alleyway adjacent to their property, and JLS Investments acquiring the remainder. The approval is subject to the following conditions:

1. A permanent utility easement will be maintained over the entirety of the former right-of-way.

VOTE: AYE 6 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 4 Motion: Carried

Attachment A – Location and Zoning Map

Attachment B – Site Photos

Prepared By: Chris Meeks, Planner, Community Development Department

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASE #SAV-18-010 LOCATION AND ZONING MAP



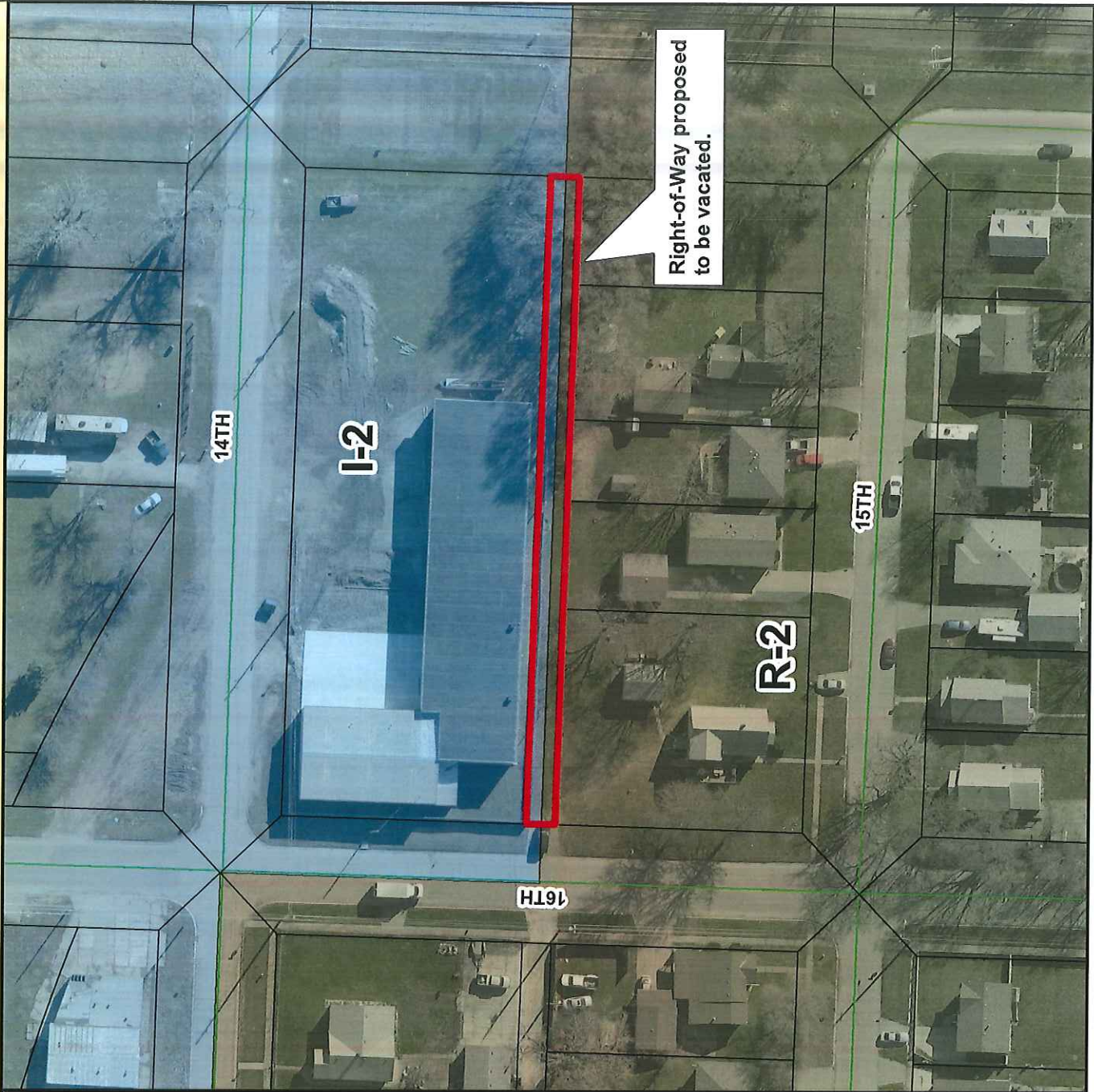
0 40 80
1 Inch = 86 Feet



Last Amended: 5/18/18

**Council Bluffs Community
Development Department**
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328.4629

DISCLAIMER
This map is prepared and compiled from City documents, data and other public information. The City does not warrant, nor does it accept any liability for, the accuracy or completeness of the information contained herein. The City assumes no responsibility for any errors or omissions in this map. The user of this map is advised to verify the accuracy of the information contained herein before using it for any purpose.



Attachment B:

Site Photos



Above: Aerial Photo of subject alleyway. Approximate location of alleyway is highlighted in red.

Below: Ground level photo of subject alleyway (from Google Street View).



Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 - Phone: 890-5261
Prepared by: Community Development Dept., Co. Bluffs, IA 51503 - Phone: 328-4629

RESOLUTION NO 18-214

A RESOLUTION TO VACATE AND DISPOSE OF THE EAST/WEST ALLEY IN BLOCK 31, FLEMING AND DAVIS ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

- WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: The East/West Alley that is platted as a part of Block 31, Fleming and Davis Addition, extending from the East right-of-way line of South 16th Street to the West right-of-way line of the unimproved South 15th Street is of no benefit to the public and should be vacated; and
- WHEREAS, the subject right-of-way is unimproved but does have known utilities located within in it; and
- WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s); and
- WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the above-described city right-of-way is hereby vacated and conveyed as follows:

JLS Investments, LLC and all successors in interest: The North ½ of the vacated alley adjacent to Lots 1-12, as well as the South ½ of the vacated alley adjacent to Lots 13-16, the East ½ of Lot 17, and Lots 21-24, all in Block 31, Fleming and Davis Addition.

Rosa D. Orellana and all successors in interest: The South ½ of the vacated alley adjacent to Lot 18 and the West ½ of Lot 17, Block 31, Fleming and Davis Addition.

Edwin A. Atherton III and all successors in interest: The South ½ of the vacated alley adjacent to Lots 19 and 20, Block 31, Fleming and Davis Addition.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described right-of-way; and

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED
AND
APPROVED:

July 9, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Matthew J. Walsh and Jodi Quakenbush, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Matthew J. Walsh and said Jodi Quakenbush, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

Council Communication

Department: Community Development
Case/Project No.: OTB-18-022
Submitted by: Chris Meeks

Resolution 18-215

Council Action: 7/9/2018

Description

Resolution to dispose of City property legally described as Lot 18, Nash Subdivision Replat 1. Location: Property is located on Avenue M Way. OTB-18-022

Background/Discussion

See attachment.

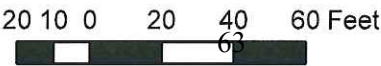
Recommendation

ATTACHMENTS:

Description	Type	Upload Date
OTB-18-022 Santacruz USA Builders Staff Report Including Map (7-9-18) CC	Other	6/28/2018
Resolution 18-215	Resolution	7/2/2018

Council Communication

Department: Community Development CASE #OTB-18-022 Applicant: USA Builders, LLC Attn: Miguel Santacruz 2423 S. 8 th Street Council Bluffs, IA 51501	Resolution to Dispose No. _____	Public Hearing: 7/9/2018
Subject/Title		
Request of USA Builders LLC, represented by Miguel Santacruz, to purchase property legally described as Lot 18, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa. The property is located on Avenue M Way.		
Background/Discussion		
The City has received an offer to purchase the property described above. The property is classified as 'transitional dispose' and 'buildable'. According to the adopted policy of April 23, 2018, the property should be priced at the appraised value or the amount most recently established by the Pottawattamie County Assessor. The applicant has offered \$20,500 to be paid within 8 months to purchase the property.		
The applicant has indicated he intends to build a single family home on the lot within two years.		
Recommendation		
The Community Development Department recommends disposing of the property legally described as Lot 19, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, to USA Builders, LLC, for the purchase price of \$20,500.00.		
Attachment: Location map. Prepared By: Chris Meeks, Planner, Community Development Department		



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 890-5261

RESOLUTION NO. 18-215

A RESOLUTION TO DISPOSE OF CITY PROPERTY LEGALLY DESCRIBED AS LOT 18, NASH SUBDIVISION REPLAT 1, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the City has previously expressed its intent to dispose of property legally described as Lot 18, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, and;

WHEREAS, a public hearing was held for this matter on June 25, 2018 at 7:00 p.m.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and City Clerk be and are hereby authorized, empowered and directed to execute a quit claim deed conveying the City's interest in the above-described property as follows:

USA Builders, LLC and all successors in interest: Lot 18, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, and;

BE IT FURTHER RESOLVED

That the purchase price be \$20,500.00, to be paid in cash due at closing which must occur within 8 months from the date of approval.

ADOPTED
AND
APPROVED:

July 9, 2018

Matthew J. Walsh Mayor

ATTEST: _____
Jodi Quakenbush City Clerk

Council Communication

Department: Community Development
Case/Project No.: OTB-18-023
Submitted by: Chris Meeks

Resolution 18-216

Council Action: 7/9/2018

Description

Resolution to dispose of City property legally described as Lot 19, Nash Subdivision Replat 1. Location: Property is located on Avenue M Way. OTB-18-023

Background/Discussion

See attachment.

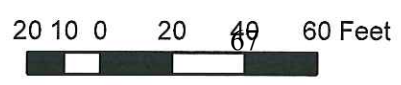
Recommendation

ATTACHMENTS:

Description	Type	Upload Date
OTB-18-023 Santacrus USA Builders Staff Report Including Map (7-9-18) CC	Other	6/28/2018
Resolution 18-216	Resolution	7/10/2018

Council Communication

Department: Community Development CASE #OTB-18-023 Applicant: USA Builders, LLC Attn: Miguel Santacruz 2423 S. 8 th Street Council Bluffs, IA 51501	Resolution to Dispose No. _____	Public Hearing: 7/9/2018
Subject/Title		
Request of USA Builders, LLC, represented by Miguel Santacruz, to purchase property legally described as Lot 19, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa. The property is located on Avenue M Way.		
Background/Discussion		
<p>The City has received an offer to purchase the property described above. The property is classified as 'transitional dispose' and 'buildable'. According to the adopted policy of April 23, 2018, the property should be priced at the appraised value or the amount most recently established by the Pottawattamie County Assessor. The applicant has offered \$20,500 to be paid within 6 months to purchase the property.</p> <p>The applicant has indicated he intends to build a single family home on the lot within two years.</p>		
Recommendation		
The Community Development Department recommends disposing of the property legally described as Lot 19, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, to USA Builders, LLC, for the purchase price of \$20,500.00.		
Attachment: Location map. Prepared By: Chris Meeks, Planner, Community Development Department		



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 890-5261

RESOLUTION NO. 18-216

A RESOLUTION TO DISPOSE OF CITY PROPERTY LEGALLY DESCRIBED AS LOT 19, NASH SUBDIVISION REPLAT 1, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the City has previously expressed its intent to dispose of property legally described as Lot 18, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, and;

WHEREAS, a public hearing was held for this matter on July 9, 2018 at 7:00 p.m.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and City Clerk be and are hereby authorized, empowered and directed to execute a quit claim deed conveying the City's interest in the above-described property as follows:

USA Builders, LLC and all successors in interest: Lot 19, Nash Subdivision Replat 1, City of Council Bluffs, Pottawattamie County, Iowa, and;

BE IT FURTHER RESOLVED

That the purchase price be \$20,500.00, to be paid in cash due at closing which must occur within 8 months from the date of approval.

ADOPTED
AND
APPROVED:

July 9, 2018

Matthew J. Walsh Mayor

ATTEST: _____
Jodi Quakenbush City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.: PW19-20
Submitted by: Matthew Cox, City Engineer

Resolution 18-217

Council Action: 7/9/2018

Description

Resolution approving the authorization for right-of-way in connection with the West Broadway Reconstruction, Segment 3. Project # PW19-20

Background/Discussion

West Broadway is a major arterial street and critical to the City's roadway network. It serves as a significant commercial corridor and commuter route and its reconstruction is an essential part of the economic redevelopment plan for the west end of Council Bluffs. There is also a strong community desire to enhance the aesthetics of the corridor and to create a connection between the River's Edge development and downtown Council Bluffs.

The City has assumed responsibility of West Broadway from the Iowa DOT. The transfer of jurisdiction of the roadway formerly designated as US 6, included payments totaling \$20 million from Iowa DOT.

Segment 1 of the reconstruction project from 36th Street to 33rd Street is now substantially complete.

Segment 2 continues the reconstruction from 33rd Street to 28th Street and is now underway.

The Segment 3 project will reconstruct West Broadway from approximately 150 feet east of 28th Street to approximately 150 feet west of 24th Street. It will include the replacement of pavement, traffic signals, street lights, sidewalks, and storm sewer. Streetscape features consistent with the Corridor Master Plan will also be incorporated. Construction is planned for 2019.

New right-of-way will be required at intersection locations to accommodate new sidewalks, ADA compliant curb ramps, traffic signal poles and streetscape elements.

This project was included in the FY19 CIP with a budget of \$6,800,000. The Segment 3 project budget consists of \$4,000,000 in IDOT funding, \$1,635,000 in Sales Tax funds, \$403,000 in GO Bonds, and funding for the streetscape amenities provided by the Iowa West Foundation.

Recommendation

Approval of this resolution.

ATTACHMENTS:

Description	Type	Upload Date
Resolution 18-217	Resolution	7/2/2018

R E S O L U T I O N
NO 18-217

**RESOLUTION APPROVING THE
AUTHORIZATION OF THE RIGHT-OF-WAY PROCESS
IN CONNECTION WITH THE
WEST BROADWAY RECONSTRUCTION, SEGMENT 3
PROJECT #PW19-20**

- WHEREAS, the city wishes to make improvements known as the West Broadway Reconstruction, Segment 3 within the city, as therein described; and
- WHEREAS, right-of-way acquisition is required for the construction and maintenance of said improvements; and
- WHEREAS, the City will negotiate with property owners in accordance with State and Federal regulations in order to secure the necessary right-of-way and easements for the project; and
- WHEREAS, a notice of Public Hearing was published as required by law, and a public hearing was held on July 9, 2018.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the authorization for the right-of-way process is approved for the West Broadway Reconstruction, Segment 3 project.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues.

**ADOPTED
AND
APPROVED**

July 9, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by: Legal Department

Ordinance 6339

Council Action: 7/9/2018

Description

An ordinance to amend Title 9 "Traffic" by amending "Chapter 9.32.255 - Angle Parking."

Background/Discussion

CURRENT ORDINANCE

9.32.255 - Angle parking.

The traffic engineer may designate certain streets or portions thereof upon which angle parking may be permitted. Upon those streets which have been so designated and marked or signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks or signs.

PROPOSED ORDINANCE

9.32.255 - Angle parking.

The traffic engineer may designate certain streets or portions thereof upon which angle parking may be permitted

(A) The initiation of back-in angle parking at any location is prohibited except at the following locations:

- (1) South 4th Street, on the east side, from First Avenue to West Broadway.
- (2) Playland Park, 2 N 40th Street.

(B) When signs are erected giving notice thereof, no person shall park a vehicle in any parking space designated for back-in angle parking except by positioning their vehicle entirely within the marked space, with the rear of the vehicle to the curb side of the street and the front of the vehicle to the traveled lanes of the street.

(C) A person who violates any provision of this section shall pay a fine of \$15.00.

Recommendation

Approval of this Ordinance.

ATTACHMENTS:

Description

[6339](#)

Type

Ordinance

Upload Date

6/26/2018

ORDINANCE NO. 6339

AN ORDINANCE TO AMEND TITLE 9 “TRAFFIC” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING “CHAPTER 9.32.255 – ANGLE PARKING”.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 9 “Traffic” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended “Chapter 9.32.255 – Angle Parking” to read as follows:

9.32.255 - Angle parking.

The traffic engineer may designate certain streets or portions thereof upon which angle parking may be permitted

(A) The initiation of back-in angle parking at any location is prohibited except at the following locations:

- (1) South 4th Street, on the east side, from First Avenue to West Broadway.
- (2) Playland Park, 2 N 40th Street.

Additional locations for back-in angle parking may be established at the discretion of the City’s traffic engineer, who shall maintain the official records of where back-in angle parking is permitted. All such locations shall be properly marked and signed in a manner to provide reasonable notice to the motoring public.

(B) When signs are erected giving notice thereof, no person shall park a vehicle in any parking space designated for back-in angle parking except by positioning their vehicle entirely within the marked space, with the rear of the vehicle to the curb side of the street and the front of the vehicle to the traveled lanes of the street.

(C) A person who violates any provision of this section shall pay a fine of \$15.00.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND _____, 2018.
APPROVED

MATTHEW J. WALSH Mayor

Attest:

JODI QUAKENBUSH City Clerk

First Consideration: 6-25-18
Second Consideration: 7-9-18
Public Hearing: n/a
Third Consideration: _____

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by: Legal Department

Resolution 18-208 (Continued from 6-25-18)

Council Action: 7/9/2018

Description

Resolution authorizing the Mayor to execute the document entitled "Management Agreement between the City of Council Bluffs, Iowa and Harrah's Iowa Arena Management, LLC".

Background/Discussion

Since taking over the management of the MAC Caesars has brought the losses of the facility to a much more manageable level. In its first ten years of operations, it was not uncommon to have an annual loss in excess of \$700,000. In our initial agreement with Caesars we established a loss of \$700,000 as the threshold they would have to meet before they would earn any management fee. They have continued to grow the business on the convention center side to help make up for the shortcomings on the arena side. So much so that in the current fiscal year after 11 months the facility is at a loss of \$12,810. Last year at this point, we were looking at a loss of \$316,563 but that seems to be due to an anomaly (some shows had to be canceled), in that in the year prior to that at this point we were looking at a loss of \$32,104.

In our negotiations with Caesars this year we have made some edits so that the agreement more closely reflects what have become the practice, and in some cases have opted to change the practice to more closely reflect the language in the agreement.

The office of the Mayor, Finance Department and the Legal Department have all been involved in the review of this document and we do jointly recommend its approval by the City Council.

Recommendation

Approval of this Resolution.

ATTACHMENTS:

Description

[Management Agreement](#)
[marked up copy](#)
[2012 agreement](#)
[Resolution 18-208](#)

Type

Other
Agreement
Agreement
Resolution

Upload Date

6/15/2018
7/3/2018
7/3/2018
7/2/2018

MANAGEMENT AGREEMENT
BETWEEN
THE CITY OF COUNCIL BLUFFS, IOWA
AND
HARRAH'S IOWA ARENA MANAGEMENT, LLC
Dated as of _____

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") dated as of the ____ day of _____, 2018, by and between the City of Council Bluffs, Iowa, a municipal corporation organized and existing pursuant to Chapter 372 of The Code of the State of Iowa (the "City"), and HARRAH'S IOWA ARENA MANAGEMENT, LLC, a Delaware limited liability company whose current address is One Caesar's Palace, Las Vegas, Nevada 89109 ("Operator")

BACKGROUND

The City is the owner of a recreation and convention complex, consisting of an arena, an attached fieldhouse/exhibit hall, an attached ballroom and kitchen ("Ballroom and Kitchen Facilities"), and associated parking facilities including adjacent public areas surrounding the retail space as more specifically depicted on Exhibit A (collectively, the "Facility") located in the City of Council Bluffs, Iowa.

Operator and its Affiliates are engaged in the business of providing management services, including operations and marketing services, for food and beverage outlets and entertainment facilities.

The City desires to engage Operator, and Operator desires to accept such engagement, to provide management services for the Facility on the terms and conditions set forth herein.

The City intends to work in mutual accord with Operator in order to ensure provision of high quality management services, thereby enhancing the use and enjoyment of the Facility.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

For purposes of this Agreement, the following terms have the meanings referred to in this Section 1:

"ADA" – as defined in Section 8.1(b) of this Agreement.

"Affiliate" - a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person. For purposes of this definition, "control" means ownership of equity securities or other ownership interests which represent more than 40% of the voting power in the controlled person.

"Approved Budget" - any budget submitted by Operator, as approved by the City pursuant to Section 5 hereof.

"Operator" – as defined in the first paragraph of this Agreement.

"Operator Customer Data" means any customer lists developed by Operator and its Affiliates and any information or data affirmatively provided by guests and customers of the any facilities owned or managed by Operator or its Affiliates, such as forms filled out upon arrival or in customer preference questionnaires during such guests' and customers' stay or visit, including, but not limited to: (a) player information or other gaming related information generated by or at facilities operated or managed by Operator or its Affiliates; (b) any information gathered, generated or extrapolated as part of or residing within the Total Rewards System or from any other player or customer loyalty program; and (c) any information originating from facilities owned or operated Operator or is Affiliates;.

"Capital Equipment" - any and all furniture, fixtures, machinery or equipment, either additional or replacement, having a per item original cost of \$5,000 or more or an expected useful life of more than one year.

"Capital Improvements" - any and all building additions, alterations, renovations, repairs or improvements that have an initial dollar cost of not less than \$5,000 per project.

"Cash Flow Budget" - An annual cash flow budget setting forth the projected cash flow of the Facility.

"Centralized Services" – as defined in Section 2.6(a).

"Centralized Services Charges" – as defined in Section 2.6(b).

"City" - as defined in this first paragraph of this Agreement.

"City Council" - the Council Bluffs, Iowa City Council.

"Confidential Information" – as defined in Section 2.5(c).

"Event Expenses" - any and all expenses incurred or payments made by Operator in connection with the occurrence of events at the Facility, including but not limited to costs for event staffing including ushers, ticket takers, security and other event staff, and costs relating to setup and cleanup.

"Facility" - as defined in the first paragraph of the Background section of this Agreement.

"Fiscal Year" - a one year period beginning July 1 and ending June 30.

"Food Services" – all sales of food and beverages at the Facility including, without limitation, (i) all food and beverage sales from permanent or portable concessions stands or roving vendors to individual customers, (ii) all food and beverage sales of brand name products for which a franchise or royalty payment is required to be paid to a third party; (iii) all food and beverage sales from permanent or portable concession stands, bars, food stations or in-seat servers to individual customers in the Club Lounge or Club Seating Areas; (iv) all food and beverage catering sales, and (v) all food and beverage sales in the Facility's suites. The definition of Food Service shall exclude any sales from vending machines.

"Laws" – as defined in Section 11.2 of this Agreement.

"Losses" – as defined in Section 8.1(a) of this Agreement.

"Management Fee" – the management fee payable to Operator pursuant to Section 4.1 below.

"Management Term" – as defined in Section 3.1 of this Agreement.

"Mayor" - the Mayor of the City of Council Bluffs, Iowa or the Mayor's written designee.

"Necessary Unforeseen Expenses" shall mean expenses, which could not reasonably be foreseen by Operator or are in excess of amounts that Operator could reasonably have anticipated at the time of completion of the then-applicable Approved Budgets to fund (a) real estate taxes, assessments and utility charges, (b) insurance premiums and associated deductibles or retentions for the insurance required under Section 8, (c) expenses incidental to compliance with any final court orders, judgments or other legal proceedings and all costs and expenses related thereto, (d) other immediately necessary expenditures and additions or modifications to the Facility to comply with applicable laws, rules or regulations, or (e) subject to Section 5.10, an expense which is reasonably necessary in connection with an emergency condition. Necessary Unforeseen Expenses exclude expenses incurred as a result of the gross negligence or misconduct on the part of Operator.

"Net Operating Loss/Profit - with respect to a Fiscal Year, the excess, if any, of Operating Expenses for such Fiscal Year over Operating Revenues for such Fiscal Year, in the case of a loss, and the excess, if any, of Operating Revenues for such Fiscal Year over Operating Expenses for such Fiscal Year, in the case of a profit. To the extent not inconsistent with the prior practice in the management of the Facility prior to the date hereof, accrual basis accounting as defined by the Financial Accounting Standards Board shall be used to determine Net Operating Loss/Profit.

"NOL Threshold" – a Net Operating Loss of \$700,000.00.

"Operating Account(s)" – as defined in Section 5.6 hereof.

"Operating Budget" - An annual operating budget projecting the Operating Revenues and Operating Expenses to meet the scope of services and objectives under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected Net Operating Loss/Profit.

"Operating Expenses" - (a) any and all expenses and expenditures of whatever kind or nature incurred, directly or indirectly, by Operator in promoting, operating, maintaining and managing the Facility, including, but not limited to: employee compensation and related expenses (e.g., base salaries, bonuses, severance and car allowances), employee benefits and related costs (e.g., parking and other fringe benefits), supplies, material and parts costs, costs of any interns and independent contractors, advertising, marketing and public relations costs and

commissions, janitorial and cleaning expenses, data processing costs, dues, subscriptions and membership costs, the costs of procuring and maintaining the insurance and fidelity bonds referred to in Section 8 below, amounts expended to procure and maintain permits and licenses, charges, taxes, excises, penalties and fees, professional fees, printing and stationery costs, Event Expenses, Centralized Services Charges, expenses related to Food Services, postage and freight costs, equipment rental costs, computer equipment leases and line charges, repairs and maintenance costs (e.g., elevators and HVAC), security expenses, utility and telephone charges, travel and entertainment expenses in accordance with Operator's policies, the cost of employee uniforms, safety and medical expenses, exterminator and waste disposal costs, costs relating to the maintenance of signage inventory and systems, the cost of annual independent audits of the Facility, the cost of compliance with laws and regulations, other start-up expenses associated with the opening of a Facility, and costs incurred under agreements, commitments, licenses and contracts executed in Operator's name (or in Operator's name as agent of the City) as provided in Section 2.3(b) hereof, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis; provided that Operating Expenses shall not include expenses or expenditures in connection with Capital Improvements and Capital Equipment purchases. Management fees are not to be considered as part of the operating expenses.

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit and Operator Management Fee hereunder, and (ii) identifying Operating Expenses which will be budgeted in Approved Budgets, Operating Expenses shall exclude (A) Event Expenses which are deducted from the gross receipts of all event activities at the Facility (in accordance with the last sentence in the definition of Operating Revenues), and (B) all extraordinary expenses and all interest, income tax, depreciation and amortization expenses.

"Operating Revenues" - (a) any and all revenues of every kind or nature derived from operating, managing or promoting the Facility, including, but not limited to: license, lease and concession fees, permanent or temporary space rentals, event services revenues, premium seating and suite revenues, revenues from merchandise sales, advertising sales, Food Services, equipment rentals, utility revenues, box office revenues, parking revenues, food service and concession revenues (however, if such revenues are collected in the first instance by and retained by the concessionaire, the amount of such revenues paid by the concessionaire to the Facility shall be included as Operating Revenues), commissions or other revenues from decoration and set-up, security and other subcontractors (however, if such revenues are collected in the first instance by and retained by such subcontractors, the amount of such revenues paid by such contractors to the Facility shall be included as Operating Revenues), miscellaneous operating revenues, revenues generated from separate agreements with Operator Affiliates pertaining to the Facility, and interest revenues, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis. For the sake of clarity, the parties acknowledge that revenues from the sale of tickets for events at the Facility are not Operating Revenues, but are instead revenues of the promoter and/or performer of each such event. To the extent that Operator collects such ticket sale revenue on behalf of such promoter and/or performer, such ticket sale revenue shall be the source of funds from which Operator collects the rental charges and other event reimbursements due by such promoter and/or performer for use of the Facility, which such charges and reimbursements are Operating Revenues hereunder.

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit, (ii) identifying Operating Revenues which will be budgeted in Approved Budgets, and (iii) calculating Operator Management Fee hereunder, Operating Revenues from all event activity at the Facility will be calculated to encompass the gross receipts from each such event, less Event Expenses.

"Pre-Existing Agreement" – each contract, license, agreement, option, lease and commitment existing as of the date of this Agreement that grants any person or entity any right (i) to license, use, occupy or rent all or any portion of the Facility, or (ii) to provide services to be used in the management, operation, use, possession, occupation, maintenance, promotion or marketing of all or any portion of the Facility (including the Tenant Agreement with the Lancers Hockey Team), and that have been provided to Operator.

"Renewal Term" - - the five-year period immediately following the Management Term, for which this Agreement may be renewed in accordance with Section 3.1 hereof beyond the Management Term.

"Systems" - - all computer hardware, software (commercial or custom), peripherals, technology products, operational systems, including, without limitation, telephone systems, HVAC systems, elevator and escalator systems, security systems and all other automated systems and equipment, and all components of any of the foregoing.

"Third-Party Centralized Services" - as defined in Section 2.6(a).

"Total Rewards System" means the Total Rewards® customer loyalty program as implemented from time to time by Operator or its Affiliates or such other replacement loyalty rewards program as may be implemented by Operator or its Affiliates from time to time in its discretion.

2. Engagement of Operator Scope of Services.

2.1 Engagement.

(a) General Scope. The City hereby engages Operator to promote, operate and manage the Facility during the Management Term and the Renewal Term, if any, upon the terms and conditions hereinafter set forth, and Operator hereby accepts such engagement.

(b) Managing Agent for the Facility. Subject to the terms of this Agreement, Operator shall be the sole and exclusive managing agent of the City to manage, operate and promote the Facility during the Management Term and the Renewal Term, if any. Operator shall have exclusive authority over the day-to-day operation of the Facility and all activities therein; provided that Operator shall follow all policies and guidelines of the City hereafter established or modified by the City that the City notifies Operator in writing are applicable to the Facility (including without limitation any methodology pertaining to the allocation of any costs and expenses by the City to the Facility as permitted herein); provided further that to the extent that such policies or guidelines hereafter established or modified by the City adversely affect revenues or expenses at the Facility, then and in that event, the Operating Revenue and Net Operating Loss/Profit benchmarks used in determining the Management Fee or set forth in any

Approved Budget, as appropriate, shall be correspondingly adjusted so that they reflect the additional costs or reduced revenues resulting from such established or modified policies or guidelines and provided that no change to the City's policies or guidelines shall be permitted to modify the term, renewal rights, economic provisions, the authority of Operator or any other material business term hereunder.

2.2 Scope of Services - - Generally.

Operator shall perform and furnish such management services and systems as are appropriate or necessary to operate, manage and promote the Facility in a manner consistent with Operator's policies and procedures and the operations of other similar facilities. Operator's management shall include the operation of the Ballroom and Kitchen Facilities and the Food Services at the Facility.

2.3 Specific Services.

Without limiting the generality of the foregoing, Operator shall have, without (except as otherwise expressly noted below) any prior approval by the City, sole right and authority to:

(a) subject to the City's right of approval set forth in Section 7.1(b) below, employ, supervise and direct employees and personnel consistent with the provisions of this Agreement;

(b) negotiate, execute as agent for the City in the City's name (unless otherwise agreed to by the parties), deliver and administer any and all licenses, occupancy agreements, rental agreements, booking commitments, advertising agreements (to the extent so requested by the City), concession agreements, supplier agreements, service contracts (including, without limitation, contracts for cleaning, decorating and set-up, snow removal, general maintenance and maintenance and inspection of HVAC systems, elevators, stage equipment, fire control panel and other safety equipment, staffing and personnel needs, including guards and ushers, and other services which are necessary or appropriate), all contracts and agreements for the Centralized Services and all other contracts and agreements in connection with the management, promotion and operation of the Facility, provided that if any such license, agreement, commitment or contract other than those involving the license, lease or rental of the Facility in the ordinary course has a term that extends beyond the remaining Management Term or Renewal Term, as the case may be, such license, agreement, commitment or contract shall be approved and executed by the City (which approval shall not be unreasonably withheld). Without limiting the foregoing, subject to Section 13.1 hereof, Operator shall have exclusive right to book events at the Facility; provided, however, Operator shall use its best efforts and judgment so as not to book an event that it believes will offend the community of Council Bluffs and its immediately surrounding areas;

(c) to the extent that Operating Revenues or funds supplied by the City are made available therefor, maintain the Facility in the condition received, reasonable wear and tear excepted; provided that the City shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases as provided in Section 5.8;

(d) to the extent that Operating Revenues or funds supplied by the City are made available therefor, rent, lease or purchase all equipment and maintenance supplies necessary or appropriate for the operation and maintenance of the Facility, provided that the City shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases pursuant to Section 5.8;

(e) establish and adjust prices, rates and rate schedules for the aforesaid licenses, agreements and contracts and any other commitments relating to the Facility to be negotiated by Operator in the course of its management, operation and promotion of the Facility subject to Section 13.1 hereof. In determining such prices and rate schedules, Operator shall evaluate comparable charges for similar goods and services at similar and/or competing facilities, shall consult with the Council Bluffs Arena Commission about any adjustments to the rate schedules at the Facility to be made by Operator, and shall utilize the recommended and approved policies of the City;

(f) pay, when due, on behalf of the City, all Operating Expenses from accounts established pursuant to Sections 5.6 and 5.7 of this Agreement;

(g) after consultation with the City Attorney or his designee, institute as agent for the City and at the reasonable expense of the City, with counsel selected by Operator, such legal actions or proceedings as Operator shall deem necessary or appropriate in connection with the operation of the Facility, including, without limitation, to collect charges, rents or other revenues due to the City or to cancel, terminate or sue for damages under, any license, use, advertisement or concession agreement for the breach thereof or default thereunder by any licensee, user, advertiser, or concessionaire at the Facility;

(h) maintain a master set of all booking records and schedules for the Facility;

(i) provide day-to-day administrative services in support of its management activities pursuant to Approved Budgets and annual plans described herein, including, but not limited to, the acquisition of services, equipment, supplies and facilities; internal budgeting and accounting; maintenance and property management; personnel management; record-keeping; collections and billing; and similar services; and

(j) to cause the Facility to participate in the Total Rewards Systems such that admission, tickets, goods and/or services available at the Facility shall be available under the Total Rewards System on such terms as shall be reasonably determined by Operator consistent with the general terms, conditions and operations of the Total Rewards System;

(k) subject to the Approved Budget and any general marketing plan contained in the Annual Plan as approved by the City, engage in such advertising, solicitation, and promotional activities as Operator deems necessary or appropriate to develop the potential of the Facility and the cultivation of broad community support (including without limitation and if applicable, selling advertising inventory and securing product rights for the Facility). Operator shall work with the City's Convention Bureau to market the Facility for conventions, trade shows and public entertainment shows. In connection with its activities under this Agreement, including without limitation and if applicable, advertising relating to the Facility, Operator shall

be permitted to use the terms "Mid-America Center" or "MAC", or such other name agreed to by the City and logos for such names in its advertising, subject to the approval of the Mayor; provided, however, no trademarks or trade names associated with, used, owned or licensed by Operator or its Affiliates shall be used to promote or operate facility (other than identifying Operator as manager as may be necessary) unless and until approved by Operator and the City, each in their sole discretion, and subject to such license agreements as Operator shall require in connection therewith.

(l) Maintenance, operation and repairs to all buildings and grounds are to be accomplished by the Operator. Systems and assets included for maintenance and repair include all architectural, civil, electrical, mechanical and structural features. Documentation of all maintenance and repairs to these systems must be provided to the City's Public Works Department utilizing the City's Work Order and Asset Management System or by another method approved by the City. All Capital Improvements or Capital Equipment requests will only be considered if this reporting and all maintenance and repair obligations are fulfilled by the Operator.

(m) The minimum repair requirements for the HVAC equipment is the latest version of ANSI/ASHRAE/ACCC 180-2012 or the "Standard Practice for Inspections and Maintenance of Commercial Building HVAC Systems". These materials will be provided to Operator by City, and as new editions are implemented the City will update these materials. These standards establish minimum HVAC inspection and maintenance requirements that preserve a system's ability to achieve acceptable thermal comfort, energy efficiency and indoor air quality in commercial buildings. It will also enhance the life cycles associated with commercial HVAC equipment. Without routine inspection and maintenance of system components, systems can be found operating outside their optimum performance parameters; often manufacturers' maintenance information applies only to their components, not the entire system. This standard considers each component separately as well as the integration of those components and the ways they interact.

(n) Failures of systems or assets will be evaluated by the City as they occur. If the frequency of failure of any system or asset is determined by the City to be unacceptable the maintenance and/or repair method may be changed. All maintenance and repair recommendations provided by a manufacturer for an asset shall be followed. If a repair which would otherwise qualify as a Capital Improvement or necessitate the purchase of Capital Equipment is brought about by the failure of Operator to properly inspect and maintain the system or asset the expense will be treated as an Operating Expense for the purposes of calculating the Management Fee.

2.4 Right of Entry Reserved.

Representatives of the City designated in writing by the Mayor shall have the right, upon reasonable advance notice to Operator and at appropriate times, to enter all portions of the Facility to inspect same, to observe the performance of Operator of its obligations under this Agreement, to install, remove, adjust, repair, replace or otherwise handle any equipment, utility lines, or other matters in, on, or about the premises, or to do any act or thing which the City may be obligated or have the right to do under this Agreement or otherwise. Nothing contained in

this Section is intended or shall be construed to limit any other rights of the City under this Agreement. The City shall not interfere with the activities of Operator hereunder, and the City's actions shall be conducted such that disruption of Operator's work shall be kept to a minimum. Nothing in this Section shall impose or be construed to impose upon the City any independent obligation to construct or maintain or make repairs, replacements, alterations, additions or improvements or create any independent liability for any failure to do so.

2.5 Confidentiality/Nondisclosure.

(a) Confidentiality/Nondisclosure. Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City agrees that it shall keep secret and confidential any and all Confidential Information already disclosed and/or to be disclosed to it by Operator, and the City shall not divulge any such information, in whole or in part, to any third party except as is expressly permitted below in this Section 2.5.

(b) Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City shall not use any such information, except for the express purpose of utilizing it in connection with the management of the Facility. Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City shall not directly or indirectly disclose or discuss any such information with any person or entity, other than employees, agents and subcontractors of the City who are directly concerned with the management of the Facility, provided, however, that in the event of any such disclosure to its employees, agents and subcontractors, the City (i) shall first inform Operator of its desire to make such disclosure, (ii) if requested by Operator, shall require such employees, agents or subcontractors to execute and deliver to Operator prior to any disclosure by the City to him/her/it, an agreement acknowledging a receipt of a copy of the provisions of this Section 2.5 and agreeing to be bound by such provisions to the same extent as the City, and (iii) in any event, shall advise in writing all such persons or entities of the existence of the provisions of this Section 2.5 and of their responsibility to comply with such provisions.

(c) "Confidential Information" means any and all information disclosed (orally, in writing, by inspection or otherwise) to the City by Operator pursuant to this Agreement and any information developed by the City and based upon the information disclosed to the City pursuant to this Agreement. Such information includes, but is not limited to, plans, proposals, and lists of furniture, fixtures and equipment. The restrictions upon confidentiality and use of Confidential Information set forth in this Section 2.5 do not apply to information which the City can demonstrate was publicly available or lawfully in its possession at the time of its disclosure to the City by Operator; however, Confidential Information shall not be deemed in the City's possession or publicly known simply because it is embraced by more general information in the City's possession.

(d) With respect to any information or material which is protected by copyright of Operator, no part of such materials may be reproduced, stored in a data base and retrieval system or transmitted in any form or by any means graphic, electronic, photocopying, recording, mechanical or otherwise - without the prior written permission of Operator.

2.6 Centralized Services.

(a) Centralized Services. The City acknowledges that: (a) certain centralized products and services are provided or made available to other facilities owned and/or operated by Operator and its Affiliates (such services that are provided by Operator and its Affiliates, the “Centralized Services”); (b) the Centralized Services are intended to benefit the facilities; and (c) in certain circumstances (e.g., on a property by property basis), similar services may be available on more favorable terms from sources other than Operator or its Affiliates. Any Centralized Services to be provided under this Agreement may be provided by Operator or an Affiliate, or by a third-party designated by Operator or an Affiliate (the “Third-Party Centralized Services”). The City shall comply with all terms and requirements of any Centralized Services. Centralized Services exclude products or services exclusively utilized by Operator in the operation of a casino. Excluded services and products include but are not limited to marketing charges dedicated exclusively to the marketing of the casino or gaming operations of Operator or its Affiliates.

(b) Centralized Services Charges.

(i) The amounts charged to the Facility for the Centralized Services (the “Centralized Services Charges”) shall be determined on the same basis as such amounts are determined for substantially all of the other facilities that are participating in such Centralized Services, and may include amounts reasonably calculated to cover the overhead and other costs incurred by Operator or its Affiliates (as applicable) in providing (or arranging for the provision of) such Centralized Services. In addition, the City shall pay all costs for the installation, use and maintenance of any equipment and technology systems at the Facility used in connection with the Centralized Services. Operator, its Affiliates and any third-party providing any Centralized Services shall have the right to increase or decrease any or all of the Centralized Services Charges from time to time, upon sixty (60) days’ notice to the City, but the total increase in any Fiscal Year may not exceed 5% of the aggregate Centralized Services Charges payable during the immediately prior Fiscal Year.

(ii) Operator shall have the right (but not the obligation) to pay (directly or through an Affiliate) any amounts due to a third-party for any Third-Party Centralized Services provided to the Facility, in which case, notwithstanding anything to the contrary in this Agreement, such amounts shall be deemed to be Operating Expenses for all purposes under this Agreement.

(c) Modification of Centralized Services. The City acknowledges that Operator needs the flexibility to modify the Centralized Services to respond to market trends, customer demands, economic conditions, technological advances and other factors. The City agrees that Operator shall have the right (1) subject to the limitations of Section 2.6 of the Agreement, to (a) modify the structure, scope, delivery and terms of any Centralized Services and (b) add a new, or discontinue an existing, Centralized Service in each case, as Operator deems advisable from time to time.

3. Term and Renewal.

3.1 Management Term and Renewal Term.

The Management Term of this Agreement shall commence on July 1, 2018 and end five (5) years thereafter, unless earlier terminated pursuant to the provisions of this Agreement ("Management Term"). Subject to the last sentence hereof, the City Council may, in its sole discretion, extend the Management Term hereof on the same terms and conditions for an additional five-year period commencing upon the expiration of the Management Term and ending five (5) years thereafter by giving not less than one hundred eighty (180) days prior written notice of such extension to Operator. The City and Operator agree that, within one hundred twenty (120) days following the end of the Fiscal Year ending June 30, 2021, they will discuss in good faith the setting of Net Operating Loss/Profit benchmarks for the Fiscal Years ending June 30, 2022 and June 30, 2023. If such Net Operating Loss/Profit benchmarks are met by Operator, notwithstanding the second sentence of this Section 3.1, this Agreement shall automatically renew for a period of five (5) years as referenced above upon the expiration of this Management Term. Notwithstanding any of the foregoing to the contrary, Operator may elect that this Agreement shall not extend for the Renewal Term by providing the City with written notice thereof not less than one hundred eighty (180) days prior to the expiration of the initial Management Term.

3.2 New Contract.

If (i) the City intends, upon termination of the Management or Renewal Term to continue to provide management at the Facility through a private provider and (ii) this Agreement has not been terminated upon a default by Operator, then the City will during the final year of the Management Term (unless this Agreement is renewed and extended under Section 3.1) or Renewal Term, as the case may be, negotiate and discuss in good faith a new contract or arrangement with Operator for the provision of such services following the completion of such term. The obligation to negotiate with Operator is not intended to guarantee any contract rights for a future contract with Operator or any specific terms of a new contract.

4. Operator's Compensation.

4.1 Management Fee.

(a) As compensation to Operator for providing the services herein specified with respect to the Facility (inclusive of the Ballroom, Kitchen Facilities and Food Services) during the Management Term and any Renewal Term, the City shall pay to Operator during the Management Term and the Renewal Term, if any, an annual fee (the "Management Fee"), with respect to each Fiscal Year, which shall be equal to 50% of the amount by which the Net Operating Loss/Profit for such Fiscal Year is better than the NOL Threshold ("Net Operating Surplus").

(b) The Management Fee shall be payable in equal monthly installments of \$25,000 due and payable on or before the last day of each month during the Fiscal Year, and shall be paid by Operator withdrawing the same from the Operating Account(s).

(c) If for any Fiscal Year, the aggregate amount of the tentative monthly installments paid to Operator on account of the Management Fee shall be more or less than the Management Fee payable for such Fiscal Year based upon the final determination of Net Operating Loss/Profit for such Fiscal Year as reflected in the audited annual financial statements for such Fiscal Year prepared in accordance with Section 6.1, then, by way of year end adjustment, within fifteen (15) business days after the delivery of such audited annual financial statements to the City, Operator shall pay into the Operating Account(s) the amount of such overpayment or withdraw from the Operating Account(s) the amount of any such underpayment.

5. Funding, Budgets; Bank Accounts.

5.1 Operating Funds.

Subject to Section 5.2, following the approval of the Operating Budget for a Fiscal Year (including, without limitation, any Operating Budget applicable to the Fiscal Year ending June 30, 2012 during the term hereof), the City shall make available quarterly to Operator through its general funds all funds necessary to pay all Operating Expenses to be incurred or accrued in such upcoming fiscal quarter. To the extent that an Approved Budget projects that Operating Revenues for a particular fiscal quarter will be insufficient to satisfy Operating Expenses for the subject fiscal quarter (a "Cash Flow Shortfall"), the City shall deposit an amount equal to such Cash Flow Shortfall into the Operating Accounts at least ten (10) days in advance of the fiscal quarter for which such Cash Flow Shortfall is projected. Notwithstanding the foregoing, upon the occurrence of (a) an unanticipated Cash Flow Shortfall for any period that is not set forth in the Approved Budget or (b) a Cash Flow Shortfall that is in excess of the amount projected in the Approved Budget, Operator shall withdraw from the Reserve Fund described in Section 5.6(b) below, an amount equal to such Cash Flow Shortfall and deposit such amount into the Operating Account(s), without limiting Operator's rights under Section 5.2 of this Agreement. Provided the Operating Budget as proposed by Operator is not materially modified by the City in accordance with this Agreement, except to the extent approved by the City or as may be necessary to satisfy any Necessary Unforeseen Expenses, Operator's aggregate expenditures during each Fiscal Year (when taken as a whole relative to the total Operating Budget and not on a per line item basis) shall not exceed the aggregate amounts set forth in the Operating Budget for the applicable Fiscal Year. In the event Operator reasonably believes that Operator will be unable to perform hereunder within the Approved Budget, Operator shall promptly notify the City in accordance with Section 5.2(a) below. In the event Gross Revenues for any Fiscal Year exceed Operating Expenses for such Fiscal Year, Operator shall deposit such operating surplus into the Reserve Fund.

5.2 Non-Funding.

(a) In the event of a Cash Flow Shortfall or if the funding of the Facility is reduced to a level that, in Operator's judgment, renders the management of the Facility not feasible, Operator shall immediately notify the City in writing of same and shall provide the City with all necessary financial information and explanation as may be requested by the City to reassess same. In such event, the City agrees, in good faith, to perform another review of the applicable budget and shall attempt to reach a mutually acceptable accord with Operator to resolve the matter. In the event that the City and Operator are unable to reach a mutually

acceptable accord with respect to such funding level, either party may submit such disagreement to the Expert (as hereinafter defined) for determination as to whether Operator's request for additional funds was commercially justified. Notwithstanding the foregoing, as a condition to the City's submission of such dispute to an Expert, the City shall deposit into the Operating Accounts and replenish such deposits as necessary in an amount of funds necessary to satisfy all Cash Flow Shortfalls for the pendency of the dispute until the Expert renders its decision.

(b) For purposes of this Agreement, the term "Expert" shall mean an independent, neutral and impartial individual who is appointed in each instance by agreement of the parties, provided such individual shall have not less than ten (10) years' hospitality industry experience in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of stadiums or arenas or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of such stadiums or arenas). An individual shall be excluded as an Expert if, currently or within the three (3) years prior to the date of selection of such individual as an Expert, the individual: (i) is, or has been, an employee of Manager or City, or any of their respective Affiliates; and/or (ii) is, or has served as, a consultant to either Manager or City, or any of their respective Affiliates.

(c) In the event any dispute is submitted to an Expert pursuant to this Agreement, the following guidelines shall apply:

(i) The use of the Expert shall be the exclusive remedy of the parties with respect to those disputes submitted for Expert determination pursuant to this Agreement and neither party shall attempt to adjudicate such dispute in any other forum. All decisions of an Expert, absent fraud, shall be final and binding on the parties hereto (without appeal or review) and shall be enforceable in any court of competent jurisdiction;

(ii) Each party shall be entitled to make written submissions to the Expert, and if a party makes any submission, it shall also provide a copy to the other party and the other party shall have the right to comment on such submission. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. The Expert may direct that such costs be treated as operating expenses;

(iii) The terms of the engagement of the Expert shall include an obligation on the part of the Expert to: (i) notify the parties in writing of its decision within forty-five (45) days from the date on which the Expert has been authorized to proceed (or such other period as the parties may agree or as set forth herein); and (ii) establish a timetable for the making of submissions and replies.

(d) During the pendency of Expert dispute resolution, Operator shall be excused from all obligations to perform Operator's obligations under this Agreement if Operator's breach of or default under this Agreement is attributable in part to the City's failure to appropriate sufficient funds for the management, operation and promotion of the Facility as described in Section 5.2(a) or requested pursuant to Section 5.2(b).

5.3 Annual Budget; Cash Flow Budget.

(a) As part of the annual plan described in Section 6.2 herein, on or before November 1 of each year (beginning 2012) and with regard to the Fiscal Year commencing July 1, 2012, on or before the date that is ninety (90) days after the latter of (i) full execution of this Agreement and (ii) the date that all requested financial information concerning the facility has been delivered to Operator, Operator will prepare an Operating Budget for the next Fiscal Year to meet the scope of services and objectives under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected net operating deficit or surplus. If this Agreement is executed prior to July 1, 2012, Operator shall perform its obligations under this Agreement in accordance with any current budget for the Facility approved by Operator or, if no such budget exists, consistent with prior practice.

(b) Operator shall prepare and submit to the Mayor by March 1 of each year during the term hereof (beginning 2012) a Cash Flow Budget for the succeeding Fiscal Year.

(c) The annual budgets referred to in subparagraphs (a) and (b) above shall be reviewed and are subject to approval by the Mayor or the City Council. By January 15 of each year during the term of this Agreement (beginning January 15, 2013) the Mayor and the City Council shall notify Operator in writing of any objections to such proposed annual budgets in reasonable detail (including the specific items to which the City objects and the reasons for such objections), along with the City's proposed changes to the annual budgets. The City shall be deemed to have approved that portion of any proposed annual budgets to which the City has not responded to within such time period.

(d) If the City has provided written objections to the annual budgets, the City and Operator shall meet to discuss any written objections made by the City. Operator and the City will endeavor in good faith to resolve the City's objections. Operator shall, if appropriate, submit revisions to the proposed annual budgets for the City's review. The parties shall use reasonable endeavors to reach an agreement upon the annual budgets prior to January 1 of each Fiscal Year.

(e) The City acknowledges and agrees that, with respect to its review and approval of the annual budgets, (i) the Facility is to be operated and maintained in a manner consistent with the standards set forth in this Agreement, and (iii) Operator has sole discretion in establishing the pricing, sales policies, sales strategies, rates, credit policies, and entertainment policies and other amenities and services of the Facility pursuant to this Agreement.

(f) If the City and Operator are unable to agree upon the annual budgets prior to January 31, the items in dispute will be submitted to an Expert for resolution in accordance with the procedures set forth in Section 5.2(c). Notwithstanding anything to the contrary in this Agreement, in making a ruling as to any given disputed component of the annual budgets, the Expert shall (i) give due consideration to the intent of the parties as set forth in this Agreement, and (ii) shall only consider comparable statistics of facilities that are similarly positioned to the Facility. In that regard, the Expert shall not be entitled to mandate changes to Operator's or its Affiliates' operating methodologies in ruling on an annual budget dispute. Until such determination is made by an Expert or a new annual budget is agreed to by the parties, Manager

shall operate the Facility (A) in accordance with those aspects of the annual budgets which were not objected to by the City, and (B) for those areas for which there is an objection, in accordance with the actual expenses for the prior Fiscal Year, subject to increases of up to four percent (4%) on each line item; provided, that with respect to a dispute pertaining to the first Fiscal Year, in accordance with the final annual budget for such first Fiscal Year submitted to the City by Operator. The ceiling amounts referred to in the preceding sentence shall be adjusted to account for increases in Facility occupancy and utilization of other revenue producing areas of the Facility.

(g) Notwithstanding anything to the contrary contained herein, the City shall not have the right to withhold its approval with respect to the following aspects of the annual budgets and such aspects shall not be subject to resolution by an Expert: (i) Operator's projections of Operating Revenues or the components thereof; (ii) the following costs over which Operator and its Affiliates have no control: taxes, insurance premiums, utility rates, license and permitting fees, and compliance with Laws.

(h) Operator and its Affiliates shall use reasonable endeavors to operate the Facility in accordance with the Approved Budgets and annual plan; provided, however, the parties acknowledge that: (i) the Approved Budgets and annual plan contain only estimates; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the Approved Budgets and annual plan impracticable or impossible; (iii) Operator and its affiliates shall be entitled to depart there from due to causes of the foregoing nature.

(i) Operator shall not, without the City's prior approval, which approval shall be deemed given if not denied within twenty (30) days after receipt by the City of written request for such approval by Operator, incur costs or expenses or make expenditures that would cause the total expenditures in the Approved Budget to exceed: (i) any departmental line item provided for in the Approved Budget by more than ten percent (10%); or (ii) the aggregate amount of expenditures provided for in the Approved Budget by more than five percent (5%); provided, however, the City acknowledges and agrees as follows: (A) certain expenses provided for in the Approved Budget will vary based on the use of the Facility, and accordingly, to the extent that use of the Facility for any Fiscal Year exceeds the occupancy and use projected in the Approved Budget for such Fiscal Year, such Approved Budget shall be deemed to include corresponding increases in such variable expenses; (B) Operator shall have the right to pay from the Operating Account all uncontrollable expenses (e.g. property taxes, utilities, insurance premiums) without reference to the amounts provided for in respect thereof in the Approved Budget for any Fiscal Year; (C) if any expenditures are required on an emergency basis to avoid damage to the Facility or injury to Persons or property, Operator may make such expenditures, whether or not provided for or within the amounts provided for in the Approved Budget for any Fiscal Year; and (D) if any expenditures are required to comply with any Laws or to cure or prevent any violation thereof, Operator may make such expenditures, whether or not provided for or within the amounts provided for in the Approved Budget for the Fiscal Year in question, as may be necessary to comply with such Laws or to cure or prevent the violation thereof. The City further acknowledges and agrees that: (1) Operator and its Affiliates do not warrant, represent, undertake or guarantee that the Facility can or will achieve the results set forth in any Approved Budget, projections or such other information, and that the actual results achieved by the Facility

may vary from the estimates contained in any such Approved Budget, projections or such other information, and that such variations may be material; (2) if the City provides any such financial projections or budgets to a third party including any bank, financial institution or lender, the City is obligated to advise such third party in writing of the substance of the disclaimer set forth in this sentence; and (3) the failure of Operator to achieve any projections in the Approved Budget for any Fiscal Year shall not be an Event of Default by Operator under this Agreement, and shall not entitle the City to claim a breach by Operator or to otherwise terminate this Agreement.

5.4 Budget Modifications Initiated by Operator.

Operator may submit to the Mayor at any time, and from time to time, prior to the close of a Fiscal Year supplemental or revised Operating Budgets or Cash Flow Budgets for such Fiscal Year. Upon the approval of the Mayor and the City Council of such supplemental or revised budgets, the Approved Budgets for such Fiscal Year shall be deemed amended to incorporate such supplemental or revised budget. The Approved Budgets may only be amended as set forth in Section 5.5 below or in the two preceding sentences except that Operator shall have the right to deviate from the Approved Budgets as set forth in Section 5.3.

5.5 Budget Modifications Initiated by the City.

In the event that it appears reasonably likely, in any year during the term hereof, that the actual Net Operating Loss/Profit for such Fiscal Year will be larger than projected in the Operating Budget for such Fiscal Year, the Mayor may request from Operator a plan for reduction of Operating Expenses to a level consistent with the budgeted Net Operating Loss/Profit amount. Operator shall forthwith comply with any such expense reduction requested by the City and the Approved Budgets for such Fiscal Year shall be modified accordingly, provided that if the Operating Budget or Cash Flow Budget is modified in a manner which, in Operator's judgment, could materially interfere, impede or impair the ability of Operator to manage, operate or promote the Facility, Operator shall have the right to submit such dispute to the Expert for resolution in accordance with Section 5.2(c); provided, however, that during the pendency of such dispute, Operator shall be permitted to deviate from the Approved Budget or Operating Budget in accordance with Section 5.3. Operator shall not be construed to have breached its obligations under this Agreement if such alleged breach has been caused by the limitations in the Fiscal Year's Approved Budgets.

5.6 Operating Accounts.

Operator shall establish and maintain in one or more depositories designated by the City's Finance Director or designee one or more operating, payroll and other bank accounts (the "Operating Account(s)") for the promotion, operation and management of the Facility, in the name of the City, with Operator as agent and with signature authority in such employees of Operator as Operator shall determine. Except as otherwise provided in this Agreement, all revenues collected by Operator from the operation of the Facility shall be deposited into the Operating Accounts, and all Operating Expenses (other than Operating Expenses to be paid from an account described in Section 5.7) shall be paid by Operator as agent for the City from the Operating Accounts. Except as otherwise provided in this Agreement, all revenues collected by Operator arising from

operation of the Facility including revenues from box office sales, facility or equipment rentals, utility rental agreements, food and beverage concessions, or any other source, are the sole property of the City, held in trust by Operator for the City for application as provided herein. Any amounts remaining in the Operating Accounts upon termination of this Agreement for any reason, after payment of all outstanding Operating Expenses, shall be promptly paid by Operator to the City.

5.7 Ticket Sales Revenues.

Operator shall hold in a separate interest-bearing account in a banking institution depository in Council Bluffs, Iowa any ticket sale revenues which it receives with respect to an event to be held at the Facility pending the completion of the event. Such monies are to be held for the protection of ticket purchasers, the City and Operator, and to provide a source of funds, as required for such payments to performers and promoters and for such payments of Operating Expenses in connection with the presentation of events as may be required to be paid contemporaneously with the event. Following the satisfactory completion of the events, Operator shall make a deposit into the Operating Account(s) of the amount in such account and shall pay Event Expenses from the Operating Account(s) and provide the City with a full event settlement report. Interest which accrues on amounts deposited in the Operating Account(s) and the ticket account referred to above shall be considered Operating Revenues. Bank service charges, if any, on such account(s) shall be considered Operating Expenses.

5.8 Capital Improvements; Capital Equipment.

The obligation to pay for, and authority to perform, direct and supervise Capital Improvements and Capital Equipment purchases shall remain with the City and will not be considered Operating Expenses. The annual plan submitted pursuant to Section 6.2 shall include Operator's recommendation for Capital Improvements and Capital Equipment purchases to be accomplished during the year and shall be accompanied by an estimate of the cost of all such items and projects and a request that the City budget funds therefor. The City shall retain the discretion to determine whether and to what level to fund Capital Improvements and Capital Equipment purchases to the Facility; provided, however, that the City shall expend no less than \$100,000 each Fiscal Year in the aggregate on Capital Improvements and Capital Equipment.

5.9 Limitation of Operator Liability.

Notwithstanding any provision herein to the contrary and except for Operator's express indemnification undertakings in Section 8.1 and its express reimbursement undertakings in Section 6.1(b), Operator shall have no obligation to fund any cost, expense or liability with respect to the operation, management or promotion of the Facility.

5.10 Funds for Emergency Repairs.

Operator shall have the right to act, with the consent of the City, in situations which Operator determines to be an emergency with respect to the safety, welfare and protection of the

general public, including spending and committing funds held in the Operating Account(s) of the Facility, even if such expenses are not budgeted; provided, however, Operator shall have no obligation under any circumstance to spend or commit funds other than funds then available in such Operating Account(s) for any such purpose. Immediately following such action, Operator shall inform the City of the situation and the action(s) taken, and the City shall pay into such Operating Account(s) the amount of funds, if any, spent or committed by Operator pursuant to this Section 5.10 in excess of budgeted amounts.

6. Records, Audits and Reports.

6.1 Records and Audits.

(a) Operator shall keep full and accurate accounting records relating to its activities at the Facility in accordance with generally accepted United States accounting principles. Operator shall maintain a system of bookkeeping adequate for its operations hereunder. Operator shall give the City's authorized representatives access to such books and records maintained at the Facility during reasonable business hours and upon reasonable advance notice. Operator shall keep and preserve for at least three (3) years following each Fiscal Year all sales slips, rental agreements, purchase order, sales books, credit card invoices, bank books or duplicate deposit slips, and other evidence of Operating Revenues and Operating Expenses for such period. In addition, on or before October 1 following each Fiscal Year for which Operator is managing the Facility hereunder (beginning October, 2013) Operator shall furnish to the City a balance sheet, a statement of profit or loss and a statement of cash flows for the Facility for the preceding Fiscal Year, prepared in accordance with generally accepted United States accounting principles and accompanied by an independent auditor's report of a nationally recognized, independent certified public accountant. The audit shall contain an opinion expressed by the independent auditor of the accuracy of financial records kept by Operator and of amounts due to the City. The audit shall also provide a certification of Operating Revenues and Operating Expenses as defined in this Agreement for such Fiscal Year. The audit shall be conducted by a reputable firm selected by Operator with City approval. The City shall not withhold or delay such consent or approval unreasonably. Notwithstanding anything to the contrary herein, the Costs of such audit shall be deemed Operating Expenses.

(b) The City shall have the right at any time, and from time to time, to cause nationally recognized independent auditors to audit all of the books of Operator relating to Operating Revenues and Operating Expenses, including without limitation, cash register tapes, credit card invoices, duplicate deposit tapes, and invoices. No costs incurred by the City in conducting such audit shall be considered an Operating Expense. If any such audit demonstrates that the Operating Revenues or Operating Expenditures reflected in any financial statements prepared by Operator and audited as specified in the foregoing subparagraph (a) are understated (in the case of Operating Expenses) or overstated (in the case of Operating Revenues), in either case by more than five percent (1%), Operator shall pay to the City the reasonable cost of such audit and shall promptly refund to the City any portion of the Management Fee paid for such Fiscal Year which is attributable to the overstatement or understatement, as the case may be. The City's right to have such an audit made with respect to any Fiscal Year and Operator's obligation to retain the above records shall expire three (3) years after Operator's statement for such Fiscal Year has been delivered to the City.

6.2 Annual Plan.

(a) Operator shall provide to the City on or before November 1 of each year, an annual management plan, which shall include the Operating Budget for the next Fiscal Year. The annual plan shall include information regarding Operator's anticipated operations for such Fiscal Year, including anticipated events at the Facility, anticipated advertising and promotional activities (if applicable), and planned equipment and furnishings purchases. The annual plan shall be subject to review, revision and approval by the City. Following review and revision by the City, Operator shall have thirty (30) days to incorporate the City's revisions into its plan. Upon approval by the City, such annual plan shall constitute the operating program for Operator for the following Fiscal Year.

(b) Operator shall provide to the City copies of all offer sheets to artists or promoters for any and all entertainment events that are promoted or co-promoted by the Facility at the time such offers are made to the artists or promoters.

(c) Operator shall provide to the City all settlement sheets provided to artists and promoters within 30 days of the date of all events promoted or co-promoted by the Facility.

6.3 Long Term Capital Maintenance Plan.

By November 1, 2012, Operator shall provide to the City a report detailing, over a five (5) year horizon, Operator's operating maintenance activities, requested Capital Improvements and Capital Equipment purchases and an anticipated budget therefor. Such report shall be updated annually on or before November 3 of each year beginning on November 1, 2013.

6.4 Monthly Reports.

By the twenty-fifth day of each month, Operator shall provide to the City a written monthly report in a form approved by the City and similar to that used in other Operator-managed facilities setting out the Facility's anticipated activities for the upcoming month and reporting on the prior month's activities and finances. This report shall include a profit and loss statement and all settlement reports shall be provided to the City upon request. By the 10th day of each month, Operator will provide a listing of disbursements by vendor, amount and expense account for the prior month. This listing shall be included in the monthly expenditures submitted for Council approval.

7. Employees.

7.1 Operator Employees.

(a) Operator shall select, train and employ at the Facility such number of employees as Operator deems necessary or appropriate to satisfy its responsibilities hereunder; Operator shall use its best efforts to recruit employees who will be proficient, productive, and courteous to patrons, and Operator shall have authority to hire, terminate and discipline any and all personnel working at the Facility.

(b) Operator shall assign to the Facility a competent, full-time supervisor or manager who shall have no duties other than the day-to-day operation and management of the Facility. Prior to Operator's appointment of such manager, Operator shall consult with the Mayor with respect to the qualifications of the manager proposed by Operator, and the Mayor shall have given to Operator its prior written approval of such appointment.

(c) Operator employees at the Facility shall not for any purpose be considered to be employees of the City, and Operator shall be solely responsible for their supervision and daily direction and control and for setting, and paying as an Operating Expense, their compensation (and federal income tax withholding) and any employee benefits, and all costs related to their employment shall be an Operating Expense. Specifically, in connection with the employment of its employees, Operator shall pay all applicable social security, unemployment, worker's compensations or other employment taxes, or contributions to retirement plans, and shall comply with all federal and state laws and regulations relating to employment. All of these costs related to employment shall be cost of the Facility.

7.2 No Solicitation or Employment by City.

During the period commencing on the date hereof and ending one (1) year after the termination of this Agreement, except with Operator's prior written consent, the City will not and shall not permit any subsequent manager of the Facility, for any reason, solicit for employment, or hire, any of the senior management personnel employed by Operator at the Facility, including, without limitation, the general manager, director-level employees and department heads. In addition to any other remedies which Operator may have, specific performance in the form of injunctive relief shall be available for the enforcement of this provision.

8. Indemnification and Insurance.

8.1 Indemnification.

(a) Operator shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against any and all losses, liabilities, claims, damages and expenses (including reasonable attorneys fees) (collectively, "Losses") arising from any material default or breach by Operator of its obligations specified herein; provided, however, that the foregoing indemnification shall not extend to Losses to the extent such Losses (i) arise from gross negligence or willful misconduct of the City or its employees or any breach or default by the City of its obligations hereunder including, without limitation, Section 8.1(b) below, (ii) are of the type that are or would normally be covered by commercial insurance covering (A) the Facility and its premises for direct physical loss or damage and (B) business interruption and extra expenses, irrespective of the decision of the City to carry or not to carry such insurance, or (iii) are caused by or arise out of the services provided by the architects, engineers and other agents (other than Operator) retained by the City in connection with Capital Improvements or Capital Equipment purchases at the Facility.

(b) The City shall indemnify, defend and hold harmless Operator, its partners, directors, officers, agents and employees from and against any and all Losses arising from (i) any

material default or breach by the City of its obligations specified herein, (ii) the fact that at any time prior to, as of, or after the commencement of the Management Term hereunder the Facility has not been operated, or the Facility and its premises are not or have not been, in compliance with all Laws, including, but limited to, the Americans with Disabilities Act, 42 U.S.C. Sections 12101-12213 as amended by the Civil Rights Act of 1991 (42 U.S.C. Section 1981(a)), as it now exists and as it may be amended in the future by statute or judicial interpretation (collectively, the "ADA"), (iii) the fact that prior to, as of, or after the commencement of the Management Term hereunder there is any condition on, above, beneath or arising from the premises occupied by the Facility which might, under any Law, give rise to liability or which would or may require any "response," "removal" or "remedial action" (as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act), (iv) any structural defect or unsound operating condition with respect to the Facility or the premises occupied by the Facility prior to, as of or after the commencement of the Management Term hereunder, (v) any obligation or liability under or in respect of any Pre-Existing Agreement, contract, agreement or other instrument executed by Operator as agent for the City as authorized herein, (vi) any obligation or liability for personal injury at, on or about the Facility or for any physical damage or other Loss to any real property and personal property assets located at the Facility or intended to be incorporated therein, whether such assets or Losses are insured by the City or whether the City decides not to insure for such damage and Losses (including without limitation damages or Losses falling within any policy deductible), or (vii) any non-compliance that occurred on or prior to the commencement of the Management Term pursuant to any Pre-Existing Agreement, the Management Agreement dated October 8, 2011, between the City and SMG, or the License Agreement dated June 6, 2002, between Aramark Sports and Entertainment Services, Inc., and the City; provided, however, that the foregoing indemnification under clauses (i) and (ii) above shall not extend to Losses to the extent such Losses arise from any default or breach by Operator of its obligations specified herein.

(c) The provisions set forth in subparagraphs (a) and (b) above shall survive termination of this Agreement; provided, however, that except for indemnification based upon Section 8.1(b) (ii), (iii), (iv), (v), (vi) or (vii) above, a claim for indemnification pursuant to Section 8.1 shall be valid only if the party entitled to such indemnification provides written notice thereof to the other party prior to three (3) years following the date of termination of this Agreement.

(d) The terms of all insurance policies referred to in Section 8, including without limitation (i) the property insurance policies of the City, and (ii) the policies of any independent contractors retained by the City or hired by Operator (such as, the emergency medical technicians who are not employed by Operator), shall preclude subrogation claims against Operator, its partners, the City and their respective officers, directors, employees and agents.

(e) The foregoing indemnification rights shall be the exclusive remedies of each party hereto (other than any right to terminate this Agreement) arising from any breach of, default under or performance pursuant to this Agreement.

8.2 Liability Insurance.

(a) Operator shall secure prior to the commencement of the Management Term hereunder and shall keep in force at all times during the term of this Agreement, a commercial general liability insurance policy, with coverage including but not limited to bodily injury, property damage, advertising & personal injury, liquor liability, contractual liability, products and completed operations, independent contractors and all risk legal liability covering the premises, the operations hereunder, in the amount of Two Million Dollars (\$2,000,000.00) for each occurrence and in the aggregate. Operator shall also obtain and maintain Umbrella liability insurance with a limit of at least One Hundred Million Dollars (\$100,000,000).

(b) Operator shall also maintain Business Automobile Liability Insurance with respects to any claims for bodily injury and/or property damage, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall cover any vehicles (owned, non-owned or hired) operated by Operator directors, officers, agents and employees in connection with the Facility and such insurance shall include uninsured and underinsured motorists coverage

(c) Operator and Caesars Entertainment Operating Company Inc. shall be the named insured under all such policies. The City shall be an additional insured under the foregoing insurance policies, as its interests may appear, and said policies shall contain Standard Contractual Liability Coverage.

(d) Certificates evidencing the existence of the above policy, or policies, all in such form as the Mayor or City Council may reasonably require, shall be delivered to the Mayor or City Council prior to the commencement of this Agreement and within thirty (30) days after a policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

(e) Notwithstanding the provisions of this Section 8.2, the parties hereto acknowledge that the above policies may contain exclusions from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall, if possible, contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the Mayor, sent by certified mail, return receipt requested."

(f) Except as provided in Sections 8.6(b) and 8.7, all insurance procured by Operator in accordance with the requirements of this Agreement shall be primary over any insurance carried by the City and not require contribution by the City.

8.3 Workers Compensation Insurance.

Operator shall at all times maintain worker's compensation insurance (including occupational disease hazards) and employers' liability insurance with an authorized insurance company or through the Iowa State Compensation Insurance Fund or through an authorized self-insurance plan approved by the State of Iowa, insuring its employees at the Facility in amounts

equal to or greater than required under law. The employers' liability limits shall not be less than Two Million Dollars (\$2,000,000.00).

8.4 Employment Practices Liability Insurance.

Operator shall at all times maintain employment practices liability at limits not less than Five Million Dollars (\$5,000,000).

8.5 Fidelity Bond.

Operator shall provide to the City a Fidelity Bond covering all personnel under this Agreement in the amount of Five Million Dollars (\$5,000,000.00) for each loss, to reimburse the City for losses experienced due to the dishonest acts of Operator's employees.

8.6 Property Insurance.

(a) Operator shall maintain sufficient property damage or loss insurance to cover personal property owned by the City and Operator at the Facility and shall maintain such insurance throughout the term of this Agreement. At least ninety (90) days prior to the commencement of the Management Term hereunder, the City shall provide to Operator a schedule of declaration of values at replacement cost for the personal property owned by the City at the Facility.

(b) The City shall maintain its current property insurance covering the premises of the Facility. The City shall cause Operator to be named as an additional insured under all of the City's property and hazard insurance policies covering or relating to the Facility. In addition, the City shall, with respect to the Losses covered by such property and hazard insurance and business interruption and extra expenses insurance, waive any subrogation rights that it may have against Operator, its partners and their respective officers, employees and agents, whether or not the City self-insures for the Losses covered by such insurance. Nothing in this Agreement is intended to require Operator to maintain property and hazard insurance covering the premises at the Facility or business interruption insurance covering the interruption of operations by or for whatever cause at the Facility.

(i) The original or a certified copy of the above policy, or policies, referred to in Section 8.6(b) (with all required policy endorsements), plus certificates evidencing the existence thereof, all in such form as Operator may reasonably require, shall be delivered to Operator prior to the commencement of this Agreement. Notwithstanding the provisions of this Section 8.6(b), the parties hereto acknowledge that the above policies may contain exclusions from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall, if possible, contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to Operator, Vice President, Risk And Insurance sent by certified mail, return receipt requested."

(ii) A certificate of insurance (or satisfactory evidence of such renewal) shall be delivered to Operator within thirty (30) days after a policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

8.7 Certain Other Insurance.

If any of the Pre-Existing Agreements, not executed by Operator, consist of agreements with independent contractors to provide services in respect of the Facility, the City shall use its best efforts to cause such contractors to name Operator as an additional insured under any insurance maintained by such contractors pursuant to the terms of such Pre-Existing Agreements and in such event to deliver to Operator promptly after request therefore a certified copy of such policy and a certificate evidencing the existence thereof. In addition, if Operator enters into any agreements during the term of this Agreement with any independent contractors for the provision of services hereunder, Operator shall have the right to require such contractors to name Operator as an additional insured under any insurance required by Operator thereunder and to deliver to Operator prior to the performance of such services a certificate evidencing the existence thereof.

8.8 Insurance Generally. With respect to Sections 8.2, through 8.7 the foregoing insurance will be obtained and maintained by Operator and shall be an Operating Expense during the Management Term. All self insured retentions and deductibles to be procured under the required insurance coverages as well as posting of required collateral behind self insured retention and deductibles shall be Operating Expenses.

9. Ownership of Assets.

9.1 Ownership.

Except as otherwise provided in Section 5.13. above, the ownership of buildings and real estate, technical and office equipment and facilities, furniture, displays, fixtures, vehicles and similar tangible property located at the Facility shall remain with the City. Ownership of and title to all intellectual property rights of whatsoever value, held in the City's name shall remain in the name of the City. The ownership of consumable assets (such as office supplies and cleaning materials) purchased with Operating Revenues or City funds shall remain with the City, but such assets may be utilized and consumed by Operator in the performance of services under this Agreement. The ownership of data processing programs and software owned by the City shall remain with the City, and the ownership of data processing programs and Software owned by Operator shall remain with Operator. Operator shall not take or use, for its own purposes, customer or exhibitor lists or similar materials developed by the City for the use of the Facility, unless written consent is granted by the Mayor. Ownership of equipment, furnishings, materials, or fixtures not considered to be real property and other personal property purchased by Operator with City funds for use at and for the Facility shall vest in the City automatically and immediately upon purchase or acquisition. The assets of the City as described herein shall not be pledged, liened, encumbered or otherwise alienated or assigned other than in the ordinary course of business of the Facility without the prior approval of the City. Notwithstanding any of the foregoing, all Operator Customer Data shall remain the property of Operator and/or its Affiliates at all times.

9.2 City Obligations.

Except as herein otherwise set forth, throughout the term of this Agreement, the City will maintain full beneficial use and ownership of the Facility and will pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any bonds, debentures or other security agreements or contracts relating to the Facility to which the City may be bound.

10. Assignment; Affiliates.

10.1 Assignment.

Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party hereto. Notwithstanding the foregoing, (i) Operator may assign all or any part of its rights hereunder to an Affiliate, provided that (x) such Affiliate possesses substantially the same degree of expertise and quality of personnel as originally provided under this Agreement, and (y) such assignment shall be at no increased cost to the City, and (ii) the City may assign all of its rights hereunder to City Authority. For sake of clarity, the parties acknowledge that the foregoing does not preclude the assignment by Operator of its rights to receive its Management Fees hereunder to its lender(s) as collateral security for Operator's obligations under any credit facilities provided to it by such lender(s), provided that such collateral assignment shall not in any event cover Operator's rights to manage, promote or operate the Facility hereunder

10.2 Operator Affiliates.

(a) Transactions with Affiliates. Any contract entered into between Operator and an Affiliate of Operator relating to the Facility shall be on terms and for prices customarily charged in the industry for comparable goods and services, and shall be approved in writing by the City. In addition, Operator, as agent for the City, may rent the Facility or any part thereof to itself in connection with any event in the promotion of which Operator is involved, so long as such rental is on prevailing rates and terms or such other rates and terms consistent with other facilities of similar size, as the City approves.

(b) Conflicts of Interest. The City acknowledges that Operator manages other public assembly facilities which may, from time to time, be in competition with the Facility. The management of competing facilities will not, in and of itself, be deemed a conflict of interest or breach of Operator's duties hereunder; provided, however, in all instances in which the Facility is in competition with other public assembly facilities managed by Operator for the solicitation of certain events, Operator shall not involve its principal office (currently in Las Vegas, Nevada) on behalf of any such other facility in an attempt to influence the decision-making process regarding the selection of a site by such events.

(c) Discounting Tickets for Events. If at a point in time after the commencement of ticket sales for an event and no greater than fourteen (14) days prior to the date of the schedule event, the parties represented by the General Manager of the Facility and a representative of the Arena Commission mutually determine that it is in the best interests of the Facility to allow discounted tickets to be sold to the employees of the parties or the public at

large or a certain segment thereof, the representatives of the parties shall cause the effected groups to be properly notified of the availability of such discounted tickets.

(i) If prior to the commencement of sales, Operator or its Affiliates desire to make discounted tickets available for employees of Operator or employees of Operator's Affiliates, Operator's Affiliates or customers of Operator or its Affiliates, the aforementioned representative shall meet at least twenty-one (21) days prior to the date when the tickets are scheduled to go on sale and determine the amount of the discount that will be permitted and the number of tickets to be sold at the discounted rates. In no case shall the discount be less than ten percent (10%) nor greater than fifty percent (50%) or exceed more than twenty-five percent (25%) of the tickets available but be less than ten percent (10%) of the tickets available.

(ii) If Operator or its Affiliates elect to promote an event at the Facility there will be no limit on the amount of discount to be offered, but no more than fifty (50%) of the tickets available will be allocated to their employees, affiliates, or customers. In the event Operator or its Affiliates elect to promote an event at the Facility that is not available for attendance by members of the general public, Operator shall reimburse the Facility for the actual cost and expense of such event plus one percent (1%).

(iii) It is understood between the parties that some contracts for events may further restrict or prohibit such discounted sales of tickets and the parties shall abide by such limitation.

11. Laws and Permits.

11.1 Permits, Licenses, Taxes and Liens.

Operator shall procure any permits and licenses required for the business to be conducted by it hereunder. The City shall cooperate with Operator in applying for such permits and licenses. Operator shall deliver copies of all such permits and licenses to the Mayor. Operator shall pay promptly, out of the accounts specified in Section 5.6, all taxes, excises, license fees and permit fees of whatever nature arising from its operation, promotion and management of the Facility. Operator shall prevent mechanic's or materialman's or any other lien from becoming attached to the premises or improvements at the Facility, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any mechanic or materialman, so long as the work, labor or material was provided at Operator's direction and the City has supplied funds for the payment of charges therefor in accordance with this Agreement.

11.2 Governmental Compliance.

Operator, its officers, agents and employees shall comply with all federal, state, local and municipal regulations, ordinances, statutes, rules, laws and constitutional provisions (collectively, "Laws") applicable to Operator's management of the Facility hereunder, including without limitation Title III of the ADA and the provision of such auxiliary aids or alternate services as may be required by the ADA. Nothing in this Section 11.2 or elsewhere in this Agreement shall, however, require Operator to undertake any of the foregoing compliance

activity, nor shall Operator have any liability under this Agreement therefor, if (a) such activity requires any Capital Improvements or Capital Equipment purchases, unless the City provides funds for such Capital Improvements and Capital Equipment purchases pursuant to Section 5.8 hereof, or (b) any Pre-Existing Agreement fails to require any licensee, lessee, tenant, promoter or user of any portion of the Facilities to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such licensee, lessee, tenant, promoter or user at the Facilities. Furthermore, Operator shall have the right to require any licensee, lessee, tenant, promoter or user of any portion of the Facility to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such licensee, lessee, tenant, promoter or user at the Facility.

11.3 No Discrimination in Employment.

In connection with the performance of work under this Agreement, Operator shall not refuse to hire, discharge, refuse to promote or demote, or to discriminate in matters of compensation against, any person otherwise qualified, solely because of race, color, religion, gender, age, national origin, military status, sexual orientation, marital status or physical or mental disability.

12. Termination.

12.1 Termination Upon Default.

Either party may terminate this Agreement upon a default by the other party hereunder. A party shall be in default hereunder if (i) such party fails to pay any sum payable hereunder within thirty (30) days after same is due and payable, or (ii) such party fails in any material respect to perform or comply with any of the other terms, covenants, agreements or conditions hereof and such failure continues for more than sixty (60) days after written notice thereof from the other party. In the event that a default (other than a default in the payment of money) is not reasonably susceptible to being cured within the sixty (60) day period, the defaulting party shall not be considered in default if it shall within such sixty (60) day period have commenced with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default.

12.2 Termination Other than Upon Default.

(a) If the City fails to make Capital Improvements or Capital Equipment purchases at the Facility to the extent that such omission, in Operator's judgment, materially interferes with, impedes or impairs the ability of Operator to manage the Facility effectively either party may submit such disagreement to Expert resolution according to the guidelines established in Section 5.2(c).

(b) Operator shall have the right to terminate this Agreement upon sixty (60) days written notice to the City if the City fails to comply with an Experts' resolution of a disagreement as described in Sections 5.2, 5.3, 5.5, or 12.2(a) hereof.

(c) Either party shall have the right to terminate this Agreement under the circumstances specified in Section 13.6(d).

12.3 Effect of Termination.

In the event this Agreement expires or is terminated, (i) all Operating Expenses incurred or committed for prior to the date of expiration or termination shall be paid using funds on deposit in the account(s) described in Sections 5.6 and 5.7 and to the extent such funds are not sufficient, the City shall pay all such Operating Expenses and shall indemnify and hold Operator harmless therefrom, and (ii) the City shall promptly pay Operator all fees earned to the date of expiration or termination (the Management Fees described in Section 4 hereof being subject to proration). Upon a termination pursuant to Section 12.1, all further obligations of the parties hereunder shall terminate except for the obligations in this Section 12.3 and in Sections 7.1(c), 8.1 and 12.4; provided, however, that if such termination is the result of a willful default, the nondefaulting party exercising its right to terminate this Agreement shall be entitled to recover its actual damages for breach arising from such willful default.

12.4 Surrender of Premises.

Upon termination of this Agreement (termination shall, for all purposes in this Agreement, include termination pursuant to the terms of this Section 12 and any expiration of the term hereof), Operator shall surrender and vacate the Facility upon the effective date of such termination. The Facility and all equipment and furnishings shall be returned to the City in good repair, reasonable wear and tear excepted, to the extent funds were made available therefor by the City. All reports, records, including financial records, and documents maintained by Operator at the Facility relating to this Agreement other than materials containing Operator's proprietary information shall be immediately surrendered to the City by Operator upon termination.

12.5 Dispute Resolution. In the event that the parties cannot resolve any dispute not subject to resolution by the Expert as required by this Agreement, either party may pursue their remedies at law or in equity subject to the foregoing provisions hereof.

13. Miscellaneous.

13.1 Use of Facility at Direction of City.

(a) At the direction of the Mayor, upon reasonable advance notice and subject to availability, Operator shall provide use of the Facility or any part thereof to civic and nonprofit organizations located in Southwest, Iowa area at reduced rates. All event-related expenses, including but not limited to ushers, ticket-takers, security and other expenses incurred in connection with the use of the Facility by such organizations, if not reimbursed to Operator by the organization using the Facility, shall be reimbursed by the City to Operator for deposit into the operating accounts specified in Section 5.6.

(b) The City shall have the right to use the Facility or any part thereof, upon reasonable advance notice and subject to availability, for such purposes as meetings, seminars,

training classes or other uses without the payment of any rental or use fee (or at a reduced fee), except that direct out-of-pocket expenses incurred in connection with such uses shall be paid by the City.

(c) The City shall not schedule use of the Facility pursuant to subparagraphs (a) and (b) above if such use will conflict with paying events booked by Operator and shall in all instances be subordinate thereto in terms of priority of use of the Facility. In all instances when the Facility, or part thereof, is to be used at the City's request or by the City pursuant to subparagraph (a) or (b) above, a rent or use fee which otherwise would be chargeable for such event shall be deemed to have been paid and such deemed payment shall constitute Operating Revenues.

(d) Operator shall actively promote either non-fee or reduced fee charitable, community and school events at the Facility. The City shall work with Operator to utilize the City's insurance policies to most cost efficiently promote such events.

(e) The Council Bluffs Convention & Visitors' Bureau will continue to have scheduling priority for events planned more than eighteen (18) months in the future. Operator will have scheduling priority for events planned within eighteen (18) months.

13.2 Intentionally Omitted.

13.3 No Partnership or Joint Venture.

Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between the City and Operator. None of the officers, agents or employees of Operator shall be or be deemed to be employees of the City for any purpose whatsoever.

13.4 Entire Agreement.

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings with respect thereto. No other agreements, representations, warranties or other matters, whether oral or written, will be deemed to bind the parties hereto with respect to the subject matter hereof.

13.5 Written Amendments.

This Agreement shall not be altered, modified or amended in whole or in part, except in a writing executed by each of the parties hereto.

13.6 Force Majeure.

(a) No party will be liable or responsible to the other party for any delay, damage, loss, failure, or inability to perform caused by "Force Majeure" if notice is provided to the other party within ten (10) days of date on which such party gains actual knowledge of the event of "Force Majeure" that such party is unable to perform. The term "Force Majeure" as used in this Agreement means the following: an act of God, strike, war, public rioting, lightning,

fire, storm, flood, explosions, inability to obtain materials, supplies, epidemics, landslides, lightening storms, earthquakes, floods, storms, washouts, civil disturbances, explosions, breakage or accident to machinery or lines of equipment, temporary failure of equipment, freezing of equipment and any other cause whether of the kinds specifically enumerated above or otherwise which is not reasonably within the control of the party whose performance is to be excused and which by the exercise of due diligence could not be reasonably prevented or overcome (it being acknowledged that under no circumstances shall a failure to pay amounts due and payable hereunder be excusable due to a Force Majeure).

(b) Neither party hereto shall be under any obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the provision of any component necessary therefor shall be prohibited or rationed by any Law.

(c) Except as otherwise expressly provided in this Agreement, no abatement, diminution or reduction of the payments payable to Operator shall be claimed by the City or charged against Operator, nor shall Operator be entitled to additional payments beyond those provided for in this Agreement for any inconvenience, interruption, cessation, or loss of business or other loss caused, directly or indirectly, by any present or future Laws, or by priorities, rationing, or curtailment of labor or materials, or by war or any matter or thing.

(d) In the event of damage to or destruction of the Facility by reason of fire, storm or other casualty or occurrence of any nature or any regulatory action or requirements that, in either case, is expected to render the Facility materially untenable, notwithstanding the City's reasonable efforts to remedy such situation, for a period, estimated by an Architect selected by the City at the request of Operator, of at least one hundred eighty (180) days from the happening of the fire, other casualty or any other such event, either party may terminate this Agreement upon written notice to the other. In the event that the Facility becomes either wholly or partially untenable as a result of any of the foregoing, appropriate adjustments to the Net Operating Losses/Profit benchmarks shall be made.

(e) Operator may suspend performance required under this Agreement, without any further liability, in the event of any act of God or other occurrence, which act or occurrence is of such effect and duration as to effectively curtail the use of the Facility so as effect a substantial reduction in the need for the services provided by Operator for a period in excess of ninety (90) days; provided, however, that for the purposes of this subsection, Operator shall have the right to suspend performance retroactively effective as of the date of the use of the Facility was effectively curtailed. "Substantial reduction in the need for these services provided by Operator" shall mean such a reduction as shall make the provision of any services by Operator economically impractical. No payments of the Management Fees otherwise due and payable to Operator shall be made by the City during the period of suspension. In lieu thereof, the Mayor and Operator may agree to a reduced Management Fee payment for the period of reduction in services required.

13.7 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.

(a) This Agreement and the rights and obligations set forth herein shall inure to the benefit of, and be binding upon, the parties hereto and each of their respective successors and permitted assigns.

(b) This Agreement shall not be construed as giving any person, other than the parties hereto and their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any of the provisions herein contained, this Agreement and all provisions and conditions hereof being intended to be, and being, for the sole and exclusive benefit of such parties and their successors and permitted assigns and for the benefit of no other person or entity.

13.8 Notices.

Any notice, consent or other communication given pursuant to this Agreement will be in writing and will be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by an overnight courier service that is generally recognized as reliable, (c) on the fifth day following mailing by certified or registered mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefor as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the City:

Mayor City Hall
209 Pearl Street
Council Bluffs, Iowa 51503
Telecopy: 712-328-4685

With a copy to:

City Attorney - City Hall
209 Pearl Street
Council Bluffs, Iowa 51503
Telecopy: 712-322-9255

To Operator:

Harrah's Iowa Arena Management
d/b/a Harrah's Council Bluffs
2701 23rd Avenue
Council Bluffs, Iowa 51501
Attention: General Manager
Telecopy: 712-322-9354

With a copy to:

Caesars Entertainment Operating Company, Inc.
One Operator Palace Drive
Las Vegas, NV 89109
Attention: General Counsel
Telecopy: (702) 892-2795

13.9 Section Headings and Defined Terms.

The section headings contained herein are for reference purposes only and shall not in any way affect the meaning and interpretation of this Agreement. The terms defined herein and in any agreement executed in connection herewith include the plural as well as the singular and the singular as well as the plural, and the use of masculine pronouns shall include the feminine and neuter. Except as otherwise indicated, all agreements defined herein refer to the same as from time to time amended or supplemented or the terms thereof waived or modified in accordance herewith and therewith.

13.10 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute but one and the same agreement.

13.11 Severability.

The invalidity or unenforceability of any particular provision, or part of any provision, of this Agreement shall not affect the other provisions or parts hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions or parts were omitted.

13.12 Non-Waiver.

A failure by either party to take any action with respect to any default or violation by the other of any of the terms, covenants, or conditions of this Agreement shall not in any respect limit, prejudice, diminish, or constitute a waiver of any rights of such party to act with respect to any prior, contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default.

13.13 Certain Representations and Warranties.

(a) The City represents and warrants to Operator the following: (i) all required approvals have been obtained, and the City has full legal right, power and authority to enter into and perform its obligations hereunder, (ii) this Agreement has been duly executed and delivered by the City and constitutes a valid and binding obligation of the City, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency,

reorganization or similar laws affecting creditors' rights generally or by general equitable principles, (iii) the Pre-Existing Agreements listed on Exhibit __ attached hereto and made a part hereof are the only Pre-Existing Agreements in effect with respect to the use, operating, management and maintenance of the Facility, and (iv) no other party has any right to the operation or management of any portion of the Facility.

(b) Operator represents and warrants to the City the following: (i) all required approvals have been obtained, and Operator has full legal right, power and authority to enter into and perform its obligations hereunder, and (ii) this Agreement has been duly executed and delivered by Operator and constitutes a valid and binding obligation of Operator, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.

13.14 Governing Law.

This Agreement will be governed by and construed in accordance with the internal laws of the State of Iowa, without giving effect to otherwise applicable principles of conflicts of law.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

ATTEST:

CITY OF COUNCIL BLUFFS, IOWA:

By: _____
Mayor

HARRAH'S IOWA ARENA MANAGEMENT, LLC

By: Caesars Entertainment Operating Company, Inc.,
a Delaware corporation, its sole member

By: _____
Name: _____
Title: _____

EXHIBIT A

Depiction of Facility

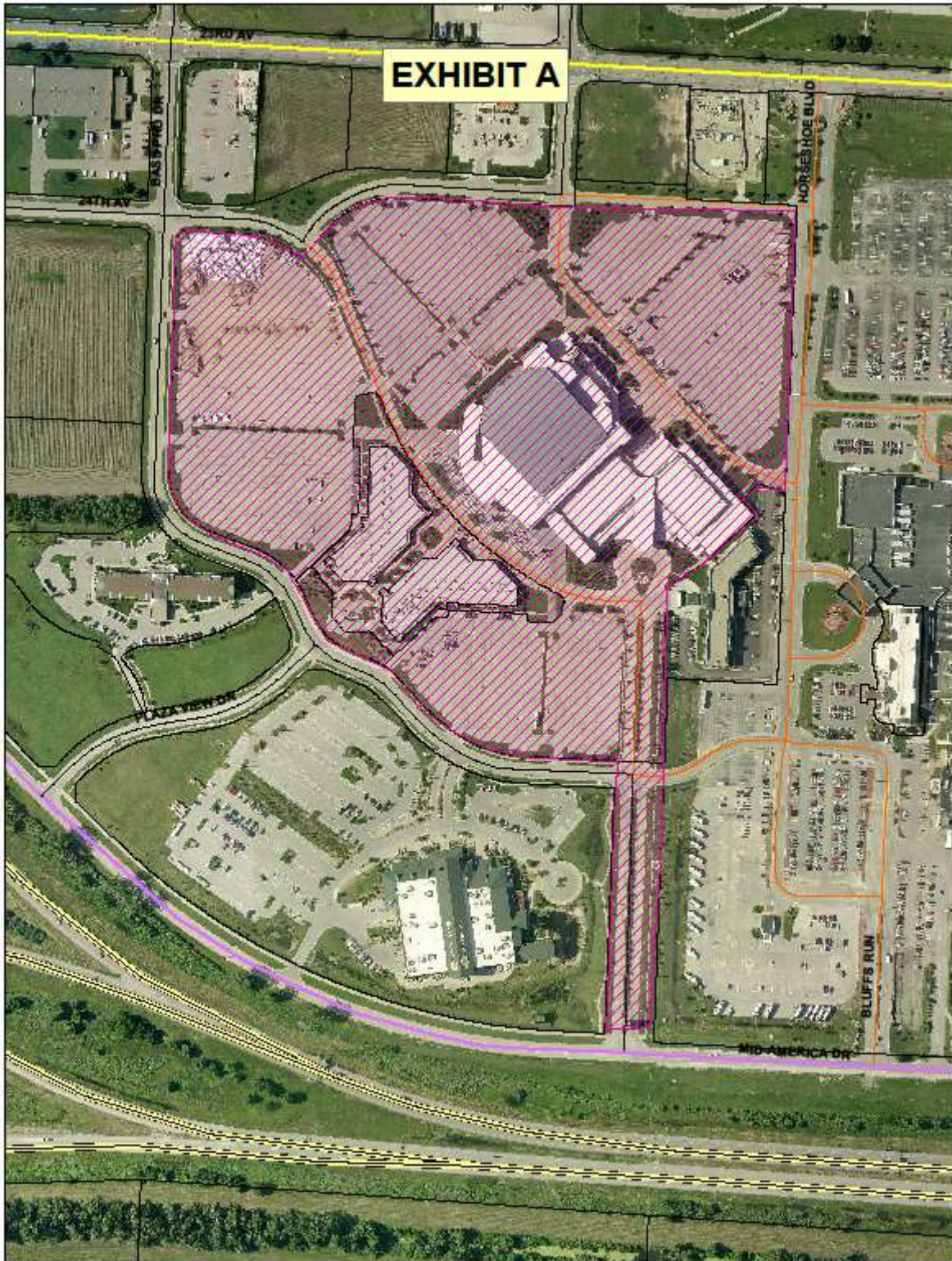


TABLE OF CONTENTS

	Page
1. DEFINITIONS.....	2
2. ENGAGEMENT OF OPERATOR SCOPE OF SERVICES.....	6
2.1 Engagement.....	6
2.2 Scope of Services - - Generally.....	7
2.3 Specific Services.....	7
2.4 Right of Entry Reserved.....	9
2.5 Confidentiality/Nondisclosure.....	10
2.6 Centralized Services.....	11
3. TERM AND RENEWAL.....	12
3.1 Management Term and Renewal Term.....	12
3.2 New Contract.....	12
4. OPERATOR’S COMPENSATION.....	12
4.1 Management Fee.....	12
5. FUNDING, BUDGETS; BANK ACCOUNTS.....	13
5.1 Operating Funds.....	13
5.2 Non-Funding.....	13
5.3 Annual Budget; Cash Flow Budget.....	15
5.4 Budget Modifications Initiated by Operator.....	17
5.5 Budget Modifications Initiated by the City.....	17
5.6 Receipts and Disbursements.....	Error! Bookmark not defined.
5.7 Ticket Sales Revenues.....	18
5.8 Capital Improvements; Capital Equipment.....	18
5.9 Limitation of Operator Liability.....	18
5.10 Funds for Emergency Repairs.....	18
6. RECORDS, AUDITS AND REPORTS.....	19
6.1 Records and Audits.....	19
6.2 Annual Plan.....	20
6.3 Long Term Capital Maintenance Plan.....	20
6.4 Monthly Reports.....	20
7. EMPLOYEES.....	20
7.1 Operator Employees.....	20
7.2 No Solicitation or Employment by City.....	21
8. INDEMNIFICATION AND INSURANCE.....	21
8.1 Indemnification.....	21
8.2 Liability Insurance.....	23
8.3 Workers Compensation Insurance.....	23
8.4 Employment Practices Liability Insurance.....	24
8.5 Fidelity Bond.....	24
8.6 Property Insurance.....	24
8.7 Certain Other Insurance.....	25
8.8 Insurance Generally.....	25
9. OWNERSHIP OF ASSETS.....	25
9.1 Ownership.....	25

TABLE OF CONTENTS
(continued)

	Page
9.2 City Obligations.....	26
10. ASSIGNMENT; AFFILIATES.....	26
10.1 Assignment.....	26
10.2 Operator Affiliates.....	26
11. LAWS AND PERMITS.....	27
11.1 Permits, Licenses, Taxes and Liens.....	27
11.2 Governmental Compliance.....	27
11.3 No Discrimination in Employment.....	28
12. TERMINATION.....	28
12.1 Termination Upon Default.....	28
12.2 Termination Other than Upon Default.....	28
12.3 Effect of Termination.....	29
12.4 Surrender of Premises.....	29
12.5 Dispute Resolution.....	29
13. MISCELLANEOUS.....	29
13.1 Use of Facility at Direction of City.....	29
13.2 Intentionally Omitted.....	30
13.3 No Partnership or Joint Venture.....	30
13.4 Entire Agreement.....	30
13.5 Written Amendments.....	30
13.6 Force Majeure.....	30
13.7 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.....	32
13.8 Notices.....	32
13.9 Section Headings and Defined Terms.....	33
13.10 Counterparts.....	33
13.11 Severability.....	33
13.12 Non-Waiver.....	33
13.13 Certain Representations and Warranties.....	33
13.14 Governing Law.....	34

MANAGEMENT AGREEMENT
BETWEEN
THE CITY OF COUNCIL BLUFFS, IOWA
AND
HARRAH'S IOWA ARENA MANAGEMENT, LLC
Dated as of _____

TABLE OF CONTENTS

	Page
1. DEFINITIONS.....	2
2. ENGAGEMENT OF OPERATOR SCOPE OF SERVICES.	6
2.1 Engagement.....	6
2.2 Scope of Services - - Generally.	7
2.3 Specific Services.	7
2.4 Right of Entry Reserved.....	9
2.5 Confidentiality/Nondisclosure.	10
2.6 Centralized Services.....	11
3. TERM AND RENEWAL.	12
3.1 Management Term and Renewal Term.....	12
3.2 New Contract.	12
4. OPERATOR’S COMPENSATION.....	12
4.1 Management Fee.	12
5. FUNDING, BUDGETS; BANK ACCOUNTS.	13
5.1 Operating Funds.....	13
5.2 Non-Funding.	13
5.3 Annual Budget; Cash Flow Budget.	15
5.4 Budget Modifications Initiated by Operator.	17
5.5 Budget Modifications Initiated by the City.	17
5.6 Receipts and Disbursements.	Error! Bookmark not defined.
5.7 Ticket Sales Revenues.	18
5.8 Capital Improvements; Capital Equipment.....	18
5.9 Limitation of Operator Liability.	18
5.10 Funds for Emergency Repairs.....	18
6. RECORDS, AUDITS AND REPORTS.	19
6.1 Records and Audits.	19
6.2 Annual Plan.....	20
6.3 Long Term Capital Maintenance Plan.	20
6.4 Monthly Reports.	20
7. EMPLOYEES.	20
7.1 Operator Employees.....	20
7.2 No Solicitation or Employment by City.	21
8. INDEMNIFICATION AND INSURANCE.....	21
8.1 Indemnification.	21
8.2 Liability Insurance.	23
8.3 Workers Compensation Insurance.	23
8.4 Employment Practices Liability Insurance.	24
8.5 Fidelity Bond.	24
8.6 Property Insurance.	24
8.7 Certain Other Insurance.	25
8.8 Insurance Generally.	25
9. OWNERSHIP OF ASSETS.....	25
9.1 Ownership.	25

TABLE OF CONTENTS
(continued)

	Page
9.2 City Obligations.....	26
10. ASSIGNMENT; AFFILIATES.....	26
10.1 Assignment.....	26
10.2 Operator Affiliates.....	26
11. LAWS AND PERMITS.....	27
11.1 Permits, Licenses, Taxes and Liens.....	27
11.2 Governmental Compliance.....	27
11.3 No Discrimination in Employment.....	28
12. TERMINATION.....	28
12.1 Termination Upon Default.....	28
12.2 Termination Other than Upon Default.....	28
12.3 Effect of Termination.....	29
12.4 Surrender of Premises.....	29
12.5 Dispute Resolution.....	29
13. MISCELLANEOUS.....	29
13.1 Use of Facility at Direction of City.....	29
13.2 Intentionally Omitted.....	30
13.3 No Partnership or Joint Venture.....	30
13.4 Entire Agreement.....	30
13.5 Written Amendments.....	30
13.6 Force Majeure.....	30
13.7 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.....	32
13.8 Notices.....	32
13.9 Section Headings and Defined Terms.....	33
13.10 Counterparts.....	33
13.11 Severability.....	33
13.12 Non-Waiver.....	33
13.13 Certain Representations and Warranties.....	33
13.14 Governing Law.....	34

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") dated as of the ____ day of _____, 2018, by and between the City of Council Bluffs, Iowa, a municipal corporation organized and existing pursuant to Chapter 372 of The Code of the State of Iowa (the "City"), and HARRAH'S IOWA ARENA MANAGEMENT, LLC, a Delaware limited liability company whose current address is One Caesar's Palace, Las Vegas, Nevada 89109 ("Operator")

BACKGROUND

The City is the owner of a recreation and convention complex, consisting of an arena, an attached fieldhouse/exhibit hall, an attached ballroom and kitchen ("Ballroom and Kitchen Facilities"), and associated parking facilities including adjacent public areas surrounding the retail space as more specifically depicted on Exhibit A (collectively, the "Facility") located in the City of Council Bluffs, Iowa.

Operator and its Affiliates are engaged in the business of providing management services, including operations and marketing services, for food and beverage outlets and entertainment facilities.

The City desires to engage Operator, and Operator desires to accept such engagement, to provide management services for the Facility on the terms and conditions set forth herein.

The City intends to work in mutual accord with Operator in order to ensure provision of high quality management services, thereby enhancing the use and enjoyment of the Facility.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

For purposes of this Agreement, the following terms have the meanings referred to in this Section 1:

"ADA" – as defined in Section 8.1(b) of this Agreement.

"Affiliate" - a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person. For purposes of this definition, "control" means ownership of equity securities or other ownership interests which represent more than 40% of the voting power in the controlled person.

"Approved Budget" - any budget submitted by Operator, as approved by the City pursuant to Section 5 hereof.

"Operator" – as defined in the first paragraph of this Agreement.

"Operator Customer Data" means any customer lists developed by Operator and its Affiliates and any information or data affirmatively provided by guests and customers of the any facilities owned or managed by Operator or its Affiliates, such as forms filled out upon arrival or in customer preference questionnaires during such guests' and customers' stay or visit, including, but not limited to: (a) player information or other gaming related information generated by or at facilities operated or managed by Operator or its Affiliates; (b) any information gathered, generated or extrapolated as part of or residing within the Total Rewards System or from any other player or customer loyalty program; and (c) any information originating from facilities owned or operated Operator or is Affiliates;

"Capital Equipment" - any and all furniture, fixtures, machinery or equipment, either additional or replacement, having a per item original cost of \$5,000 or more or an expected useful life of more than one year.

"Capital Improvements" - any and all building additions, alterations, renovations, repairs or improvements that have an initial dollar cost of not less than \$5,000 per project.

"Cash Flow Budget" - An annual cash flow budget setting forth the projected cash flow of the Facility.

"Centralized Services" – as defined in Section 2.6(a).

"Centralized Services Charges" – as defined in Section 2.6(b).

"City" - as defined in this first paragraph of this Agreement.

"City Council" - the Council Bluffs, Iowa City Council.

"Confidential Information" – as defined in Section 2.5(c).

"Event Expenses" - any and all expenses incurred or payments made by Operator in connection with the occurrence of events at the Facility, including but not limited to costs for event staffing including ushers, ticket takers, security and other event staff, and costs relating to setup and cleanup.

"Facility" - as defined in the first paragraph of the Background section of this Agreement.

"Fiscal Year" - a one year period beginning July 1 and ending June 30.

"Food Services" – all sales of food and beverages at the Facility including, without limitation, (i) all food and beverage sales from permanent or portable concessions stands or roving vendors to individual customers, (ii) all food and beverage sales of brand name products for which a franchise or royalty payment is required to be paid to a third party; (iii) all food and beverage sales from permanent or portable concession stands, bars, food stations or in-seat servers to individual customers in the Club Lounge or Club Seating Areas; (iv) all food and beverage catering sales, and (v) all food and beverage sales in the Facility's suites. The definition of Food Service shall exclude any sales from vending machines.

"Laws" – as defined in Section 11.2 of this Agreement.

"Losses" – as defined in Section 8.1(a) of this Agreement.

"Management Fee" – the management fee payable to Operator pursuant to Section 4.1 below.

"Management Term" – as defined in Section 3.1 of this Agreement.

"Mayor" - the Mayor of the City of Council Bluffs, Iowa or the Mayor's written designee.

"Necessary Unforeseen Expenses" shall mean expenses, which could not reasonably be foreseen by Operator or are in excess of amounts that Operator could reasonably have anticipated at the time of completion of the then-applicable Approved Budgets to fund (a) real estate taxes, assessments and utility charges, (b) insurance premiums and associated deductibles or retentions for the insurance required under Section 8, (c) expenses incidental to compliance with any final court orders, judgments or other legal proceedings and all costs and expenses related thereto, (d) other immediately necessary expenditures and additions or modifications to the Facility to comply with applicable laws, rules or regulations, or (e) subject to Section 5.10, an expense which is reasonably necessary in connection with an emergency condition. Necessary Unforeseen Expenses exclude expenses incurred as a result of the gross negligence or misconduct on the part of Operator.

"Net Operating Loss/Profit - with respect to a Fiscal Year, the excess, if any, of Operating Expenses for such Fiscal Year over Operating Revenues for such Fiscal Year, in the case of a loss, and the excess, if any, of Operating Revenues for such Fiscal Year over Operating Expenses for such Fiscal Year, in the case of a profit. To the extent not inconsistent with the prior practice in the management of the Facility prior to the date hereof, accrual basis accounting as defined by the Financial Accounting Standards Board shall be used to determine Net Operating Loss/Profit.

"NOL Threshold" – a Net Operating Loss of \$700,000.00.

"Operating Account(s)" – as defined in Section 5.6 hereof.

"Operating Budget" - An annual operating budget projecting the Operating Revenues and Operating Expenses to meet the scope of services and objectives under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected Net Operating Loss/Profit.

"Operating Expenses" - (a) any and all expenses and expenditures of whatever kind or nature incurred, directly or indirectly, by Operator in promoting, operating, maintaining and managing the Facility, including, but not limited to: employee compensation and related expenses (e.g., base salaries, bonuses, severance and car allowances), employee benefits and related costs (e.g., parking and other fringe benefits), supplies, material and parts costs, costs of any interns and independent contractors, advertising, marketing and public relations costs and

*removed
"relocation
expenses"
+
"mgt
fees"*

commissions, janitorial and cleaning expenses, data processing costs, dues, subscriptions and membership costs, the costs of procuring and maintaining the insurance and fidelity bonds referred to in Section 8 below, amounts expended to procure and maintain permits and licenses, charges, taxes, excises, penalties and fees, professional fees, printing and stationery costs, Event Expenses, Centralized Services Charges, expenses related to Food Services, postage and freight costs, equipment rental costs, computer equipment leases and line charges, repairs and maintenance costs (e.g., elevators and HVAC), security expenses, utility and telephone charges, travel and entertainment expenses in accordance with Operator's policies, the cost of employee uniforms, safety and medical expenses, exterminator and waste disposal costs, costs relating to the maintenance of signage inventory and systems, the cost of annual independent audits of the Facility, the cost of compliance with laws and regulations, other start-up expenses associated with the opening of a Facility, and costs incurred under agreements, commitments, licenses and contracts executed in Operator's name (or in Operator's name as agent of the City) as provided in Section 2.3(b) hereof, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis; provided that Operating Expenses shall not include expenses or expenditures in connection with Capital Improvements and Capital Equipment purchases. Management fees are not to be considered as part of the operating expenses.

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit and Operator Management Fee hereunder, and (ii) identifying Operating Expenses which will be budgeted in Approved Budgets, Operating Expenses shall exclude (A) Event Expenses which are deducted from the gross receipts of all event activities at the Facility (in accordance with the last sentence in the definition of Operating Revenues), and (B) all extraordinary expenses and all interest, income tax, depreciation and amortization expenses.

was owning
"Operating Revenues" - (a) any and all revenues of every kind or nature derived from operating, managing or promoting the Facility, including, but not limited to: license, lease and concession fees, permanent or temporary space rentals, event services revenues, premium seating and suite revenues, revenues from merchandise sales, advertising sales, Food Services, equipment rentals, utility revenues, box office revenues, parking revenues, food service and concession revenues (however, if such revenues are collected in the first instance by and retained by the concessionaire, the amount of such revenues paid by the concessionaire to the Facility shall be included as Operating Revenues), commissions or other revenues from decoration and set-up, security and other subcontractors (however, if such revenues are collected in the first instance by and retained by such subcontractors, the amount of such revenues paid by such contractors to the Facility shall be included as Operating Revenues), miscellaneous operating revenues, revenues generated from separate agreements with Operator Affiliates pertaining to the Facility, and interest revenues, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis. For the sake of clarity, the parties acknowledge that revenues from the sale of tickets for events at the Facility are not Operating Revenues, but are instead revenues of the promoter and/or performer of each such event. To the extent that Operator collects such ticket sale revenue on behalf of such promoter and/or performer, such ticket sale revenue shall be the source of funds from which Operator collects the rental charges and other event reimbursements due by such promoter and/or performer for use of the Facility, which such charges and reimbursements are Operating Revenues hereunder.

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit, (ii) identifying Operating Revenues which will be budgeted in Approved Budgets, and (iii) calculating Operator Management Fee hereunder, Operating Revenues from all event activity at the Facility will be calculated to encompass the gross receipts from each such event, less Event Expenses.

"Pre-Existing Agreement" – each contract, license, agreement, option, lease and commitment existing as of the date of this Agreement that grants any person or entity any right (i) to license, use, occupy or rent all or any portion of the Facility, or (ii) to provide services to be used in the management, operation, use, possession, occupation, maintenance, promotion or marketing of all or any portion of the Facility (including the Tenant Agreement with the Lancers Hockey Team), and that have been provided to Operator.

"Renewal Term" - - the five-year period immediately following the Management Term, for which this Agreement may be renewed in accordance with Section 3.1 hereof beyond the Management Term.

"Systems" - - all computer hardware, software (commercial or custom), peripherals, technology products, operational systems, including, without limitation, telephone systems, HVAC systems, elevator and escalator systems, security systems and all other automated systems and equipment, and all components of any of the foregoing.

"Third-Party Centralized Services" - as defined in Section 2.6(a).

"Total Rewards System" means the Total Rewards[®] customer loyalty program as implemented from time to time by Operator or its Affiliates or such other replacement loyalty rewards program as may be implemented by Operator or its Affiliates from time to time in its discretion.

2. Engagement of Operator Scope of Services.

2.1 Engagement.

(a) General Scope. The City hereby engages Operator to promote, operate and manage the Facility during the Management Term and the Renewal Term, if any, upon the terms and conditions hereinafter set forth, and Operator hereby accepts such engagement.

(b) Managing Agent for the Facility. Subject to the terms of this Agreement, Operator shall be the sole and exclusive managing agent of the City to manage, operate and promote the Facility during the Management Term and the Renewal Term, if any. Operator shall have exclusive authority over the day-to-day operation of the Facility and all activities therein; provided that Operator shall follow all policies and guidelines of the City hereafter established or modified by the City that the City notifies Operator in writing are applicable to the Facility (including without limitation any methodology pertaining to the allocation of any costs and expenses by the City to the Facility as permitted herein); provided further that to the extent that such policies or guidelines hereafter established or modified by the City adversely affect revenues or expenses at the Facility, then and in that event, the Operating Revenue and Net Operating Loss/Profit benchmarks used in determining the Management Fee or set forth in any

Approved Budget, as appropriate, shall be correspondingly adjusted so that they reflect the additional costs or reduced revenues resulting from such established or modified policies or guidelines and provided that no change to the City's policies or guidelines shall be permitted to modify the term, renewal rights, economic provisions, the authority of Operator or any other material business term hereunder.

2.2 Scope of Services - - Generally.

Operator shall perform and furnish such management services and systems as are appropriate or necessary to operate, manage and promote the Facility in a manner consistent with Operator's policies and procedures and the operations of other similar facilities. Operator's management shall include the operation of the Ballroom and Kitchen Facilities and the Food Services at the Facility.

2.3 Specific Services.

Without limiting the generality of the foregoing, Operator shall have, without (except as otherwise expressly noted below) any prior approval by the City, sole right and authority to:

(a) subject to the City's right of approval set forth in Section 7.1(b) below, employ, supervise and direct employees and personnel consistent with the provisions of this Agreement;

(b) negotiate, execute as agent for the City in the City's name (unless otherwise agreed to by the parties), deliver and administer any and all licenses, occupancy agreements, rental agreements, booking commitments, advertising agreements (to the extent so requested by the City), concession agreements, supplier agreements, service contracts (including, without limitation, contracts for cleaning, decorating and set-up, snow removal, general maintenance and maintenance and inspection of HVAC systems, elevators, stage equipment, fire control panel and other safety equipment, staffing and personnel needs, including guards and ushers, and other services which are necessary or appropriate), all contracts and agreements for the Centralized Services and all other contracts and agreements in connection with the management, promotion and operation of the Facility, provided that if any such license, agreement, commitment or contract other than those involving the license, lease or rental of the Facility in the ordinary course has a term that extends beyond the remaining Management Term or Renewal Term, as the case may be, such license, agreement, commitment or contract shall be approved and executed by the City (which approval shall not be unreasonably withheld). Without limiting the foregoing, subject to Section 13.1 hereof, Operator shall have exclusive right to book events at the Facility; provided, however, Operator shall use its best efforts and judgment so as not to book an event that it believes will offend the community of Council Bluffs and its immediately surrounding areas;

(c) to the extent that Operating Revenues or funds supplied by the City are made available therefor, maintain the Facility in the condition received, reasonable wear and tear excepted; provided that the City shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases as provided in Section 5.8;

(d) to the extent that Operating Revenues or funds supplied by the City are made available therefor, rent, lease or purchase all equipment and maintenance supplies necessary or appropriate for the operation and maintenance of the Facility, provided that the City shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases pursuant to Section 5.8;

(e) establish and adjust prices, rates and rate schedules for the aforesaid licenses, agreements and contracts and any other commitments relating to the Facility to be negotiated by Operator in the course of its management, operation and promotion of the Facility subject to Section 13.1 hereof. In determining such prices and rate schedules, Operator shall evaluate comparable charges for similar goods and services at similar and/or competing facilities, shall consult with the Council Bluffs Arena Commission about any adjustments to the rate schedules at the Facility to be made by Operator, and shall utilize the recommended and approved policies of the City;

(f) pay, when due, on behalf of the City, all Operating Expenses from accounts established pursuant to Sections 5.6 and 5.7 of this Agreement;

(g) after consultation with the City Attorney or his designee, institute as agent for the City and at the reasonable expense of the City, with counsel selected by Operator, such legal actions or proceedings as Operator shall deem necessary or appropriate in connection with the operation of the Facility, including, without limitation, to collect charges, rents or other revenues due to the City or to cancel, terminate or sue for damages under, any license, use, advertisement or concession agreement for the breach thereof or default thereunder by any licensee, user, advertiser, or concessionaire at the Facility;

(h) maintain a master set of all booking records and schedules for the Facility;

(i) provide day-to-day administrative services in support of its management activities pursuant to Approved Budgets and annual plans described herein, including, but not limited to, the acquisition of services, equipment, supplies and facilities; internal budgeting and accounting; maintenance and property management; personnel management; record-keeping; collections and billing; and similar services; and

(j) to cause the Facility to participate in the Total Rewards Systems such that admission, tickets, goods and/or services available at the Facility shall be available under the Total Rewards System on such terms as shall be reasonably determined by Operator consistent with the general terms, conditions and operations of the Total Rewards System;

(k) subject to the Approved Budget and any general marketing plan contained in the Annual Plan as approved by the City, engage in such advertising, solicitation, and promotional activities as Operator deems necessary or appropriate to develop the potential of the Facility and the cultivation of broad community support (including without limitation and if applicable, selling advertising inventory and securing product rights for the Facility). Operator shall work with the City's Convention Bureau to market the Facility for conventions, trade shows and public entertainment shows. In connection with its activities under this Agreement, including without limitation and if applicable, advertising relating to the Facility, Operator shall

be permitted to use the terms "Mid-America Center" or "MAC", or such other name agreed to by the City and logos for such names in its advertising, subject to the approval of the Mayor; provided, however, no trademarks or trade names associated with, used, owned or licensed by Operator or its Affiliates shall be used to promote or operate facility (other than identifying Operator as manager as may be necessary) unless and until approved by Operator and the City, each in their sole discretion, and subject to such license agreements as Operator shall require in connection therewith.

(New) (l) Maintenance, operation and repairs to all buildings and grounds are to be accomplished by the Operator. Systems and assets included for maintenance and repair include all architectural, civil, electrical, mechanical and structural features. Documentation of all maintenance and repairs to these systems must be provided to the City's Public Works Department utilizing the City's Work Order and Asset Management System or by another method approved by the City. All Capital Improvements or Capital Equipment requests will only be considered if this reporting and all maintenance and repair obligations are fulfilled by the Operator.

(New) (m) The minimum repair requirements for the HVAC equipment is the latest version of ANSI/ASHRAE/ACCC 180-2012 or the "Standard Practice for Inspections and Maintenance of Commercial Building HVAC Systems". These materials will be provided to Operator by City, and as new editions are implemented the City will update these materials. These standards establish minimum HVAC inspection and maintenance requirements that preserve a system's ability to achieve acceptable thermal comfort, energy efficiency and indoor air quality in commercial buildings. It will also enhance the life cycles associated with commercial HVAC equipment. Without routine inspection and maintenance of system components, systems can be found operating outside their optimum performance parameters; often manufacturers' maintenance information applies only to their components, not the entire system. This standard considers each component separately as well as the integration of those components and the ways they interact.

(New) (n) Failures of systems or assets will be evaluated by the City as they occur. If the frequency of failure of any system or asset is determined by the City to be unacceptable the maintenance and/or repair method may be changed. All maintenance and repair recommendations provided by a manufacturer for an asset shall be followed. If a repair which would otherwise qualify as a Capital Improvement or necessitate the purchase of Capital Equipment is brought about by the failure of Operator to properly inspect and maintain the system or asset the expense will be treated as an Operating Expense for the purposes of calculating the Management Fee.

2.4 Right of Entry Reserved.

Representatives of the City designated in writing by the Mayor shall have the right, upon reasonable advance notice to Operator and at appropriate times, to enter all portions of the Facility to inspect same, to observe the performance of Operator of its obligations under this Agreement, to install, remove, adjust, repair, replace or otherwise handle any equipment, utility lines, or other matters in, on, or about the premises, or to do any act or thing which the City may be obligated or have the right to do under this Agreement or otherwise. Nothing contained in

this Section is intended or shall be construed to limit any other rights of the City under this Agreement. The City shall not interfere with the activities of Operator hereunder, and the City's actions shall be conducted such that disruption of Operator's work shall be kept to a minimum. Nothing in this Section shall impose or be construed to impose upon the City any independent obligation to construct or maintain or make repairs, replacements, alterations, additions or improvements or create any independent liability for any failure to do so.

2.5 Confidentiality/Nondisclosure.

(a) Confidentiality/Nondisclosure. Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City agrees that it shall keep secret and confidential any and all Confidential Information already disclosed and/or to be disclosed to it by Operator, and the City shall not divulge any such information, in whole or in part, to any third party except as is expressly permitted below in this Section 2.5.

(b) Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City shall not use any such information, except for the express purpose of utilizing it in connection with the management of the Facility. Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City shall not directly or indirectly disclose or discuss any such information with any person or entity, other than employees, agents and subcontractors of the City who are directly concerned with the management of the Facility, provided, however, that in the event of any such disclosure to its employees, agents and subcontractors, the City (i) shall first inform Operator of its desire to make such disclosure, (ii) if requested by Operator, shall require such employees, agents or subcontractors to execute and deliver to Operator prior to any disclosure by the City to him/her/it, an agreement acknowledging a receipt of a copy of the provisions of this Section 2.5 and agreeing to be bound by such provisions to the same extent as the City, and (iii) in any event, shall advise in writing all such persons or entities of the existence of the provisions of this Section 2.5 and of their responsibility to comply with such provisions.

(c) "Confidential Information" means any and all information disclosed (orally, in writing, by inspection or otherwise) to the City by Operator pursuant to this Agreement and any information developed by the City and based upon the information disclosed to the City pursuant to this Agreement. Such information includes, but is not limited to, plans, proposals, and lists of furniture, fixtures and equipment. The restrictions upon confidentiality and use of Confidential Information set forth in this Section 2.5 do not apply to information which the City can demonstrate was publicly available or lawfully in its possession at the time of its disclosure to the City by Operator; however, Confidential Information shall not be deemed in the City's possession or publicly known simply because it is embraced by more general information in the City's possession.

(d) With respect to any information or material which is protected by copyright of Operator, no part of such materials may be reproduced, stored in a data base and retrieval system or transmitted in any form or by any means graphic, electronic, photocopying, recording, mechanical or otherwise - without the prior written permission of Operator.

2.6 Centralized Services.

(a) Centralized Services. The City acknowledges that: (a) certain centralized products and services are provided or made available to other facilities owned and/or operated by Operator and its Affiliates (such services that are provided by Operator and its Affiliates, the “Centralized Services”); (b) the Centralized Services are intended to benefit the facilities; and (c) in certain circumstances (e.g., on a property by property basis), similar services may be available on more favorable terms from sources other than Operator or its Affiliates. Any Centralized Services to be provided under this Agreement may be provided by Operator or an Affiliate, or by a third-party designated by Operator or an Affiliate (the “Third-Party Centralized Services”). The City shall comply with all terms and requirements of any Centralized Services. Centralized Services exclude products or services exclusively utilized by Operator in the operation of a casino. Excluded services and products include but are not limited to marketing charges dedicated exclusively to the marketing of the casino or gaming operations of Operator or its Affiliates.

(b) Centralized Services Charges.

(i) The amounts charged to the Facility for the Centralized Services (the “Centralized Services Charges”) shall be determined on the same basis as such amounts are determined for substantially all of the other facilities that are participating in such Centralized Services, and may include amounts reasonably calculated to cover the overhead and other costs incurred by Operator or its Affiliates (as applicable) in providing (or arranging for the provision of) such Centralized Services. In addition, the City shall pay all costs for the installation, use and maintenance of any equipment and technology systems at the Facility used in connection with the Centralized Services. Operator, its Affiliates and any third-party providing any Centralized Services shall have the right to increase or decrease any or all of the Centralized Services Charges from time to time, upon sixty (60) days’ notice to the City, but the total increase in any Fiscal Year may not exceed 5% of the aggregate Centralized Services Charges payable during the immediately prior Fiscal Year.

(ii) Operator shall have the right (but not the obligation) to pay (directly or through an Affiliate) any amounts due to a third-party for any Third-Party Centralized Services provided to the Facility, in which case, notwithstanding anything to the contrary in this Agreement, such amounts shall be deemed to be Operating Expenses for all purposes under this Agreement.

(c) Modification of Centralized Services. The City acknowledges that Operator needs the flexibility to modify the Centralized Services to respond to market trends, customer demands, economic conditions, technological advances and other factors. The City agrees that Operator shall have the right (1) subject to the limitations of Section 2.6 of the Agreement, to (a) modify the structure, scope, delivery and terms of any Centralized Services and (b) add a new, or discontinue an existing, Centralized Service in each case, as Operator deems advisable from time to time.

3. Term and Renewal.

3.1 Management Term and Renewal Term.

The Management Term of this Agreement shall commence on July 1, 2018 and end five (5) years thereafter, unless earlier terminated pursuant to the provisions of this Agreement ("Management Term"). Subject to the last sentence hereof, the City Council may, in its sole discretion, extend the Management Term hereof on the same terms and conditions for an additional five-year period commencing upon the expiration of the Management Term and ending five (5) years thereafter by giving not less than one hundred eighty (180) days prior written notice of such extension to Operator. The City and Operator agree that, within one hundred twenty (120) days following the end of the Fiscal Year ending June 30, 2021, they will discuss in good faith the setting of Net Operating Loss/Profit benchmarks for the Fiscal Years ending June 30, 2022 and June 30, 2023. If such Net Operating Loss/Profit benchmarks are met by Operator, notwithstanding the second sentence of this Section 3.1, this Agreement shall automatically renew for a period of five (5) years as referenced above upon the expiration of this Management Term. Notwithstanding any of the foregoing to the contrary, Operator may elect that this Agreement shall not extend for the Renewal Term by providing the City with written notice thereof not less than one hundred eighty (180) days prior to the expiration of the initial Management Term.

3.2 New Contract.

If (i) the City intends, upon termination of the Management or Renewal Term to continue to provide management at the Facility through a private provider and (ii) this Agreement has not been terminated upon a default by Operator, then the City will during the final year of the Management Term (unless this Agreement is renewed and extended under Section 3.1) or Renewal Term, as the case may be, negotiate and discuss in good faith a new contract or arrangement with Operator for the provision of such services following the completion of such term. The obligation to negotiate with Operator is not intended to guarantee any contract rights for a future contract with Operator or any specific terms of a new contract.

4. Operator's Compensation.

4.1 Management Fee.

(a) As compensation to Operator for providing the services herein specified with respect to the Facility (inclusive of the Ballroom, Kitchen Facilities and Food Services) during the Management Term and any Renewal Term, the City shall pay to Operator during the Management Term and the Renewal Term, if any, an annual fee (the "Management Fee"), with respect to each Fiscal Year, which shall be equal to 50% of the amount by which the Net Operating Loss/Profit for such Fiscal Year is better than the NOL Threshold ("Net Operating Surplus").

(b) The Management Fee shall be payable in equal monthly installments of \$25,000 due and payable on or before the last day of each month during the Fiscal Year, and shall be paid by Operator withdrawing the same from the Operating Account(s).

(c) If for any Fiscal Year, the aggregate amount of the tentative monthly installments paid to Operator on account of the Management Fee shall be more or less than the Management Fee payable for such Fiscal Year based upon the final determination of Net Operating Loss/Profit for such Fiscal Year as reflected in the audited annual financial statements for such Fiscal Year prepared in accordance with Section 6.1, then, by way of year end adjustment, within fifteen (15) business days after the delivery of such audited annual financial statements to the City, Operator shall pay into the Operating Account(s) the amount of such overpayment or withdraw from the Operating Account(s) the amount of any such underpayment.

5. Funding, Budgets; Bank Accounts.

5.1 Operating Funds.

Subject to Section 5.2, following the approval of the Operating Budget for a Fiscal Year (including, without limitation, any Operating Budget applicable to the Fiscal Year ending June 30, 2012 during the term hereof), the City shall make available quarterly to Operator through its general funds all funds necessary to pay all Operating Expenses to be incurred or accrued in such upcoming fiscal quarter. To the extent that an Approved Budget projects that Operating Revenues for a particular fiscal quarter will be insufficient to satisfy Operating Expenses for the subject fiscal quarter (a "Cash Flow Shortfall"), the City shall deposit an amount equal to such Cash Flow Shortfall into the Operating Accounts at least ten (10) days in advance of the fiscal quarter for which such Cash Flow Shortfall is projected. Notwithstanding the foregoing, upon the occurrence of (a) an unanticipated Cash Flow Shortfall for any period that is not set forth in the Approved Budget or (b) a Cash Flow Shortfall that is in excess of the amount projected in the Approved Budget, Operator shall withdraw from the Reserve Fund described in Section 5.6(b) below, an amount equal to such Cash Flow Shortfall and deposit such amount into the Operating Account(s), without limiting Operator's rights under Section 5.2 of this Agreement. Provided the Operating Budget as proposed by Operator is not materially modified by the City in accordance with this Agreement, except to the extent approved by the City or as may be necessary to satisfy any Necessary Unforeseen Expenses, Operator's aggregate expenditures during each Fiscal Year (when taken as a whole relative to the total Operating Budget and not on a per line item basis) shall not exceed the aggregate amounts set forth in the Operating Budget for the applicable Fiscal Year. In the event Operator reasonably believes that Operator will be unable to perform hereunder within the Approved Budget, Operator shall promptly notify the City in accordance with Section 5.2(a) below. In the event Gross Revenues for any Fiscal Year exceed Operating Expenses for such Fiscal Year, Operator shall deposit such operating surplus into the Reserve Fund.

5.2 Non-Funding.

(a) In the event of a Cash Flow Shortfall or if the funding of the Facility is reduced to a level that, in Operator's judgment, renders the management of the Facility not feasible, Operator shall immediately notify the City in writing of same and shall provide the City with all necessary financial information and explanation as may be requested by the City to reassess same. In such event, the City agrees, in good faith, to perform another review of the applicable budget and shall attempt to reach a mutually acceptable accord with Operator to resolve the matter. In the event that the City and Operator are unable to reach a mutually

acceptable accord with respect to such funding level, either party may submit such disagreement to the Expert (as hereinafter defined) for determination as to whether Operator's request for additional funds was commercially justified. Notwithstanding the foregoing, as a condition to the City's submission of such dispute to an Expert, the City shall deposit into the Operating Accounts and replenish such deposits as necessary in an amount of funds necessary to satisfy all Cash Flow Shortfalls for the pendency of the dispute until the Expert renders its decision.

(b) For purposes of this Agreement, the term "Expert" shall mean an independent, neutral and impartial individual who is appointed in each instance by agreement of the parties, provided such individual shall have not less than ten (10) years' hospitality industry experience in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of stadiums or arenas or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of such stadiums or arenas). An individual shall be excluded as an Expert if, currently or within the three (3) years prior to the date of selection of such individual as an Expert, the individual: (i) is, or has been, an employee of Manager or City, or any of their respective Affiliates; and/or (ii) is, or has served as, a consultant to either Manager or City, or any of their respective Affiliates.

(c) In the event any dispute is submitted to an Expert pursuant to this Agreement, the following guidelines shall apply:

(i) The use of the Expert shall be the exclusive remedy of the parties with respect to those disputes submitted for Expert determination pursuant to this Agreement and neither party shall attempt to adjudicate such dispute in any other forum. All decisions of an Expert, absent fraud, shall be final and binding on the parties hereto (without appeal or review) and shall be enforceable in any court of competent jurisdiction;

(ii) Each party shall be entitled to make written submissions to the Expert, and if a party makes any submission, it shall also provide a copy to the other party and the other party shall have the right to comment on such submission. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. The Expert may direct that such costs be treated as operating expenses;

(iii) The terms of the engagement of the Expert shall include an obligation on the part of the Expert to: (i) notify the parties in writing of its decision within forty-five (45) days from the date on which the Expert has been authorized to proceed (or such other period as the parties may agree or as set forth herein); and (ii) establish a timetable for the making of submissions and replies.

(d) During the pendency of Expert dispute resolution, Operator shall be excused from all obligations to perform Operator's obligations under this Agreement if Operator's breach of or default under this Agreement is attributable in part to the City's failure to appropriate sufficient funds for the management, operation and promotion of the Facility as described in Section 5.2(a) or requested pursuant to Section 5.2(b).

5.3 Annual Budget; Cash Flow Budget.

(a) As part of the annual plan described in Section 6.2 herein, on or before November 1 of each year (beginning 2012) and with regard to the Fiscal Year commencing July 1, 2012, on or before the date that is ninety (90) days after the latter of (i) full execution of this Agreement and (ii) the date that all requested financial information concerning the facility has been delivered to Operator, Operator will prepare an Operating Budget for the next Fiscal Year to meet the scope of services and objectives under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected net operating deficit or surplus. If this Agreement is executed prior to July 1, 2012, Operator shall perform its obligations under this Agreement in accordance with any current budget for the Facility approved by Operator or, if no such budget exists, consistent with prior practice.

(b) Operator shall prepare and submit to the Mayor by March 1 of each year during the term hereof (beginning 2012) a Cash Flow Budget for the succeeding Fiscal Year.

(c) The annual budgets referred to in subparagraphs (a) and (b) above shall be reviewed and are subject to approval by the Mayor or the City Council. By January 15 of each year during the term of this Agreement (beginning January 15, 2013) the Mayor and the City Council shall notify Operator in writing of any objections to such proposed annual budgets in reasonable detail (including the specific items to which the City objects and the reasons for such objections), along with the City's proposed changes to the annual budgets. The City shall be deemed to have approved that portion of any proposed annual budgets to which the City has not responded to within such time period.

(d) If the City has provided written objections to the annual budgets, the City and Operator shall meet to discuss any written objections made by the City. Operator and the City will endeavor in good faith to resolve the City's objections. Operator shall, if appropriate, submit revisions to the proposed annual budgets for the City's review. The parties shall use reasonable endeavors to reach an agreement upon the annual budgets prior to January 1 of each Fiscal Year.

(e) The City acknowledges and agrees that, with respect to its review and approval of the annual budgets, (i) the Facility is to be operated and maintained in a manner consistent with the standards set forth in this Agreement, and (iii) Operator has sole discretion in establishing the pricing, sales policies, sales strategies, rates, credit policies, and entertainment policies and other amenities and services of the Facility pursuant to this Agreement.

(f) If the City and Operator are unable to agree upon the annual budgets prior to January 31, the items in dispute will be submitted to an Expert for resolution in accordance with the procedures set forth in Section 5.2(c). Notwithstanding anything to the contrary in this Agreement, in making a ruling as to any given disputed component of the annual budgets, the Expert shall (i) give due consideration to the intent of the parties as set forth in this Agreement, and (ii) shall only consider comparable statistics of facilities that are similarly positioned to the Facility. In that regard, the Expert shall not be entitled to mandate changes to Operator's or its Affiliates' operating methodologies in ruling on an annual budget dispute. Until such determination is made by an Expert or a new annual budget is agreed to by the parties, Manager

shall operate the Facility (A) in accordance with those aspects of the annual budgets which were not objected to by the City, and (B) for those areas for which there is an objection, in accordance with the actual expenses for the prior Fiscal Year, subject to increases of up to four percent (4%) on each line item; provided, that with respect to a dispute pertaining to the first Fiscal Year, in accordance with the final annual budget for such first Fiscal Year submitted to the City by Operator. The ceiling amounts referred to in the preceding sentence shall be adjusted to account for increases in Facility occupancy and utilization of other revenue producing areas of the Facility.

(g) Notwithstanding anything to the contrary contained herein, the City shall not have the right to withhold its approval with respect to the following aspects of the annual budgets and such aspects shall not be subject to resolution by an Expert: (i) Operator's projections of Operating Revenues or the components thereof; (ii) the following costs over which Operator and its Affiliates have no control: taxes, insurance premiums, utility rates, license and permitting fees, and compliance with Laws.

(h) Operator and its Affiliates shall use reasonable endeavors to operate the Facility in accordance with the Approved Budgets and annual plan; provided, however, the parties acknowledge that: (i) the Approved Budgets and annual plan contain only estimates; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the Approved Budgets and annual plan impracticable or impossible; (iii) Operator and its affiliates shall be entitled to depart there from due to causes of the foregoing nature.

(i) Operator shall not, without the City's prior approval, which approval shall be deemed given if not denied within twenty (30) days after receipt by the City of written request for such approval by Operator, incur costs or expenses or make expenditures that would cause the total expenditures in the Approved Budget to exceed: (i) any departmental line item provided for in the Approved Budget by more than ten percent (10%); or (ii) the aggregate amount of expenditures provided for in the Approved Budget by more than five percent (5%); provided, however, the City acknowledges and agrees as follows: (A) certain expenses provided for in the Approved Budget will vary based on the use of the Facility, and accordingly, to the extent that use of the Facility for any Fiscal Year exceeds the occupancy and use projected in the Approved Budget for such Fiscal Year, such Approved Budget shall be deemed to include corresponding increases in such variable expenses; (B) Operator shall have the right to pay from the Operating Account all uncontrollable expenses (e.g. property taxes, utilities, insurance premiums) without reference to the amounts provided for in respect thereof in the Approved Budget for any Fiscal Year; (C) if any expenditures are required on an emergency basis to avoid damage to the Facility or injury to Persons or property, Operator may make such expenditures, whether or not provided for or within the amounts provided for in the Approved Budget for any Fiscal Year; and (D) if any expenditures are required to comply with any Laws or to cure or prevent any violation thereof, Operator may make such expenditures, whether or not provided for or within the amounts provided for in the Approved Budget for the Fiscal Year in question, as may be necessary to comply with such Laws or to cure or prevent the violation thereof. The City further acknowledges and agrees that: (1) Operator and its Affiliates do not warrant, represent, undertake or guarantee that the Facility can or will achieve the results set forth in any Approved Budget, projections or such other information, and that the actual results achieved by the Facility

may vary from the estimates contained in any such Approved Budget, projections or such other information, and that such variations may be material; (2) if the City provides any such financial projections or budgets to a third party including any bank, financial institution or lender, the City is obligated to advise such third party in writing of the substance of the disclaimer set forth in this sentence; and (3) the failure of Operator to achieve any projections in the Approved Budget for any Fiscal Year shall not be an Event of Default by Operator under this Agreement, and shall not entitle the City to claim a breach by Operator or to otherwise terminate this Agreement.

5.4 Budget Modifications Initiated by Operator.

Operator may submit to the Mayor at any time, and from time to time, prior to the close of a Fiscal Year supplemental or revised Operating Budgets or Cash Flow Budgets for such Fiscal Year. Upon the approval of the Mayor and the City Council of such supplemental or revised budgets, the Approved Budgets for such Fiscal Year shall be deemed amended to incorporate such supplemental or revised budget. The Approved Budgets may only be amended as set forth in Section 5.5 below or in the two preceding sentences except that Operator shall have the right to deviate from the Approved Budgets as set forth in Section 5.3.

5.5 Budget Modifications Initiated by the City.

In the event that it appears reasonably likely, in any year during the term hereof, that the actual Net Operating Loss/Profit for such Fiscal Year will be larger than projected in the Operating Budget for such Fiscal Year, the Mayor may request from Operator a plan for reduction of Operating Expenses to a level consistent with the budgeted Net Operating Loss/Profit amount. Operator shall forthwith comply with any such expense reduction requested by the City and the Approved Budgets for such Fiscal Year shall be modified accordingly, provided that if the Operating Budget or Cash Flow Budget is modified in a manner which, in Operator's judgment, could materially interfere, impede or impair the ability of Operator to manage, operate or promote the Facility, Operator shall have the right to submit such dispute to the Expert for resolution in accordance with Section 5.2(c); provided, however, that during the pendency of such dispute, Operator shall be permitted to deviate from the Approved Budget or Operating Budget in accordance with Section 5.3. Operator shall not be construed to have breached its obligations under this Agreement if such alleged breach has been caused by the limitations in the Fiscal Year's Approved Budgets.

5.6 Operating Accounts.

Operator shall establish and maintain in one or more depositories designated by the City's Finance Director or designee one or more operating, payroll and other bank accounts (the "Operating Account(s)") for the promotion, operation and management of the Facility, in the name of the City, with Operator as agent and with signature authority in such employees of Operator as Operator shall determine. Except as otherwise provided in this Agreement, all revenues collected by Operator from the operation of the Facility shall be deposited into the Operating Accounts, and all Operating Expenses (other than Operating Expenses to be paid from an account described in Section 5.7) shall be paid by Operator as agent for the City from the Operating Accounts. Except as otherwise provided in this Agreement, all revenues collected by Operator arising from

operation of the Facility including revenues from box office sales, facility or equipment rentals, utility rental agreements, food and beverage concessions, or any other source, are the sole property of the City, held in trust by Operator for the City for application as provided herein. Any amounts remaining in the Operating Accounts upon termination of this Agreement for any reason, after payment of all outstanding Operating Expenses, shall be promptly paid by Operator to the City.

Removed 5.6(b) Reserve Fund

5.7 Ticket Sales Revenues.

Operator shall hold in a separate interest-bearing account in a banking institution depository in Council Bluffs, Iowa any ticket sale revenues which it receives with respect to an event to be held at the Facility pending the completion of the event. Such monies are to be held for the protection of ticket purchasers, the City and Operator, and to provide a source of funds, as required for such payments to performers and promoters and for such payments of Operating Expenses in connection with the presentation of events as may be required to be paid contemporaneously with the event. Following the satisfactory completion of the events, Operator shall make a deposit into the Operating Account(s) of the amount in such account and shall pay Event Expenses from the Operating Account(s) and provide the City with a full event settlement report. Interest which accrues on amounts deposited in the Operating Account(s) and the ticket account referred to above shall be considered Operating Revenues. Bank service charges, if any, on such account(s) shall be considered Operating Expenses.

5.8 Capital Improvements; Capital Equipment.

The obligation to pay for, and authority to perform, direct and supervise Capital Improvements and Capital Equipment purchases shall remain with the City and will not be considered Operating Expenses. The annual plan submitted pursuant to Section 6.2 shall include Operator's recommendation for Capital Improvements and Capital Equipment purchases to be accomplished during the year and shall be accompanied by an estimate of the cost of all such items and projects and a request that the City budget funds therefor. The City shall retain the discretion to determine whether and to what level to fund Capital Improvements and Capital Equipment purchases to the Facility; provided, however, that the City shall expend no less than \$100,000 each Fiscal Year in the aggregate on Capital Improvements and Capital Equipment.

5.9 Limitation of Operator Liability.

Notwithstanding any provision herein to the contrary and except for Operator's express indemnification undertakings in Section 8.1 and its express reimbursement undertakings in Section 6.1(b), Operator shall have no obligation to fund any cost, expense or liability with respect to the operation, management or promotion of the Facility.

5.10 Funds for Emergency Repairs.

Operator shall have the right to act, with the consent of the City, in situations which Operator determines to be an emergency with respect to the safety, welfare and protection of the

general public, including spending and committing funds held in the Operating Account(s) of the Facility, even if such expenses are not budgeted; provided, however, Operator shall have no obligation under any circumstance to spend or commit funds other than funds then available in such Operating Account(s) for any such purpose. Immediately following such action, Operator shall inform the City of the situation and the action(s) taken, and the City shall pay into such Operating Account(s) the amount of funds, if any, spent or committed by Operator pursuant to this Section 5.10 in excess of budgeted amounts.

6. Records, Audits and Reports.

6.1 Records and Audits.

(a) Operator shall keep full and accurate accounting records relating to its activities at the Facility in accordance with generally accepted United States accounting principles. Operator shall maintain a system of bookkeeping adequate for its operations hereunder. Operator shall give the City's authorized representatives access to such books and records maintained at the Facility during reasonable business hours and upon reasonable advance notice. Operator shall keep and preserve for at least three (3) years following each Fiscal Year all sales slips, rental agreements, purchase order, sales books, credit card invoices, bank books or duplicate deposit slips, and other evidence of Operating Revenues and Operating Expenses for such period. In addition, on or before October 1 following each Fiscal Year for which Operator is managing the Facility hereunder (beginning October, 2013) Operator shall furnish to the City a balance sheet, a statement of profit or loss and a statement of cash flows for the Facility for the preceding Fiscal Year, prepared in accordance with generally accepted United States accounting principles and accompanied by an independent auditor's report of a nationally recognized, independent certified public accountant. The audit shall contain an opinion expressed by the independent auditor of the accuracy of financial records kept by Operator and of amounts due to the City. The audit shall also provide a certification of Operating Revenues and Operating Expenses as defined in this Agreement for such Fiscal Year. The audit shall be conducted by a reputable firm selected by Operator with City approval. The City shall not withhold or delay such consent or approval unreasonably. Notwithstanding anything to the contrary herein, the Costs of such audit shall be deemed Operating Expenses.

^{removed "Council"}
(b) The City shall have the right at any time, and from time to time, to cause nationally recognized independent auditors to audit all of the books of Operator relating to Operating Revenues and Operating Expenses, including without limitation, cash register tapes, credit card invoices, duplicate deposit tapes, and invoices. No costs incurred by the City in conducting such audit shall be considered an Operating Expense. If any such audit demonstrates that the Operating Revenues or Operating Expenditures reflected in any financial statements prepared by Operator and audited as specified in the foregoing subparagraph (a) are understated (in the case of Operating Expenses) or overstated (in the case of Operating Revenues), in either case by more than five percent (1%), Operator shall pay to the City the reasonable cost of such audit and shall promptly refund to the City any portion of the Management Fee paid for such Fiscal Year which is attributable to the overstatement or understatement, as the case may be. The City's right to have such an audit made with respect to any Fiscal Year and Operator's obligation to retain the above records shall expire three (3) years after Operator's statement for such Fiscal Year has been delivered to the City.

6.2 Annual Plan.

(a) Operator shall provide to the City on or before November 1 of each year, an annual management plan, which shall include the Operating Budget for the next Fiscal Year. The annual plan shall include information regarding Operator's anticipated operations for such Fiscal Year, including anticipated events at the Facility, anticipated advertising and promotional activities (if applicable), and planned equipment and furnishings purchases. The annual plan shall be subject to review, revision and approval by the City. Following review and revision by the City, Operator shall have thirty (30) days to incorporate the City's revisions into its plan. Upon approval by the City, such annual plan shall constitute the operating program for Operator for the following Fiscal Year.

(b) Operator shall provide to the City copies of all offer sheets to artists or promoters for any and all entertainment events that are promoted or co-promoted by the Facility at the time such offers are made to the artists or promoters.

(c) Operator shall provide to the City all settlement sheets provided to artists and promoters within 30 days of the date of all events promoted or co-promoted by the Facility.

6.3 Long Term Capital Maintenance Plan.

By November 1, 2012, Operator shall provide to the City a report detailing, over a five (5) year horizon, Operator's operating maintenance activities, requested Capital Improvements and Capital Equipment purchases and an anticipated budget therefor. Such report shall be updated annually on or before November 3 of each year beginning on November 1, 2013.

6.4 Monthly Reports.

By the twenty-fifth day of each month, Operator shall provide to the City a written monthly report in a form approved by the City and similar to that used in other Operator-managed facilities setting out the Facility's anticipated activities for the upcoming month and reporting on the prior month's activities and finances. This report shall include a profit and loss statement and all settlement reports shall be provided to the City upon request. By the 10th day of each month, Operator will provide a listing of disbursements by vendor, amount and expense account for the prior month. This listing shall be included in the monthly expenditures submitted for Council approval.

7. Employees.

7.1 Operator Employees.

(a) Operator shall select, train and employ at the Facility such number of employees as Operator deems necessary or appropriate to satisfy its responsibilities hereunder; Operator shall use its best efforts to recruit employees who will be proficient, productive, and courteous to patrons, and Operator shall have authority to hire, terminate and discipline any and all personnel working at the Facility.

(b) Operator shall assign to the Facility a competent, full-time supervisor or manager who shall have no duties other than the day-to-day operation and management of the Facility. Prior to Operator's appointment of such manager, Operator shall consult with the Mayor with respect to the qualifications of the manager proposed by Operator, and the Mayor shall have given to Operator its prior written approval of such appointment.

(c) Operator employees at the Facility shall not for any purpose be considered to be employees of the City, and Operator shall be solely responsible for their supervision and daily direction and control and for setting, and paying as an Operating Expense, their compensation (and federal income tax withholding) and any employee benefits, and all costs related to their employment shall be an Operating Expense. Specifically, in connection with the employment of its employees, Operator shall pay all applicable social security, unemployment, worker's compensations or other employment taxes, or contributions to retirement plans, and shall comply with all federal and state laws and regulations relating to employment. All of these costs related to employment shall be cost of the Facility.

7.2 No Solicitation or Employment by City.

During the period commencing on the date hereof and ending one (1) year after the termination of this Agreement, except with Operator's prior written consent, the City will not and shall not permit any subsequent manager of the Facility, for any reason, solicit for employment, or hire, any of the senior management personnel employed by Operator at the Facility, including, without limitation, the general manager, director-level employees and department heads. In addition to any other remedies which Operator may have, specific performance in the form of injunctive relief shall be available for the enforcement of this provision.

8. Indemnification and Insurance.

8.1 Indemnification.

(a) Operator shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against any and all losses, liabilities, claims, damages and expenses (including reasonable attorneys fees) (collectively, "Losses") arising from any material default or breach by Operator of its obligations specified herein; provided, however, that the foregoing indemnification shall not extend to Losses to the extent such Losses (i) arise from gross negligence or willful misconduct of the City or its employees or any breach or default by the City of its obligations hereunder including, without limitation, Section 8.1(b) below, (ii) are of the type that are or would normally be covered by commercial insurance covering (A) the Facility and its premises for direct physical loss or damage and (B) business interruption and extra expenses, irrespective of the decision of the City to carry or not to carry such insurance, or (iii) are caused by or arise out of the services provided by the architects, engineers and other agents (other than Operator) retained by the City in connection with Capital Improvements or Capital Equipment purchases at the Facility.

(b) The City shall indemnify, defend and hold harmless Operator, its partners, directors, officers, agents and employees from and against any and all Losses arising from (i) any

material default or breach by the City of its obligations specified herein, (ii) the fact that at any time prior to, as of, or after the commencement of the Management Term hereunder the Facility has not been operated, or the Facility and its premises are not or have not been, in compliance with all Laws, including, but limited to, the Americans with Disabilities Act, 42 U.S.C. Sections 12101-12213 as amended by the Civil Rights Act of 1991 (42 U.S.C. Section 1981(a)), as it now exists and as it may be amended in the future by statute or judicial interpretation (collectively, the "ADA"), (iii) the fact that prior to, as of, or after the commencement of the Management Term hereunder there is any condition on, above, beneath or arising from the premises occupied by the Facility which might, under any Law, give rise to liability or which would or may require any "response," "removal" or "remedial action" (as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act), (iv) any structural defect or unsound operating condition with respect to the Facility or the premises occupied by the Facility prior to, as of or after the commencement of the Management Term hereunder, (v) any obligation or liability under or in respect of any Pre-Existing Agreement, contract, agreement or other instrument executed by Operator as agent for the City as authorized herein, (vi) any obligation or liability for personal injury at, on or about the Facility or for any physical damage or other Loss to any real property and personal property assets located at the Facility or intended to be incorporated therein, whether such assets or Losses are insured by the City or whether the City decides not to insure for such damage and Losses (including without limitation damages or Losses falling within any policy deductible), or (vii) any non-compliance that occurred on or prior to the commencement of the Management Term pursuant to any Pre-Existing Agreement, the Management Agreement dated October 8, 2011, between the City and SMG, or the License Agreement dated June 6, 2002, between Aramark Sports and Entertainment Services, Inc., and the City; provided, however, that the foregoing indemnification under clauses (i) and (ii) above shall not extend to Losses to the extent such Losses arise from any default or breach by Operator of its obligations specified herein.

(c) The provisions set forth in subparagraphs (a) and (b) above shall survive termination of this Agreement; provided, however, that except for indemnification based upon Section 8.1(b) (ii), (iii), (iv), (v), (vi) or (vii) above, a claim for indemnification pursuant to Section 8.1 shall be valid only if the party entitled to such indemnification provides written notice thereof to the other party prior to three (3) years following the date of termination of this Agreement.

(d) The terms of all insurance policies referred to in Section 8, including without limitation (i) the property insurance policies of the City, and (ii) the policies of any independent contractors retained by the City or hired by Operator (such as, the emergency medical technicians who are not employed by Operator), shall preclude subrogation claims against Operator, its partners, the City and their respective officers, directors, employees and agents.

(e) The foregoing indemnification rights shall be the exclusive remedies of each party hereto (other than any right to terminate this Agreement) arising from any breach of, default under or performance pursuant to this Agreement.

8.2 Liability Insurance.

(a) Operator shall secure prior to the commencement of the Management Term hereunder and shall keep in force at all times during the term of this Agreement, a commercial general liability insurance policy, with coverage including but not limited to bodily injury, property damage, advertising & personal injury, liquor liability, contractual liability, products and completed operations, independent contractors and all risk legal liability covering the premises, the operations hereunder, in the amount of Two Million Dollars (\$2,000,000.00) for each occurrence and in the aggregate. Operator shall also obtain and maintain Umbrella liability insurance with a limit of at least One Hundred Million Dollars (\$100,000,000).

(b) Operator shall also maintain Business Automobile Liability Insurance with respects to any claims for bodily injury and/or property damage, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall cover any vehicles (owned, non-owned or hired) operated by Operator directors, officers, agents and employees in connection with the Facility and such insurance shall include uninsured and underinsured motorists coverage

(c) Operator and Caesars Entertainment Operating Company Inc. shall be the named insured under all such policies. The City shall be an additional insured under the foregoing insurance policies, as its interests may appear, and said policies shall contain Standard Contractual Liability Coverage.

(d) Certificates evidencing the existence of the above policy, or policies, all in such form as the Mayor or City Council may reasonably require, shall be delivered to the Mayor or City Council prior to the commencement of this Agreement and within thirty (30) days after a policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

(e) Notwithstanding the provisions of this Section 8.2, the parties hereto acknowledge that the above policies may contain exclusions from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall, if possible, contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the Mayor, sent by certified mail, return receipt requested."

(f) Except as provided in Sections 8.6(b) and 8.7, all insurance procured by Operator in accordance with the requirements of this Agreement shall be primary over any insurance carried by the City and not require contribution by the City.

8.3 Workers Compensation Insurance.

Operator shall at all times maintain worker's compensation insurance (including occupational disease hazards) and employers' liability insurance with an authorized insurance company or through the Iowa State Compensation Insurance Fund or through an authorized self-insurance plan approved by the State of Iowa, insuring its employees at the Facility in amounts

equal to or greater than required under law. The employers' liability limits shall not be less than Two Million Dollars (\$2,000,000.00).

8.4 Employment Practices Liability Insurance.

Operator shall at all times maintain employment practices liability at limits not less than Five Million Dollars (\$5,000,000).

8.5 Fidelity Bond.

Operator shall provide to the City a Fidelity Bond covering all personnel under this Agreement in the amount of Five Million Dollars (\$5,000,000.00) for each loss, to reimburse the City for losses experienced due to the dishonest acts of Operator' employees.

8.6 Property Insurance.

(a) Operator shall maintain sufficient property damage or loss insurance to cover personal property owned by the City and Operator at the Facility and shall maintain such insurance throughout the term of this Agreement. At least ninety (90) days prior to the commencement of the Management Term hereunder, the City shall provide to Operator a schedule of declaration of values at replacement cost for the personal property owned by the City at the Facility.

(b) The City shall maintain its current property insurance covering the premises of the Facility. The City shall cause Operator to be named as an additional insured under all of the City's property and hazard insurance policies covering or relating to the Facility. In addition, the City shall, with respect to the Losses covered by such property and hazard insurance and business interruption and extra expenses insurance, waive any subrogation rights that it may have against Operator, its partners and their respective officers, employees and agents, whether or not the City self-insures for the Losses covered by such insurance. Nothing in this Agreement is intended to require Operator to maintain property and hazard insurance covering the premises at the Facility or business interruption insurance covering the interruption of operations by or for whatever cause at the Facility.

(i) The original or a certified copy of the above policy, or policies, referred to in Section 8.6(b) (with all required policy endorsements), plus certificates evidencing the existence thereof, all in such form as Operator may reasonably require, shall be delivered to Operator prior to the commencement of this Agreement. Notwithstanding the provisions of this Section 8.6(b), the parties hereto acknowledge that the above policies may contain exclusions from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall, if possible, contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to Operator, Vice President, Risk And Insurance sent by certified mail, return receipt requested."

(ii) A certificate of insurance (or satisfactory evidence of such renewal) shall be delivered to Operator within thirty (30) days after a policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

8.7 Certain Other Insurance.

If any of the Pre-Existing Agreements, not executed by Operator, consist of agreements with independent contractors to provide services in respect of the Facility, the City shall use its best efforts to cause such contractors to name Operator as an additional insured under any insurance maintained by such contractors pursuant to the terms of such Pre-Existing Agreements and in such event to deliver to Operator promptly after request therefore a certified copy of such policy and a certificate evidencing the existence thereof. In addition, if Operator enters into any agreements during the term of this Agreement with any independent contractors for the provision of services hereunder, Operator shall have the right to require such contractors to name Operator as an additional insured under any insurance required by Operator thereunder and to deliver to Operator prior to the performance of such services a certificate evidencing the existence thereof.

8.8 Insurance Generally. With respect to Sections 8.2, through 8.7 the foregoing insurance will be obtained and maintained by Operator and shall be an Operating Expense during the Management Term. All self insured retentions and deductibles to be procured under the required insurance coverages as well as posting of required collateral behind self insured retention and deductibles shall be Operating Expenses.

9. Ownership of Assets.

9.1 Ownership.

Except as otherwise provided in Section 5.13. above, the ownership of buildings and real estate, technical and office equipment and facilities, furniture, displays, fixtures, vehicles and similar tangible property located at the Facility shall remain with the City. Ownership of and title to all intellectual property rights of whatsoever value, held in the City's name shall remain in the name of the City. The ownership of consumable assets (such as office supplies and cleaning materials) purchased with Operating Revenues or City funds shall remain with the City, but such assets may be utilized and consumed by Operator in the performance of services under this Agreement. The ownership of data processing programs and software owned by the City shall remain with the City, and the ownership of data processing programs and Software owned by Operator shall remain with Operator. Operator shall not take or use, for its own purposes, customer or exhibitor lists or similar materials developed by the City for the use of the Facility, unless written consent is granted by the Mayor. Ownership of equipment, furnishings, materials, or fixtures not considered to be real property and other personal property purchased by Operator with City funds for use at and for the Facility shall vest in the City automatically and immediately upon purchase or acquisition. The assets of the City as described herein shall not be pledged, liened, encumbered or otherwise alienated or assigned other than in the ordinary course of business of the Facility without the prior approval of the City. Notwithstanding any of the foregoing, all Operator Customer Data shall remain the property of Operator and/or its Affiliates at all times.

9.2 City Obligations.

Except as herein otherwise set forth, throughout the term of this Agreement, the City will maintain full beneficial use and ownership of the Facility and will pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any bonds, debentures or other security agreements or contracts relating to the Facility to which the City may be bound.

10. Assignment; Affiliates.

10.1 Assignment.

Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party hereto. Notwithstanding the foregoing, (i) Operator may assign all or any part of its rights hereunder to an Affiliate, provided that (x) such Affiliate possesses substantially the same degree of expertise and quality of personnel as originally provided under this Agreement, and (y) such assignment shall be at no increased cost to the City, and (ii) the City may assign all of its rights hereunder to City Authority. For sake of clarity, the parties acknowledge that the foregoing does not preclude the assignment by Operator of its rights to receive its Management Fees hereunder to its lender(s) as collateral security for Operator's obligations under any credit facilities provided to it by such lender(s), provided that such collateral assignment shall not in any event cover Operator's rights to manage, promote or operate the Facility hereunder

10.2 Operator Affiliates.

(a) Transactions with Affiliates. Any contract entered into between Operator and an Affiliate of Operator relating to the Facility shall be on terms and for prices customarily charged in the industry for comparable goods and services, and shall be approved in writing by the City. In addition, Operator, as agent for the City, may rent the Facility or any part thereof to itself in connection with any event in the promotion of which Operator is involved, so long as such rental is on prevailing rates and terms or such other rates and terms consistent with other facilities of similar size, as the City approves.

(b) Conflicts of Interest. The City acknowledges that Operator manages other public assembly facilities which may, from time to time, be in competition with the Facility. The management of competing facilities will not, in and of itself, be deemed a conflict of interest or breach of Operator's duties hereunder; provided, however, in all instances in which the Facility is in competition with other public assembly facilities managed by Operator for the solicitation of certain events, Operator shall not involve its principal office (currently in Las Vegas, Nevada) on behalf of any such other facility in an attempt to influence the decision-making process regarding the selection of a site by such events.

(c) Discounting Tickets for Events. If at a point in time after the commencement of ticket sales for an event and no greater than fourteen (14) days prior to the date of the schedule event, the parties represented by the General Manager of the Facility and a representative of the Arena Commission mutually determine that it is in the best interests of the Facility to allow discounted tickets to be sold to the employees of the parties or the public at

large or a certain segment thereof, the representatives of the parties shall cause the effected groups to be properly notified of the availability of such discounted tickets.

(i) If prior to the commencement of sales, Operator or its Affiliates desire to make discounted tickets available for employees of Operator or employees of Operator's Affiliates, Operator's Affiliates or customers of Operator or its Affiliates, the aforementioned representative shall meet at least twenty-one (21) days prior to the date when the tickets are scheduled to go on sale and determine the amount of the discount that will be permitted and the number of tickets to be sold at the discounted rates. In no case shall the discount be less than ten percent (10%) nor greater than fifty percent (50%) or exceed more than twenty-five percent (25%) of the tickets available but be less than ten percent (10%) of the tickets available.

(ii) If Operator or its Affiliates elect to promote an event at the Facility there will be no limit on the amount of discount to be offered, but no more than fifty (50%) of the tickets available will be allocated to their employees, affiliates, or customers. In the event Operator or its Affiliates elect to promote an event at the Facility that is not available for attendance by members of the general public, Operator shall reimburse the Facility for the actual cost and expense of such event plus one percent (1%).

(iii) It is understood between the parties that some contracts for events may further restrict or prohibit such discounted sales of tickets and the parties shall abide by such limitation.

11. Laws and Permits.

11.1 Permits, Licenses, Taxes and Liens.

Operator shall procure any permits and licenses required for the business to be conducted by it hereunder. The City shall cooperate with Operator in applying for such permits and licenses. Operator shall deliver copies of all such permits and licenses to the Mayor. Operator shall pay promptly, out of the accounts specified in Section 5.6, all taxes, excises, license fees and permit fees of whatever nature arising from its operation, promotion and management of the Facility. Operator shall prevent mechanic's or materialman's or any other lien from becoming attached to the premises or improvements at the Facility, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any mechanic or materialman, so long as the work, labor or material was provided at Operator's direction and the City has supplied funds for the payment of charges therefor in accordance with this Agreement.

11.2 Governmental Compliance.

Operator, its officers, agents and employees shall comply with all federal, state, local and municipal regulations, ordinances, statutes, rules, laws and constitutional provisions (collectively, "Laws") applicable to Operator's management of the Facility hereunder, including without limitation Title III of the ADA and the provision of such auxiliary aids or alternate services as may be required by the ADA. Nothing in this Section 11.2 or elsewhere in this Agreement shall, however, require Operator to undertake any of the foregoing compliance

activity, nor shall Operator have any liability under this Agreement therefor, if (a) such activity requires any Capital Improvements or Capital Equipment purchases, unless the City provides funds for such Capital Improvements and Capital Equipment purchases pursuant to Section 5.8 hereof, or (b) any Pre-Existing Agreement fails to require any licensee, lessee, tenant, promoter or user of any portion of the Facilities to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such licensee, lessee, tenant, promoter or user at the Facilities. Furthermore, Operator shall have the right to require any licensee, lessee, tenant, promoter or user of any portion of the Facility to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such licensee, lessee, tenant, promoter or user at the Facility.

11.3 No Discrimination in Employment.

In connection with the performance of work under this Agreement, Operator shall not refuse to hire, discharge, refuse to promote or demote, or to discriminate in matters of compensation against, any person otherwise qualified, solely because of race, color, religion, gender, age, national origin, military status, sexual orientation, marital status or physical or mental disability.

12. Termination.

12.1 Termination Upon Default.

Either party may terminate this Agreement upon a default by the other party hereunder. A party shall be in default hereunder if (i) such party fails to pay any sum payable hereunder within thirty (30) days after same is due and payable, or (ii) such party fails in any material respect to perform or comply with any of the other terms, covenants, agreements or conditions hereof and such failure continues for more than sixty (60) days after written notice thereof from the other party. In the event that a default (other than a default in the payment of money) is not reasonably susceptible to being cured within the sixty (60) day period, the defaulting party shall not be considered in default if it shall within such sixty (60) day period have commenced with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default.

12.2 Termination Other than Upon Default.

(a) If the City fails to make Capital Improvements or Capital Equipment purchases at the Facility to the extent that such omission, in Operator's judgment, materially interferes with, impedes or impairs the ability of Operator to manage the Facility effectively either party may submit such disagreement to Expert resolution according to the guidelines established in Section 5.2(c).

(b) Operator shall have the right to terminate this Agreement upon sixty (60) days written notice to the City if the City fails to comply with an Experts' resolution of a disagreement as described in Sections 5.2, 5.3, 5.5, or 12.2(a) hereof.

(c) Either party shall have the right to terminate this Agreement under the circumstances specified in Section 13.6(d).

12.3 Effect of Termination.

In the event this Agreement expires or is terminated, (i) all Operating Expenses incurred or committed for prior to the date of expiration or termination shall be paid using funds on deposit in the account(s) described in Sections 5.6 and 5.7 and to the extent such funds are not sufficient, the City shall pay all such Operating Expenses and shall indemnify and hold Operator harmless therefrom, and (ii) the City shall promptly pay Operator all fees earned to the date of expiration or termination (the Management Fees described in Section 4 hereof being subject to proration). Upon a termination pursuant to Section 12.1, all further obligations of the parties hereunder shall terminate except for the obligations in this Section 12.3 and in Sections 7.1(c), 8.1 and 12.4; provided, however, that if such termination is the result of a willful default, the nondefaulting party exercising its right to terminate this Agreement shall be entitled to recover its actual damages for breach arising from such willful default.

12.4 Surrender of Premises.

Upon termination of this Agreement (termination shall, for all purposes in this Agreement, include termination pursuant to the terms of this Section 12 and any expiration of the term hereof), Operator shall surrender and vacate the Facility upon the effective date of such termination. The Facility and all equipment and furnishings shall be returned to the City in good repair, reasonable wear and tear excepted, to the extent funds were made available therefor by the City. All reports, records, including financial records, and documents maintained by Operator at the Facility relating to this Agreement other than materials containing Operator's proprietary information shall be immediately surrendered to the City by Operator upon termination.

12.5 Dispute Resolution. In the event that the parties cannot resolve any dispute not subject to resolution by the Expert as required by this Agreement, either party may pursue their remedies at law or in equity subject to the foregoing provisions hereof.

13. Miscellaneous.

13.1 Use of Facility at Direction of City.

(a) At the direction of the Mayor, upon reasonable advance notice and subject to availability, Operator shall provide use of the Facility or any part thereof to civic and nonprofit organizations located in Southwest, Iowa area at reduced rates. All event-related expenses, including but not limited to ushers, ticket-takers, security and other expenses incurred in connection with the use of the Facility by such organizations, if not reimbursed to Operator by the organization using the Facility, shall be reimbursed by the City to Operator for deposit into the operating accounts specified in Section 5.6.

(b) The City shall have the right to use the Facility or any part thereof, upon reasonable advance notice and subject to availability, for such purposes as meetings, seminars,

training classes or other uses without the payment of any rental or use fee (or at a reduced fee), except that direct out-of-pocket expenses incurred in connection with such uses shall be paid by the City.

(c) The City shall not schedule use of the Facility pursuant to subparagraphs (a) and (b) above if such use will conflict with paying events booked by Operator and shall in all instances be subordinate thereto in terms of priority of use of the Facility. In all instances when the Facility, or part thereof, is to be used at the City's request or by the City pursuant to subparagraph (a) or (b) above, a rent or use fee which otherwise would be chargeable for such event shall be deemed to have been paid and such deemed payment shall constitute Operating Revenues.

(d) Operator shall actively promote either non-fee or reduced fee charitable, community and school events at the Facility. The City shall work with Operator to utilize the City's insurance policies to most cost efficiently promote such events.

*changed
removed "ice skating"*

(e) The Council Bluffs Convention & Visitors' Bureau will continue to have scheduling priority for events planned more than eighteen (18) months in the future. Operator will have scheduling priority for events planned within eighteen (18) months.

13.2 Intentionally Omitted.

13.3 No Partnership or Joint Venture.

Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between the City and Operator. None of the officers, agents or employees of Operator shall be or be deemed to be employees of the City for any purpose whatsoever.

13.4 Entire Agreement.

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings with respect thereto. No other agreements, representations, warranties or other matters, whether oral or written, will be deemed to bind the parties hereto with respect to the subject matter hereof.

13.5 Written Amendments.

This Agreement shall not be altered, modified or amended in whole or in part, except in a writing executed by each of the parties hereto.

13.6 Force Majeure.

(a) No party will be liable or responsible to the other party for any delay, damage, loss, failure, or inability to perform caused by "Force Majeure" if notice is provided to the other party within ten (10) days of date on which such party gains actual knowledge of the event of "Force Majeure" that such party is unable to perform. The term "Force Majeure" as used in this Agreement means the following: an act of God, strike, war, public rioting, lightning,

fire, storm, flood, explosions, inability to obtain materials, supplies, epidemics, landslides, lightening storms, earthquakes, floods, storms, washouts, civil disturbances, explosions, breakage or accident to machinery or lines of equipment, temporary failure of equipment, freezing of equipment and any other cause whether of the kinds specifically enumerated above or otherwise which is not reasonably within the control of the party whose performance is to be excused and which by the exercise of due diligence could not be reasonably prevented or overcome (it being acknowledged that under no circumstances shall a failure to pay amounts due and payable hereunder be excusable due to a Force Majeure).

(b) Neither party hereto shall be under any obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the provision of any component necessary therefor shall be prohibited or rationed by any Law.

(c) Except as otherwise expressly provided in this Agreement, no abatement, diminution or reduction of the payments payable to Operator shall be claimed by the City or charged against Operator, nor shall Operator be entitled to additional payments beyond those provided for in this Agreement for any inconvenience, interruption, cessation, or loss of business or other loss caused, directly or indirectly, by any present or future Laws, or by priorities, rationing, or curtailment of labor or materials, or by war or any matter or thing.

(d) In the event of damage to or destruction of the Facility by reason of fire, storm or other casualty or occurrence of any nature or any regulatory action or requirements that, in either case, is expected to render the Facility materially untenable, notwithstanding the City's reasonable efforts to remedy such situation, for a period, estimated by an Architect selected by the City at the request of Operator, of at least one hundred eighty (180) days from the happening of the fire, other casualty or any other such event, either party may terminate this Agreement upon written notice to the other. In the event that the Facility becomes either wholly or partially untenable as a result of any of the foregoing, appropriate adjustments to the Net Operating Losses/Profit benchmarks shall be made.

(e) Operator may suspend performance required under this Agreement, without any further liability, in the event of any act of God or other occurrence, which act or occurrence is of such effect and duration as to effectively curtail the use of the Facility so as to effect a substantial reduction in the need for the services provided by Operator for a period in excess of ninety (90) days; provided, however, that for the purposes of this subsection, Operator shall have the right to suspend performance retroactively effective as of the date of the use of the Facility was effectively curtailed. "Substantial reduction in the need for these services provided by Operator" shall mean such a reduction as shall make the provision of any services by Operator economically impractical. No payments of the Management Fees otherwise due and payable to Operator shall be made by the City during the period of suspension. In lieu thereof, the Mayor and Operator may agree to a reduced Management Fee payment for the period of reduction in services required.

13.7 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.

(a) This Agreement and the rights and obligations set forth herein shall inure to the benefit of, and be binding upon, the parties hereto and each of their respective successors and permitted assigns.

(b) This Agreement shall not be construed as giving any person, other than the parties hereto and their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any of the provisions herein contained, this Agreement and all provisions and conditions hereof being intended to be, and being, for the sole and exclusive benefit of such parties and their successors and permitted assigns and for the benefit of no other person or entity.

13.8 Notices.

Any notice, consent or other communication given pursuant to this Agreement will be in writing and will be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by an overnight courier service that is generally recognized as reliable, (c) on the fifth day following mailing by certified or registered mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefor as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the City:

Mayor City Hall
209 Pearl Street
Council Bluffs, Iowa 51503
Telecopy: 712-328-4685

With a copy to:

City Attorney - City Hall
209 Pearl Street
Council Bluffs, Iowa 51503
Telecopy: 712-322-9255

To Operator:

Harrah's Iowa Arena Management
d/b/a Harrah's Council Bluffs
2701 23rd Avenue
Council Bluffs, Iowa 51501
Attention: General Manager
Telecopy: 712-322-9354

With a copy to:

Caesars Entertainment Operating Company, Inc.
One Operator Palace Drive
Las Vegas, NV 89109
Attention: General Counsel
Telecopy: (702) 892-2795

13.9 Section Headings and Defined Terms.

The section headings contained herein are for reference purposes only and shall not in any way affect the meaning and interpretation of this Agreement. The terms defined herein and in any agreement executed in connection herewith include the plural as well as the singular and the singular as well as the plural, and the use of masculine pronouns shall include the feminine and neuter. Except as otherwise indicated, all agreements defined herein refer to the same as from time to time amended or supplemented or the terms thereof waived or modified in accordance herewith and therewith.

13.10 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute but one and the same agreement.

13.11 Severability.

The invalidity or unenforceability of any particular provision, or part of any provision, of this Agreement shall not affect the other provisions or parts hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions or parts were omitted.

13.12 Non-Waiver.

A failure by either party to take any action with respect to any default or violation by the other of any of the terms, covenants, or conditions of this Agreement shall not in any respect limit, prejudice, diminish, or constitute a waiver of any rights of such party to act with respect to any prior, contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default.

13.13 Certain Representations and Warranties.

(a) The City represents and warrants to Operator the following: (i) all required approvals have been obtained, and the City has full legal right, power and authority to enter into and perform its obligations hereunder, (ii) this Agreement has been duly executed and delivered by the City and constitutes a valid and binding obligation of the City, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency,

reorganization or similar laws affecting creditors' rights generally or by general equitable principles, (iii) the Pre-Existing Agreements listed on Exhibit __ attached hereto and made a part hereof are the only Pre-Existing Agreements in effect with respect to the use, operating, management and maintenance of the Facility, and (iv) no other party has any right to the operation or management of any portion of the Facility.

(b) Operator represents and warrants to the City the following: (i) all required approvals have been obtained, and Operator has full legal right, power and authority to enter into and perform its obligations hereunder, and (ii) this Agreement has been duly executed and delivered by Operator and constitutes a valid and binding obligation of Operator, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.

13.14 Governing Law.

This Agreement will be governed by and construed in accordance with the internal laws of the State of Iowa, without giving effect to otherwise applicable principles of conflicts of law.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

ATTEST:

CITY OF COUNCIL BLUFFS, IOWA:

By: _____
Mayor

HARRAH'S IOWA ARENA MANAGEMENT, LLC

By: Caesars Entertainment Operating Company, Inc.,
a Delaware corporation, its sole member

By: _____
Name: _____
Title: _____

EXHIBIT A

Depiction of Facility



CITY AGREEMENT
A- <u>2756</u>
RESO _____

MANAGEMENT AGREEMENT

BETWEEN

THE CITY OF COUNCIL BLUFFS, IOWA

AND

HARRAH'S IOWA ARENA MANAGEMENT, LLC

Dated as of JUNE 15, 2012

Ends 2017

TABLE OF CONTENTS

	Page
1. DEFINITIONS.....	2
2. ENGAGEMENT OF OPERATOR SCOPE OF SERVICES.....	6
2.1 Engagement.....	6
2.2 Scope of Services - - Generally.....	7
2.3 Specific Services.....	7
2.4 Right of Entry Reserved.....	9
2.5 Confidentiality/Nondisclosure.....	9
2.6 Centralized Services.....	10
3. TERM AND RENEWAL.....	11
3.1 Management Term and Renewal Term.....	11
3.2 New Contract.....	11
4. OPERATOR'S COMPENSATION.....	12
4.1 Management Fee.....	12
5. FUNDING, BUDGETS; BANK ACCOUNTS.....	12
5.1 Operating Funds.....	12
5.2 Non-Funding.....	13
5.3 Annual Budget; Cash Flow Budget.....	14
5.4 Budget Modifications Initiated by Operator.....	16
5.5 Budget Modifications Initiated by the City.....	16
5.6 Receipts and Disbursements.....	17
5.7 Ticket Sales Revenues.....	18
5.8 Capital Improvements; Capital Equipment.....	18
5.9 Limitation of Operator Liability.....	18
5.10 Funds for Emergency Repairs.....	18
6. RECORDS, AUDITS AND REPORTS.....	19
6.1 Records and Audits.....	19
6.2 Annual Plan.....	19
6.3 Long Term Capital Maintenance Plan.....	20
6.4 Monthly Reports.....	20
7. EMPLOYEES.....	20
7.1 Operator Employees.....	20
7.2 No Solicitation or Employment by City.....	21
8. INDEMNIFICATION AND INSURANCE.....	21
8.1 Indemnification.....	21
8.2 Liability Insurance.....	22
8.3 Workers Compensation Insurance.....	23
8.4 Employment Practices Liability Insurance.....	23
8.5 Fidelity Bond.....	24
8.6 Property Insurance.....	24
8.7 Certain Other Insurance.....	24
8.8 Insurance Generally.....	25
9. OWNERSHIP OF ASSETS.....	25
9.1 Ownership.....	25

TABLE OF CONTENTS
(continued)

		Page
	9.2 City Obligations.....	25
10.	ASSIGNMENT; AFFILIATES.....	26
	10.1 Assignment.....	26
	10.2 Operator Affiliates.....	26
11.	LAWS AND PERMITS.....	27
	11.1 Permits, Licenses, Taxes and Liens.....	27
	11.2 Governmental Compliance.....	27
	11.3 No Discrimination in Employment.....	28
12.	TERMINATION.....	28
	12.1 Termination Upon Default.....	28
	12.2 Termination Other than Upon Default.....	28
	12.3 Effect of Termination.....	28
	12.4 Surrender of Premises.....	29
	12.5 Dispute Resolution.....	29
13.	MISCELLANEOUS.....	29
	13.1 Use of Facility at Direction of City.....	29
	13.2 Intentionally Omitted.....	30
	13.3 No Partnership or Joint Venture.....	30
	13.4 Entire Agreement.....	30
	13.5 Written Amendments.....	30
	13.6 Force Majeure.....	30
	13.7 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.....	31
	13.8 Notices.....	32
	13.9 Section Headings and Defined Terms.....	33
	13.10 Counterparts.....	33
	13.11 Severability.....	33
	13.12 Non-Waiver.....	33
	13.13 Certain Representations and Warranties.....	33
	13.14 Governing Law.....	34

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") dated as of the 15 day of June, 2012, by and between the City of Council Bluffs, Iowa, a municipal corporation organized and existing pursuant to Chapter 372 of The Code of the State of Iowa (the "City"), and HARRAH'S IOWA ARENA MANAGEMENT, LLC, a Delaware limited liability company whose current address is One Caesar's Palace, Las Vegas, Nevada 89109 ("Operator")

BACKGROUND

The City is the owner of a recreation and convention complex, consisting of an arena, an attached fieldhouse/exhibit hall, an attached ballroom and kitchen ("Ballroom and Kitchen Facilities"), and associated parking facilities including adjacent public areas surrounding the retail space as more specifically depicted on Exhibit A (collectively, the "Facility") located in the City of Council Bluffs, Iowa.

Operator and its Affiliates are engaged in the business of providing management services, including operations and marketing services, for food and beverage outlets and entertainment facilities.

The City desires to engage Operator, and Operator desires to accept such engagement, to provide management services for the Facility on the terms and conditions set forth herein.

The City intends to work in mutual accord with Operator in order to ensure provision of high quality management services, thereby enhancing the use and enjoyment of the Facility.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

For purposes of this Agreement, the following terms have the meanings referred to in this Section 1:

"ADA" – as defined in Section 8.1(b) of this Agreement.

"Affiliate" - a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person. For purposes of this definition, "control" means ownership of equity securities or other ownership interests which represent more than 40% of the voting power in the controlled person.

"Approved Budget" - any budget submitted by Operator, as approved by the City pursuant to Section 5 hereof.

"Operator" – as defined in the first paragraph of this Agreement.

"Operator Customer Data" means any customer lists developed by Operator and its Affiliates and any information or data affirmatively provided by guests and customers of the any facilities owned or managed by Operator or its Affiliates, such as forms filled out upon arrival or in customer preference questionnaires during such guests' and customers' stay or visit, including, but not limited to: (a) player information or other gaming related information generated by or at facilities operated or managed by Operator or its Affiliates; (b) any information gathered, generated or extrapolated as part of or residing within the Total Rewards System or from any other player or customer loyalty program; and (c) any information originating from facilities owned or operated Operator or is Affiliates;

"Capital Equipment" - any and all furniture, fixtures, machinery or equipment, either additional or replacement, having a per item original cost of ~~\$5,000~~ ^{10,000} or more or an expected useful life of more than ~~one~~ ^{five} year.

"Capital Improvements" - any and all building additions, alterations, renovations, repairs or improvements that have an initial dollar cost of not less than ~~\$5,000~~ ^{20,000} per project.

"Cash Flow Budget" - An annual cash flow budget setting forth the projected cash flow of the Facility.

"Centralized Services" - as defined in Section 2.6(a).

"Centralized Services Charges" - as defined in Section 2.6(b).

"City" - as defined in this first paragraph of this Agreement.

"City Council" - the Council Bluffs, Iowa City Council.

"Confidential Information" - as defined in Section 2.5(c).

"Event Expenses" - any and all expenses incurred or payments made by Operator in connection with the occurrence of events at the Facility, including but not limited to costs for event staffing including ushers, ticket takers, security and other event staff, and costs relating to setup and cleanup.

"Facility" - as defined in the first paragraph of the Background section of this Agreement.

"Fiscal Year" - a one year period beginning July 1 and ending June 30.

"Food Services" - all sales of food and beverages at the Facility including, without limitation, (i) all food and beverage sales from permanent or portable concessions stands or roving vendors to individual customers, (ii) all food and beverage sales of brand name products for which a franchise or royalty payment is required to be paid to a third party; (iii) all food and beverage sales from permanent or portable concession stands, bars, food stations or in-seat servers to individual customers in the Club Lounge or Club Seating Areas; (iv) all food and beverage catering sales, and (v) all food and beverage sales in the Facility's suites. The definition of Food Service shall exclude any sales from vending machines.

"Laws" – as defined in Section 11.2 of this Agreement.

"Losses" – as defined in Section 8.1(a) of this Agreement.

"Management Fee" – the management fee payable to Operator pursuant to Section 4.1 below.

"Management Term" – as defined in Section 3.1 of this Agreement.

"Mayor" – the Mayor of the City of Council Bluffs, Iowa or the Mayor's written designee.

"Necessary Unforeseen Expenses" shall mean expenses, which could not reasonably be foreseen by Operator or are in excess of amounts that Operator could reasonably have anticipated at the time of completion of the then-applicable Approved Budgets to fund (a) real estate taxes, assessments and utility charges, (b) insurance premiums and associated deductibles or retentions for the insurance required under Section 8, (c) expenses incidental to compliance with any final court orders, judgments or other legal proceedings and all costs and expenses related thereto, (d) other immediately necessary expenditures and additions or modifications to the Facility to comply with applicable laws, rules or regulations, or (e) subject to Section 5.10, an expense which is reasonably necessary in connection with an emergency condition. Necessary Unforeseen Expenses exclude expenses incurred as a result of the gross negligence or misconduct on the part of Operator.

"Net Operating Loss/Profit" – with respect to a Fiscal Year, the excess, if any, of Operating Expenses for such Fiscal Year over Operating Revenues for such Fiscal Year, in the case of a loss, and the excess, if any, of Operating Revenues for such Fiscal Year over Operating Expenses for such Fiscal Year, in the case of a profit. To the extent not inconsistent with the prior practice in the management of the Facility prior to the date hereof, accrual basis accounting as defined by the Financial Accounting Standards Board shall be used to determine Net Operating Loss/Profit.

"NOL Threshold" – a Net Operating Loss of \$700,000.00. – ~~\$~~ 500,000

"Operating Account(s)" – as defined in Section 5.6(a) hereof.

"Operating Budget" – An annual operating budget projecting the Operating Revenues and Operating Expenses to meet the scope of services and objectives under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected Net Operating Loss/Profit.

"Operating Expenses" – (a) any and all expenses and expenditures of whatever kind or nature incurred, directly or indirectly, by Operator in promoting, operating, maintaining and managing the Facility, including, but not limited to: employee compensation and related expenses (e.g., base salaries, bonuses, severance and car allowances), employee benefits and related costs (e.g., relocation and other related expenses pursuant to Operator's relocation policy (a copy of which will be provided upon request), parking and other fringe benefits), supplies,

material and parts costs, costs of any interns and independent contractors, advertising, marketing and public relations costs and commissions, janitorial and cleaning expenses, data processing costs, dues, subscriptions and membership costs, the costs of procuring and maintaining the insurance and fidelity bonds referred to in Section 8 below, amounts expended to procure and maintain permits and licenses, charges, taxes, excises, penalties and fees, professional fees, printing and stationery costs, Event Expenses, Centralized Services Charges, expenses related to Food Services, postage and freight costs, equipment rental costs, computer equipment leases and line charges, repairs and maintenance costs (e.g., elevators and HVAC), security expenses, utility and telephone charges, travel and entertainment expenses in accordance with Operator's policies, the cost of employee uniforms, safety and medical expenses, exterminator and waste disposal costs, costs relating to the maintenance of signage inventory and systems, the cost of annual independent audits of the Facility, the cost of compliance with laws and regulations, other start-up expenses associated with the opening of a Facility, costs incurred under agreements, commitments, licenses and contracts executed in Operator's name (or in Operator's name as agent of the City) as provided in Section 2.3(b) hereof, and the Management Fee, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis; provided that Operating Expenses shall not include expenses or expenditures in connection with Capital Improvements and Capital Equipment purchases.

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit and Operator Management Fee hereunder, and (ii) identifying Operating Expenses which will be budgeted in Approved Budgets, Operating Expenses shall exclude (A) Event Expenses which are deducted from the gross receipts of all event activities at the Facility (in accordance with the last sentence in the definition of Operating Revenues), and (B) all extraordinary expenses and all interest, income tax, depreciation and amortization expenses.

e "Operating Revenues" - (a) any and all revenues of every kind or nature derived from owning, operating, managing or promoting the Facility, including, but not limited to: license, lease and concession fees, permanent or temporary space rentals, event services revenues, premium seating and suite revenues, revenues from merchandise sales, advertising sales, Food Services, equipment rentals, utility revenues, box office revenues, parking revenues, food service and concession revenues (however, if such revenues are collected in the first instance by and retained by the concessionaire, the amount of such revenues paid by the concessionaire to the Facility shall be included as Operating Revenues), commissions or other revenues from decoration and set-up, security and other subcontractors (however, if such revenues are collected in the first instance by and retained by such subcontractors, the amount of such revenues paid by such contractors to the Facility shall be included as Operating Revenues), miscellaneous operating revenues, revenues generated from separate agreements with Operator Affiliates pertaining to the Facility, and interest revenues, all as determined in accordance with generally accepted accounting principles and recognized on a full accrual basis. For the sake of clarity, the parties acknowledge that revenues from the sale of tickets for events at the Facility are not Operating Revenues, but are instead revenues of the promoter and/or performer of each such event. To the extent that Operator collects such ticket sale revenue on behalf of such promoter and/or performer, such ticket sale revenue shall be the source of funds from which Operator collects the rental charges and other event reimbursements due by such promoter and/or

performer for use of the Facility, which such charges and reimbursements are Operating Revenues hereunder.

(b) Solely for purposes of (i) calculating Net Operating Loss/Profit, (ii) identifying Operating Revenues which will be budgeted in Approved Budgets, and (iii) calculating Operator Management Fee hereunder, Operating Revenues from all event activity at the Facility will be calculated to encompass the gross receipts from each such event, less Event Expenses.

Any left here?

"Pre-Existing Agreement" – each contract, license, agreement, option, lease and commitment existing as of the date of this Agreement that grants any person or entity any right (i) to license, use, occupy or rent all or any portion of the Facility, or (ii) to provide services to be used in the management, operation, use, possession, occupation, maintenance, promotion or marketing of all or any portion of the Facility (including the Tenant Agreement with the Lancers Hockey Team), and that have been provided to Operator.

"Renewal Term" - - the five-year period immediately following the Management Term, for which this Agreement may be renewed in accordance with Section 3.1 hereof beyond the Management Term.

"Systems" - - all computer hardware, software (commercial or custom), peripherals, technology products, operational systems, including, without limitation, telephone systems, HVAC systems, elevator and escalator systems, security systems and all other automated systems and equipment, and all components of any of the foregoing.

"Third-Party Centralized Services" - as defined in Section 2.6(a).

"Total Rewards System" means the Total Rewards[®] customer loyalty program as implemented from time to time by Operator or its Affiliates or such other replacement loyalty rewards program as may be implemented by Operator or its Affiliates from time to time in its discretion.

2. Engagement of Operator Scope of Services.

2.1 Engagement.

(a) General Scope. The City hereby engages Operator to promote, operate and manage the Facility during the Management Term and the Renewal Term, if any, upon the terms and conditions hereinafter set forth, and Operator hereby accepts such engagement.

(b) Managing Agent for the Facility. Subject to the terms of this Agreement, Operator shall be the sole and exclusive managing agent of the City to manage, operate and promote the Facility during the Management Term and the Renewal Term, if any. Operator shall have exclusive authority over the day-to-day operation of the Facility and all activities therein; provided that Operator shall follow all policies and guidelines of the City hereafter established or modified by the City that the City notifies Operator in writing are applicable to the Facility (including without limitation any methodology pertaining to the allocation of any costs and expenses by the City to the Facility as permitted herein); provided further that to the extent that

such policies or guidelines hereafter established or modified by the City adversely affect revenues or expenses at the Facility, then and in that event, the Operating Revenue and Net Operating Loss/Profit benchmarks used in determining the Management Fee or set forth in any Approved Budget, as appropriate, shall be correspondingly adjusted so that they reflect the additional costs or reduced revenues resulting from such established or modified policies or guidelines and provided that no change to the City's policies or guidelines shall be permitted to modify the term, renewal rights, economic provisions, the authority of Operator or any other material business term hereunder.

2.2 Scope of Services - - Generally.

Operator shall perform and furnish such management services and systems as are appropriate or necessary to operate, manage and promote the Facility in a manner consistent with Operator's policies and procedures and the operations of other similar facilities. Operator's management shall include the operation of the Ballroom and Kitchen Facilities and the Food Services at the Facility.

2.3 Specific Services.

Without limiting the generality of the foregoing, Operator shall have, without (except as otherwise expressly noted below) any prior approval by the City, sole right and authority to:

(a) subject to the City's right of approval set forth in Section 7.1(b) below, employ, supervise and direct employees and personnel consistent with the provisions of this Agreement;

not Caesar's
(b) negotiate, execute as agent for the City ~~in the City's name~~ (unless otherwise agreed to by the parties), deliver and administer any and all licenses, occupancy agreements, rental agreements, booking commitments, advertising agreements (to the extent so requested by the City), concession agreements, supplier agreements, service contracts (including, without limitation, contracts for cleaning, decorating and set-up, ~~snow removal~~, general maintenance and maintenance and inspection of HVAC systems, elevators, stage equipment, fire control panel and other safety equipment, staffing and personnel needs, including guards and ushers, and other services which are necessary or appropriate), all contracts and agreements for the Centralized Services and all other contracts and agreements in connection with the management, promotion and operation of the Facility, provided that if any such license, agreement, commitment or contract other than those involving the license, lease or rental of the Facility in the ordinary course ~~has a term that extends beyond the remaining Management Term or Renewal Term, as the case may be; such license, agreement, commitment or contract shall be approved and executed by the City (which approval shall not be unreasonably withheld).~~ Without limiting the foregoing, subject to Section 13.1 hereof, Operator shall have exclusive right to book events at the Facility; provided, however, Operator shall use its best efforts and judgment so as not to book an event that it believes will offend the community of Council Bluffs and its immediately surrounding areas;

do this

(c) to the extent that Operating Revenues or funds supplied by the City are made available therefor, maintain the Facility in the condition received, reasonable wear and tear

excepted; provided that the City shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases as provided in Section 5.8;

(d) to the extent that Operating Revenues or funds supplied by the City are made available therefor, rent, lease or purchase all equipment and maintenance supplies necessary or appropriate for the operation and maintenance of the Facility, provided that the City shall be responsible for undertaking all Capital Improvements and Capital Equipment purchases pursuant to Section 5.8;

Possibly
Don't
do
(e) establish and adjust prices, rates and rate schedules for the aforesaid licenses, agreements and contracts and any other commitments relating to the Facility to be negotiated by Operator in the course of its management, operation and promotion of the Facility subject to Section 13.1 hereof. In determining such prices and rate schedules, Operator shall evaluate comparable charges for similar goods and services at similar and/or competing facilities, shall consult with the Mayor about any adjustments to the rate schedules at the Facility to be made by Operator, and shall utilize the recommended and approved policies of the City;

(f) pay, when due, on behalf of the City, all Operating Expenses from accounts established pursuant to Sections 5.6 and 5.7 of this Agreement;

(g) after consultation with the City Attorney or his designee, institute as agent for the City and at the reasonable expense of the City, with counsel selected by Operator, such legal actions or proceedings as Operator shall deem necessary or appropriate in connection with the operation of the Facility, including, without limitation, to collect charges, rents or other revenues due to the City or to cancel, terminate or sue for damages under, any license, use, advertisement or concession agreement for the breach thereof or default thereunder by any licensee, user, advertiser, or concessionaire at the Facility;

(h) maintain a master set of all booking records and schedules for the Facility;

(i) provide day-to-day administrative services in support of its management activities pursuant to Approved Budgets and annual plans described herein, including, but not limited to, the acquisition of services, equipment, supplies and facilities; internal budgeting and accounting; maintenance and property management; personnel management; record-keeping; collections and billing; and similar services; and

(j) to cause the Facility to participate in the Total Rewards Systems such that admission, tickets, goods and/or services available at the Facility shall be available under the Total Rewards System on such terms as shall be reasonably determined by Operator consistent with the general terms, conditions and operations of the Total Rewards System;

(k) subject to the Approved Budget and any general marketing plan contained in the Annual Plan as approved by the City, engage in such advertising, solicitation, and promotional activities as Operator deems necessary or appropriate to develop the potential of the Facility and the cultivation of broad community support (including without limitation and if applicable, selling advertising inventory and securing product rights for the Facility). Operator shall work with the City's Convention Bureau to market the Facility for conventions, trade

shows and public entertainment shows. In connection with its activities under this Agreement, including without limitation and if applicable, advertising relating to the Facility, Operator shall be permitted to use the terms "Mid-America Center" or "MAC", or such other name agreed to by the City and logos for such names in its advertising, subject to the approval of the Mayor; provided, however, no trademarks or trade names associated with, used, owned or licensed by Operator or its Affiliates shall be used to promote or operate facility (other than identifying Operator as manager as may be necessary) unless and until approved by Operator and the City, each in their sole discretion, and subject to such license agreements as Operator shall require in connection therewith.

2.4 Right of Entry Reserved.

Representatives of the City designated in writing by the Mayor shall have the right, upon reasonable advance notice to Operator and at appropriate times, to enter all portions of the Facility to inspect same, to observe the performance of Operator of its obligations under this Agreement, to install, remove, adjust, repair, replace or otherwise handle any equipment, utility lines, or other matters in, on, or about the premises, or to do any act or thing which the City may be obligated or have the right to do under this Agreement or otherwise. Nothing contained in this Section is intended or shall be construed to limit any other rights of the City under this Agreement. The City shall not interfere with the activities of Operator hereunder, and the City's actions shall be conducted such that disruption of Operator's work shall be kept to a minimum. Nothing in this Section shall impose or be construed to impose upon the City any independent obligation to construct or maintain or make repairs, replacements, alterations, additions or improvements or create any independent liability for any failure to do so.

2.5 Confidentiality/Nondisclosure.

(a) Confidentiality/Nondisclosure. Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City agrees that it shall keep secret and confidential any and all Confidential Information already disclosed and/or to be disclosed to it by Operator, and the City shall not divulge any such information, in whole or in part, to any third party except as is expressly permitted below in this Section 2.5.

(b) Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City shall not use any such information, except for the express purpose of utilizing it in connection with the management of the Facility. Subject to Chapters 21 and 22 of the Iowa Open Records Code, the City shall not directly or indirectly disclose or discuss any such information with any person or entity, other than employees, agents and subcontractors of the City who are directly concerned with the management of the Facility, provided, however, that in the event of any such disclosure to its employees, agents and subcontractors, the City (i) shall first inform Operator of its desire to make such disclosure, (ii) if requested by Operator, shall require such employees, agents or subcontractors to execute and deliver to Operator prior to any disclosure by the City to him/her/it, an agreement acknowledging a receipt of a copy of the provisions of this Section 2.5 and agreeing to be bound by such provisions to the same extent as the City, and (iii) in any event, shall advise in writing all such persons or entities of the existence of the provisions of this Section 2.5 and of their responsibility to comply with such provisions.

(c) "Confidential Information" means any and all information disclosed (orally, in writing, by inspection or otherwise) to the City by Operator pursuant to this Agreement and any information developed by the City and based upon the information disclosed to the City pursuant to this Agreement. Such information includes, but is not limited to, plans, proposals, and lists of furniture, fixtures and equipment. The restrictions upon confidentiality and use of Confidential Information set forth in this Section 2.5 do not apply to information which the City can demonstrate was publicly available or lawfully in its possession at the time of its disclosure to the City by Operator; however, Confidential Information shall not be deemed in the City's possession or publicly known simply because it is embraced by more general information in the City's possession.

(d) With respect to any information or material which is protected by copyright of Operator, no part of such materials may be reproduced, stored in a data base and retrieval system or transmitted in any form or by any means graphic, electronic, photocopying, recording, mechanical or otherwise - without the prior written permission of Operator.

2.6 Centralized Services.

- what's Back office services

(a) Centralized Services. The City acknowledges that: (a) certain centralized products and services are provided or made available to other facilities owned and/or operated by Operator and its Affiliates (such services that are provided by Operator and its Affiliates, the "Centralized Services"); (b) the Centralized Services are intended to benefit the facilities; and (c) in certain circumstances (e.g., on a property by property basis), similar services may be available on more favorable terms from sources other than Operator or its Affiliates. Any Centralized Services to be provided under this Agreement may be provided by Operator or an Affiliate, or by a third-party designated by Operator or an Affiliate (the "Third-Party Centralized Services"). The City shall comply with all terms and requirements of any Centralized Services. Centralized Services exclude products or services exclusively utilized by Operator in the operation of a casino. Excluded services and products include but are not limited to marketing charges dedicated exclusively to the marketing of the casino or gaming operations of Operator or its Affiliates.

(b) Centralized Services Charges.

(i) The amounts charged to the Facility for the Centralized Services (the "Centralized Services Charges") shall be determined on the same basis as such amounts are determined for substantially all of the other facilities that are participating in such Centralized Services, and may include amounts reasonably calculated to cover the overhead and other costs incurred by Operator or its Affiliates (as applicable) in providing (or arranging for the provision of) such Centralized Services. In addition, the City shall pay all costs for the installation, use and maintenance of any equipment and technology systems at the Facility used in connection with the Centralized Services. Operator, its Affiliates and any third-party providing any Centralized Services shall have the right to increase or decrease any or all of the Centralized Services Charges from time to time, upon sixty (60) days' notice to the City, but the total increase in any Fiscal Year may not exceed 5% of the aggregate Centralized Services Charges payable during the immediately prior Fiscal Year.

NOV

(ii) Operator shall have the right (but not the obligation) to pay (directly or through an Affiliate) any amounts due to a third-party for any Third-Party Centralized Services provided to the Facility, in which case, notwithstanding anything to the contrary in this Agreement, such amounts shall be deemed to be Operating Expenses for all purposes under this Agreement.

(c) Modification of Centralized Services. The City acknowledges that Operator needs the flexibility to modify the Centralized Services to respond to market trends, customer demands, economic conditions, technological advances and other factors. The City agrees that Operator shall have the right (1) subject to the limitations of Section 2.6 of the Agreement, to (a) modify the structure, scope, delivery and terms of any Centralized Services and (b) add a new, or discontinue an existing, Centralized Service in each case, as Operator deems advisable from time to time.

3. Term and Renewal.

3.1 Management Term and Renewal Term.

Good then
June 2018

The Management Term of this Agreement shall commence on July 1, 2012 and end five (5) years thereafter, unless earlier terminated pursuant to the provisions of this Agreement ("Management Term"). Subject to the last sentence hereof, the City Council may, in its sole discretion, extend the Management Term hereof on the same terms and conditions for an additional five-year period commencing upon the expiration of the Management Term and ending five (5) years thereafter by giving not less than one hundred eighty (180) days prior written notice of such extension to Operator. The City and Operator agree that, within one hundred twenty (120) days following the end of the Fiscal Year ending June 30, 2015, they will discuss in good faith the setting of Net Operating Loss/Profit benchmarks for the Fiscal Years ending June 30, 2016 and June 30, 2017. If such Net Operating Loss/Profit benchmarks are met by Operator, notwithstanding the second sentence of this Section 3.1, this Agreement shall automatically renew for a period of five (5) years as referenced above upon the expiration of the initial Management Term. Notwithstanding any of the foregoing to the contrary, Operator may elect that this Agreement shall not extend for the Renewal Term by providing the City with written notice thereof not less than one hundred eighty (180) days prior to the expiration of the initial Management Term.

2017

3.2 New Contract.

If (i) the City intends, upon termination of the Management or Renewal Term to continue to provide management at the Facility through a private provider and (ii) this Agreement has not been terminated upon a default by Operator, then the City will during the final year of the Management Term (unless this Agreement is renewed and extended under Section 3.1) or Renewal Term, as the case may be, negotiate and discuss in good faith a new contract or arrangement with Operator for the provision of such services following the completion of such term. The obligation to negotiate with Operator is not intended to guarantee any contract rights for a future contract with Operator or any specific terms of a new contract.

4. Operator's Compensation.

4.1 Management Fee.

(a) As compensation to Operator for providing the services herein specified with respect to the Facility (inclusive of the Ballroom, Kitchen Facilities and Food Services) during the Management Term and any Renewal Term, the City shall pay to Operator during the Management Term and the Renewal Term, if any, an annual fee (the "Management Fee"), with respect to each Fiscal Year, which shall be equal to 50% of the amount by which the Net Operating Loss/Profit for such Fiscal Year is better than the NOL Threshold ("Net Operating Surplus").

(b) The Management Fee shall be payable in equal monthly installments of \$25,000 due and payable on or before the last day of each month during the Fiscal Year, and shall be paid by Operator withdrawing the same from the Operating Account(s).

(c) If for any Fiscal Year, the aggregate amount of the tentative monthly installments paid to Operator on account of the Management Fee shall be more or less than the Management Fee payable for such Fiscal Year based upon the final determination of Net Operating Loss/Profit for such Fiscal Year as reflected in the audited annual financial statements for such Fiscal Year prepared in accordance with Section 6.1, then, by way of year end adjustment, within fifteen (15) business days after the delivery of such audited annual financial statements to the City, Operator shall pay into the Operating Account(s) the amount of such overpayment or withdraw from the Operating Account(s) the amount of any such underpayment.

5. Funding, Budgets; Bank Accounts.

5.1 Operating Funds.

Subject to Section 5.2, following the approval of the Operating Budget for a Fiscal Year (including, without limitation, any Operating Budget applicable to the Fiscal Year ending June 30, 2012 during the term hereof), the City shall make available quarterly to Operator through its general funds all funds necessary to pay all Operating Expenses to be incurred or accrued in such upcoming fiscal quarter. To the extent that an Approved Budget projects that Operating Revenues for a particular fiscal quarter will be insufficient to satisfy Operating Expenses for the subject fiscal quarter (a "Cash Flow Shortfall"), the City shall deposit an amount equal to such Cash Flow Shortfall into the Operating Accounts at least ten (10) days in advance of the fiscal quarter for which such Cash Flow Shortfall is projected. Notwithstanding the foregoing, upon the occurrence of (a) an unanticipated Cash Flow Shortfall for any period that is not set forth in the Approved Budget or (b) a Cash Flow Shortfall that is in excess of the amount projected in the Approved Budget, Operator shall withdraw from the Reserve Fund described in Section 5.6(b) below, an amount equal to such Cash Flow Shortfall and deposit such amount into the Operating Account(s). In the event an anticipated Cash Flow Shortfall exceeds the Cash Flow Shortfall projected in the Approved Budgets by more than fifteen percent (15%) and the funds in the Operating Account(s) and the Reserve Fund are insufficient to cover such Cash Flow Shortfall, Operator shall immediately notify the City in writing of same and shall provide the City with all necessary financial information and an explanation for such Cash Flow Shortfall, without

limiting Operator's rights under Section 5.2 of this Agreement. Provided the Operating Budget as proposed by Operator is not materially modified by the City in accordance with this Agreement, except to the extent approved by the City or as may be necessary to satisfy any Necessary Unforeseen Expenses, Operator's aggregate expenditures during each Fiscal Year (when taken as a whole relative to the total Operating Budget and not on a per line item basis) shall not exceed the aggregate amounts set forth in the Operating Budget for the applicable Fiscal Year. In the event Operator reasonably believes that Operator will be unable to perform hereunder within the Approved Budget, Operator shall promptly notify the City in accordance with Section 5.2(a) below. In the event Gross Revenues for any Fiscal Year exceed Operating Expenses for such Fiscal Year, Operator shall deposit such operating surplus into the Reserve Fund.

5.2 Non-Funding.

(a) In the event of a Cash Flow Shortfall or if the funding of the Facility is reduced to a level that, in Operator's judgment, renders the management of the Facility not feasible, Operator shall immediately notify the City in writing of same and shall provide the City with all necessary financial information and explanation as may be requested by the City to reassess same. In such event, the City agrees, in good faith, to perform another review of the applicable budget and shall attempt to reach a mutually acceptable accord with Operator to resolve the matter. In the event that the City and Operator are unable to reach a mutually acceptable accord with respect to such funding level, either party may submit such disagreement to the Expert (as hereinafter defined) for determination as to whether Operator's request for additional funds was commercially justified. Notwithstanding the foregoing, as a condition to the City's submission of such dispute to an Expert, the City shall deposit into the Operating Accounts and replenish such deposits as necessary in an amount of funds necessary to satisfy all Cash Flow Shortfalls for the pendency of the dispute until the Expert renders its decision.

(b) For purposes of this Agreement, the term "Expert" shall mean an independent, neutral and impartial individual who is appointed in each instance by agreement of the parties, provided such individual shall have not less than ten (10) years' hospitality industry experience in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of stadiums or arenas or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of such stadiums or arenas). An individual shall be excluded as an Expert if, currently or within the three (3) years prior to the date of selection of such individual as an Expert, the individual: (i) is, or has been, an employee of Manager or City, or any of their respective Affiliates; and/or (ii) is, or has served as, a consultant to either Manager or City, or any of their respective Affiliates.

(c) In the event any dispute is submitted to an Expert pursuant to this Agreement, the following guidelines shall apply:

(i) The use of the Expert shall be the exclusive remedy of the parties with respect to those disputes submitted for Expert determination pursuant to this Agreement and neither party shall attempt to adjudicate such dispute in any other forum. All decisions of an Expert, absent fraud, shall be final and binding on the parties hereto (without appeal or review) and shall be enforceable in any court of competent jurisdiction;

(ii) Each party shall be entitled to make written submissions to the Expert, and if a party makes any submission, it shall also provide a copy to the other party and the other party shall have the right to comment on such submission. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. The Expert may direct that such costs be treated as operating expenses;

(iii) The terms of the engagement of the Expert shall include an obligation on the part of the Expert to: (i) notify the parties in writing of its decision within forty-five (45) days from the date on which the Expert has been authorized to proceed (or such other period as the parties may agree or as set forth herein); and (ii) establish a timetable for the making of submissions and replies.

(d) During the pendency of Expert dispute resolution, Operator shall be excused from all obligations to perform Operator's obligations under this Agreement if Operator's breach of or default under this Agreement is attributable in part to the City's failure to appropriate sufficient funds for the management, operation and promotion of the Facility as described in Section 5.2(a) or requested pursuant to Section 5.2(b).

5.3 Annual Budget; Cash Flow Budget.

(a) As part of the annual plan described in Section 6.2 herein, on or before November 1 of each year (beginning 2012) and with regard to the Fiscal Year commencing July 1, 2012, on or before the date that is ninety (90) days after the latter of (i) full execution of this Agreement and (ii) the date that all requested financial information concerning the facility has been delivered to Operator, Operator will prepare an Operating Budget for the next Fiscal Year to meet the scope of services and objectives under this Agreement. Such budget shall contain appropriate line items for revenues and expenses and the projected net operating deficit or surplus. If this Agreement is executed prior to July 1, 2012, Operator shall perform its obligations under this Agreement in accordance with any current budget for the Facility approved by Operator or, if no such budget exists, consistent with prior practice.

(b) Operator shall prepare and submit to the Mayor by December 1 of each year during the term hereof (beginning 2012) a Cash Flow Budget for the succeeding Fiscal Year.

(c) The annual budgets referred to in subparagraphs (a) and (b) above shall be reviewed and are subject to approval by the Mayor or the City Council. By ~~January~~ ^{March} 15 of each year during the term of this Agreement (beginning January 15, 2013) the Mayor and the City Council shall notify Operator in writing of any objections to such proposed annual budgets in reasonable detail (including the specific items to which the City objects and the reasons for such objections), along with the City's proposed changes to the annual budgets. The City shall be deemed to have approved that portion of any proposed annual budgets to which the City has not responded to within such time period.

(d) If the City has provided written objections to the annual budgets, the City and Operator shall meet to discuss any written objections made by the City. Operator and the City will endeavor in good faith to resolve the City's objections. Operator shall, if appropriate,

submit revisions to the proposed annual budgets for the City's review. The parties shall use reasonable endeavors to reach an agreement upon the annual budgets prior to January 31 of each Fiscal Year.

(e) The City acknowledges and agrees that, with respect to its review and approval of the annual budgets, (i) the Facility is to be operated and maintained in a manner consistent with the standards set forth in this Agreement, and (iii) Operator has sole discretion in establishing the pricing, sales policies, sales strategies, rates, credit policies, and entertainment policies and other amenities and services of the Facility pursuant to this Agreement.

(f) If the City and Operator are unable to agree upon the annual budgets prior to January 31, the items in dispute will be submitted to an Expert for resolution in accordance with the procedures set forth in Section 5.2(c). Notwithstanding anything to the contrary in this Agreement, in making a ruling as to any given disputed component of the annual budgets, the Expert shall (i) give due consideration to the intent of the parties as set forth in this Agreement, and (ii) shall only consider comparable statistics of facilities that are similarly positioned to the Facility. In that regard, the Expert shall not be entitled to mandate changes to Operator's or its Affiliates' operating methodologies in ruling on an annual budget dispute. Until such determination is made by an Expert or a new annual budget is agreed to by the parties, Manager shall operate the Facility (A) in accordance with those aspects of the annual budgets which were not objected to by the City, and (B) for those areas for which there is an objection, in accordance with the actual expenses for the prior Fiscal Year, subject to increases of up to four percent (4%) on each line item; provided, that with respect to a dispute pertaining to the first Fiscal Year, in accordance with the final annual budget for such first Fiscal Year submitted to the City by Operator. The ceiling amounts referred to in the preceding sentence shall be adjusted to account for increases in Facility occupancy and utilization of other revenue producing areas of the Facility.

(g) Notwithstanding anything to the contrary contained herein, the City shall not have the right to withhold its approval with respect to the following aspects of the annual budgets and such aspects shall not be subject to resolution by an Expert: (i) Operator's projections of Operating Revenues or the components thereof; (ii) the following costs over which Operator and its Affiliates have no control: taxes, insurance premiums, utility rates, license and permitting fees, and compliance with Laws; (iii) employee wages, compensation, and benefit programs; and (iv) all fees and charges payable to Operator and its Affiliates under this Agreement.

(h) Operator and its Affiliates shall use reasonable endeavors to operate the Facility in accordance with the Approved Budgets and annual plan; provided, however, the parties acknowledge that: (i) the Approved Budgets and annual plan contain only estimates; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the Approved Budgets and annual plan impracticable or impossible; and (iii) Operator and its Affiliates shall be entitled to depart therefrom due to causes of the foregoing nature.

(i) Operator shall not, without the City's prior approval, which approval shall be deemed given if not denied within twenty (20) days after receipt by the City of written request for such approval by Operator, incur costs or expenses or make expenditures that would cause,

the total expenditures in the Approved Budget to exceed: (i) any departmental line item provided for in the Approved Budget by more than ten percent (10%); or (ii) the aggregate amount of expenditures provided for in the Approved Budget by more than five percent (5%); provided, however, the City acknowledges and agrees as follows: (A) certain expenses provided for in the Approved Budget will vary based on the use of the Facility, and accordingly, to the extent that use of the Facility for any Fiscal Year exceeds the occupancy and use projected in the Approved Budget for such Fiscal Year, such Approved Budget shall be deemed to include corresponding increases in such variable expenses; (B) Operator shall have the right to pay from the Operating Account all uncontrollable expenses (e.g. property taxes, utilities, insurance premiums) without reference to the amounts provided for in respect thereof in the Approved Budget for any Fiscal Year; (C) if any expenditures are required on an emergency basis to avoid damage to the Facility or injury to Persons or property, Operator may make such expenditures, whether or not provided for or within the amounts provided for in the Approved Budget for any Fiscal Year; and (D) if any expenditures are required to comply with any Laws or to cure or prevent any violation thereof, Operator may make such expenditures, whether or not provided for or within the amounts provided for in the Approved Budget for the Fiscal Year in question, as may be necessary to comply with such Laws or to cure or prevent the violation thereof. The City further acknowledges and agrees that: (1) Operator and its Affiliates do not warrant, represent, undertake or guarantee that the Facility can or will achieve the results set forth in any Approved Budget, projections or such other information, and that the actual results achieved by the Facility may vary from the estimates contained in any such Approved Budget, projections or such other information, and that such variations may be material; (2) if the City provides any such financial projections or budgets to a third party including any bank, financial institution or lender, the City is obligated to advise such third party in writing of the substance of the disclaimer set forth in this sentence; and (3) the failure of Operator to achieve any projections in the Approved Budget for any Fiscal Year shall not be an Event of Default by Operator under this Agreement, and shall not entitle the City to claim a breach by Operator or to otherwise terminate this Agreement.

Have not done Amended Budget

5.4 Budget Modifications Initiated by Operator.

Operator may submit to the Mayor or the City Council at any time, and from time to time, prior to the close of a Fiscal Year supplemental or revised Operating Budgets or Cash Flow Budgets for such Fiscal Year. Upon the approval of the Mayor and the City Council of such supplemental or revised budgets, the Approved Budgets for such Fiscal Year shall be deemed amended to incorporate such supplemental or revised budget. The Approved Budgets may only be amended as set forth in Section 5.5 below or in the two preceding sentences except that Operator shall have the right to deviate from the Approved Budgets as set forth in Section 5.3.

5.5 Budget Modifications Initiated by the City.

In the event that it appears reasonably likely, in any year during the term hereof, that the actual Net Operating Loss/Profit for such Fiscal Year will be larger than projected in the Operating Budget for such Fiscal Year, the Mayor or the City Council may request from Operator a plan for reduction of Operating Expenses to a level consistent with the budgeted Net Operating Loss/Profit amount. Operator shall forthwith comply with any such expense reduction requested by the City and the Approved Budgets for such Fiscal Year shall be modified accordingly, provided that if the Operating Budget or Cash Flow Budget is modified in a manner

which, in Operator's judgment, could materially interfere, impede or impair the ability of Operator to manage, operate or promote the Facility, Operator shall have the right to submit such dispute to the Expert for resolution in accordance with Section 5.2(c); provided, however, that during the pendency of such dispute, Operator shall be permitted to deviate from the Approved Budget or Operating Budget in accordance with Section 5.3. Operator shall not be construed to have breached its obligations under this Agreement if such alleged breach has been caused by the limitations in the Fiscal Year's Approved Budgets.

5.6 Receipts and Disbursements.

(a) Operating Accounts. Operator shall establish and maintain in one or more depositories designated by the City's Treasurer one or more operating, payroll and other bank accounts (the "Operating Account(s)") for the promotion, operation and management of the Facility, in the name of the City, with Operator as agent and with signature authority in such employees of Operator as Operator shall determine. Except as otherwise provided in this Agreement, all revenues collected by Operator from the operation of the Facility shall be deposited into the Operating Accounts, and all Operating Expenses (other than Operating Expenses to be paid from an account described in Section 5.7) shall be paid by Operator as agent for the City from the Operating Accounts. Except as otherwise provided in this Agreement, all revenues collected by Operator arising from operation of the Facility including revenues from box office sales, facility or equipment rentals, utility rental agreements, food and beverage concessions, or any other source, are the sole property of the City, held in trust by Operator for the City for application as provided herein. Any amounts remaining in the Operating Accounts upon termination of this Agreement for any reason, after payment of all outstanding Operating Expenses, shall be promptly paid by Operator to the City.

(b) Reserve Fund. The City shall establish and maintain a separate bank account in a banking institution designated by the City as a reserve account in the name of the City, with Operator as agent and with signature authority vested in such employees of Operator as Operator shall determine (the "Reserve Fund"). On or before the date hereof, the City shall deposit \$150,000 (or such other sum as the City and Operator shall mutually agree) in the Reserve Fund. In the event of (a) an unanticipated Cash Flow Shortfall, (b) a Cash Flow Shortfall in excess of the amount projected in the Approved Budget, or (c) the City fails to fund any anticipated Cash Flow Shortfall in advance pursuant to Section 5.1, Operator may withdraw from the Reserve Fund an amount not to exceed the amount of such Cash Flow Shortfall and deposit such funds in the Operating Account(s). Any withdrawals made by Operator from the Reserve Fund in any Fiscal Year shall be reflected in the Operating Budget and annual plan for the ensuing Fiscal Year. Within ten (10) days following notice from Operator of any withdrawal from the Reserve Fund, the City shall deposit an amount into the Reserve Fund that is sufficient to ensure that, subject to Operator's withdrawal from the Reserve Fund in accordance with this Section 5.6(b), the funds on deposit in the Reserve Fund equal at least \$150,000 (or such other sum as the City and Operator shall mutually agree) during each Fiscal Year.

5.7 Ticket Sales Revenues.

Operator shall hold in a separate interest-bearing account in a banking institution depository in Council Bluffs, Iowa any ticket sale revenues which it receives with respect to an

*In their
name*

event to be held at the Facility pending the completion of the event. Such monies are to be held for the protection of ticket purchasers, the City and Operator, and to provide a source of funds, as required for such payments to performers and promoters and for such payments of Operating Expenses in connection with the presentation of events as may be required to be paid contemporaneously with the event. Following the satisfactory completion of the events, Operator shall make a deposit into the Operating Account(s) of the amount in such account and shall pay Event Expenses from the Operating Account(s) and provide the City with a full event settlement report. Interest which accrues on amounts deposited in the Operating Account(s) and the ticket account referred to above shall be considered Operating Revenues. Bank service charges, if any, on such account(s) shall be considered Operating Expenses.

5.8 Capital Improvements; Capital Equipment.

The obligation to pay for, and authority to perform, direct and supervise Capital Improvements and Capital Equipment purchases shall remain with the City and will not be considered Operating Expenses. The annual plan submitted pursuant to Section 6.2 shall include Operator's recommendation for Capital Improvements and Capital Equipment purchases to be accomplished during the year and shall be accompanied by an estimate of the cost of all such items and projects and a request that the City budget funds therefor. The City shall retain the discretion to determine whether and to what level to fund Capital Improvements and Capital Equipment purchases to the Facility; provided, however, that the City shall expend no less than \$100,000 each Fiscal Year in the aggregate on Capital Improvements and Capital Equipment.

5.9 Limitation of Operator Liability.

Notwithstanding any provision herein to the contrary and except for Operator's express indemnification undertakings in Section 8.1 and its express reimbursement undertakings in Section 6.1(b), Operator shall have no obligation to fund any cost, expense or liability with respect to the operation, management or promotion of the Facility.

5.10 Funds for Emergency Repairs.

Operator shall have the right to act, with the consent of the City, in situations which Operator determines to be an emergency with respect to the safety, welfare and protection of the general public, including spending and committing funds held in the Operating Account(s) of the Facility, even if such expenses are not budgeted; provided, however, Operator shall have no obligation under any circumstance to spend or commit funds other than funds then available in such Operating Account(s) for any such purpose. Immediately following such action, Operator shall inform the City of the situation and the action(s) taken, and the City shall pay into such Operating Account(s) the amount of funds, if any, spent or committed by Operator pursuant to this Section 5.10 in excess of budgeted amounts.

Flow then
Rick & Pat

6. Records, Audits and Reports.

6.1 Records and Audits.

(a) Operator shall keep full and accurate accounting records relating to its activities at the Facility in accordance with generally accepted United States accounting principles. Operator shall maintain a system of bookkeeping adequate for its operations hereunder. Operator shall give the City's authorized representatives access to such books and records maintained at the Facility during reasonable business hours and upon reasonable advance notice. Operator shall keep and preserve for at least three (3) years following each Fiscal Year all sales slips, rental agreements, purchase order, sales books, credit card invoices, bank books or duplicate deposit slips, and other evidence of Operating Revenues and Operating Expenses for such period. In addition, on or before October 1 following each Fiscal Year for which Operator is managing the Facility hereunder (beginning October, 2013) Operator shall furnish to the City a balance sheet, a statement of profit or loss and a statement of cash flows for the Facility for the preceding Fiscal Year, prepared in accordance with generally accepted United States accounting principles and accompanied by an independent auditor's report of a nationally recognized, independent certified public accountant. The audit shall contain an opinion expressed by the independent auditor of the accuracy of financial records kept by Operator and of amounts due to the City. The audit shall also provide a certification of Operating Revenues and Operating Expenses as defined in this Agreement for such Fiscal Year. The audit shall be conducted by a reputable firm selected by Operator with City approval. The City shall not withhold or delay such consent or approval unreasonably. Notwithstanding anything to the contrary herein, the Costs of such audit shall be deemed Operating Expenses.

(b) The City Council shall have the right at any time, and from time to time, to cause nationally recognized independent auditors to audit all of the books of Operator relating to Operating Revenues and Operating Expenses, including without limitation, cash register tapes, credit card invoices, duplicate deposit tapes, and invoices. No costs incurred by the City in conducting such audit shall be considered an Operating Expense. If any such audit demonstrates that the Operating Revenues or Operating Expenditures reflected in any financial statements prepared by Operator and audited as specified in the foregoing subparagraph (a) are understated (in the case of Operating Expenses) or overstated (in the case of Operating Revenues), in either case by more than five percent (5%), Operator shall pay to the City the reasonable cost of such audit and shall promptly refund to the City any portion of the Management Fee paid for such Fiscal Year which is attributable to the overstatement or understatement, as the case may be. The City's right to have such an audit made with respect to any Fiscal Year and Operator's obligation to retain the above records shall expire three (3) years after Operator's statement for such Fiscal Year has been delivered to the City.

6.2 Annual Plan.

(a) Operator shall provide to the City on or before November 1 of each year, an annual management plan, which shall include the Operating Budget for the next Fiscal Year. The annual plan shall include information regarding Operator's anticipated operations for such Fiscal Year, including anticipated events at the Facility, anticipated advertising and promotional activities (if applicable), and planned equipment and furnishings purchases. The annual plan

shall be subject to review, revision and approval by the Mayor or the City Council. Following review and revision by the Mayor or City Council, Operator shall have thirty (30) days to incorporate the City's revisions into its plan. Upon approval by the City, such annual plan shall constitute the operating program for Operator for the following Fiscal Year.

(b) Operator shall provide to the City copies of all offer sheets to artists or promoters for any and all entertainment events that are promoted or co-promoted by the Facility at the time such offers are made to the artists or promoters.

(c) Operator shall provide to the City all settlement sheets provided to artists and promoters within 30 days of the date of all events promoted or co-promoted by the Facility.

6.3 Long Term Capital Maintenance Plan.

By November 1, 2012, Operator shall provide to the City a report detailing, over a five (5) year horizon, Operator's operating maintenance activities, requested Capital Improvements and Capital Equipment purchases and an anticipated budget therefor. Such report shall be updated annually on or before November 3 of each year beginning on November 1, 2013.

6.4 Monthly Reports.

By the twenty-fifth day of each month, Operator shall provide to the City a written monthly report in a form approved by the City and similar to that used in other Operator-managed facilities setting out the Facility's anticipated activities for the upcoming month and reporting on the prior month's activities and finances.

7. Employees.

7.1 Operator Employees.

(a) Operator shall select, train and employ at the Facility such number of employees as Operator deems necessary or appropriate to satisfy its responsibilities hereunder; Operator shall use its best efforts to recruit employees who will be proficient, productive, and courteous to patrons, and Operator shall have authority to hire, terminate and discipline any and all personnel working at the Facility.

(b) Operator shall assign to the Facility a competent, full-time supervisor or manager who shall have no duties other than the day-to-day operation and management of the Facility. Prior to Operator's appointment of such manager, Operator shall consult with the Mayor with respect to the qualifications of the manager proposed by Operator, and the Mayor shall have given to Operator its prior written approval of such appointment.

(c) Operator employees at the Facility shall not for any purpose be considered to be employees of the City, and Operator shall be solely responsible for their supervision and daily direction and control and for setting, and paying as an Operating Expense, their compensation (and federal income tax withholding) and any employee benefits, and all costs related to their employment shall be an Operating Expense. Specifically, in connection with the employment of its employees, Operator shall pay all applicable social security, unemployment,

worker's compensations or other employment taxes, or contributions to retirement plans, and shall comply with all federal and state laws and regulations relating to employment. All of these costs related to employment shall be cost of the Facility.

7.2 No Solicitation or Employment by City.

During the period commencing on the date hereof and ending one (1) year after the termination of this Agreement, except with Operator's prior written consent, the City will not and shall not permit any subsequent manager of the Facility, for any reason, solicit for employment, or hire, any of the senior management personnel employed by Operator at the Facility, including, without limitation, the general manager, director-level employees and department heads. In addition to any other remedies which Operator may have, specific performance in the form of injunctive relief shall be available for the enforcement of this provision.

8. Indemnification and Insurance.

8.1 Indemnification.

(a) Operator shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against any and all losses, liabilities, claims, damages and expenses (including reasonable attorneys fees) (collectively, "Losses") arising from any material default or breach by Operator of its obligations specified herein; provided, however, that the foregoing indemnification shall not extend to Losses to the extent such Losses (i) arise from gross negligence or willful misconduct of the City or its employees or any breach or default by the City of its obligations hereunder including, without limitation, Section 8.1(b) below, (ii) are of the type that are or would normally be covered by commercial insurance covering (A) the Facility and its premises for direct physical loss or damage and (B) business interruption and extra expenses, irrespective of the decision of the City to carry or not to carry such insurance, or (iii) are caused by or arise out of the services provided by the architects, engineers and other agents (other than Operator) retained by the City in connection with Capital Improvements or Capital Equipment purchases at the Facility.

(b) The City shall indemnify, defend and hold harmless Operator, its partners, directors, officers, agents and employees from and against any and all Losses arising from (i) any material default or breach by the City of its obligations specified herein, (ii) the fact that at any time prior to, as of, or after the commencement of the Management Term hereunder the Facility has not been operated, or the Facility and its premises are not or have not been, in compliance with all Laws, including, but limited to, the Americans with Disabilities Act, 42 U.S.C. Sections 12101-12213 as amended by the Civil Rights Act of 1991 (42 U.S.C. Section 1981(a)), as it now exists and as it may be amended in the future by statute or judicial interpretation (collectively, the "ADA"), (iii) the fact that prior to, as of, or after the commencement of the Management Term hereunder there is any condition on, above, beneath or arising from the premises occupied by the Facility which might, under any Law, give rise to liability or which would or may require any "response," "removal" or "remedial action" (as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act), (iv) any structural defect or unsound

operating condition with respect to the Facility or the premises occupied by the Facility prior to, as of or after the commencement of the Management Term hereunder, (v) any obligation or liability under or in respect of any Pre-Existing Agreement, contract, agreement or other instrument executed by Operator as agent for the City as authorized herein, (vi) any obligation or liability for personal injury at, on or about the Facility or for any physical damage or other Loss to any real property and personal property assets located at the Facility or intended to be incorporated therein, whether such assets or Losses are insured by the City or whether the City decides not to insure for such damage and Losses (including without limitation damages or Losses falling within any policy deductible), or (vii) any non-compliance that occurred on or prior to the commencement of the Management Term pursuant to any Pre-Existing Agreement, the Management Agreement dated October 8, 2011, between the City and SMG, or the License Agreement dated June 6, 2002, between Aramark Sports and Entertainment Services, Inc., and the City; provided, however, that the foregoing indemnification under clauses (i) and (ii) above shall not extend to Losses to the extent such Losses arise from any default or breach by Operator of its obligations specified herein.

(c) The provisions set forth in subparagraphs (a) and (b) above shall survive termination of this Agreement; provided, however, that except for indemnification based upon Section 8.1(b) (ii), (iii), (iv), (v), (vi) or (vii) above, a claim for indemnification pursuant to Section 8.1 shall be valid only if the party entitled to such indemnification provides written notice thereof to the other party prior to three (3) years following the date of termination of this Agreement.

(d) The terms of all insurance policies referred to in Section 8, including without limitation (i) the property insurance policies of the City, and (ii) the policies of any independent contractors retained by the City or hired by Operator (such as, the emergency medical technicians who are not employed by Operator), shall preclude subrogation claims against Operator, its partners, the City and their respective officers, directors, employees and agents.

(e) The foregoing indemnification rights shall be the exclusive remedies of each party hereto (other than any right to terminate this Agreement) arising from any breach of, default under or performance pursuant to this Agreement.

8.2 Liability Insurance.

(a) Operator shall secure prior to the commencement of the Management Term hereunder and shall keep in force at all times during the term of this Agreement, a commercial general liability insurance policy, with coverage including but not limited to bodily injury, property damage, advertising & personal injury, liquor liability, contractual liability, products and completed operations, independent contractors and all risk legal liability covering the premises, the operations hereunder, in the amount of Two Million Dollars (\$2,000,000.00) for each occurrence and in the aggregate. Operator shall also obtain and maintain Umbrella liability insurance with a limit of at least One Hundred Million Dollars (\$100,000,000).

(b) Operator shall also maintain Business Automobile Liability Insurance with respects to any claims for bodily injury and/or property damage, with a combined single limit of

not less than One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall cover any vehicles (owned, non-owned or hired) operated by Operator directors, officers, agents and employees in connection with the Facility and such insurance shall include uninsured and underinsured motorists coverage

(c) Operator and Caesars Entertainment Operating Company Inc. shall be the named insured under all such policies. The City shall be an additional insured under the foregoing insurance policies, as its interests may appear, and said policies shall contain Standard Contractual Liability Coverage.

(d) Certificates evidencing the existence of the above policy, or policies, all in such form as the Mayor or City Council may reasonably require, shall be delivered to the Mayor or City Council prior to the commencement of this Agreement and within thirty (30) days after a policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

(e) Notwithstanding the provisions of this Section 8.2, the parties hereto acknowledge that the above policies may contain exclusions from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall, if possible, contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the Mayor, sent by certified mail, return receipt requested."

(f) Except as provided in Sections 8.6(b) and 8.7, all insurance procured by Operator in accordance with the requirements of this Agreement shall be primary over any insurance carried by the City and not require contribution by the City.

8.3 Workers Compensation Insurance.

Operator shall at all times maintain worker's compensation insurance (including occupational disease hazards) and employers' liability insurance with an authorized insurance company or through the Iowa State Compensation Insurance Fund or through an authorized self-insurance plan approved by the State of Iowa, insuring its employees at the Facility in amounts equal to or greater than required under law. The employers' liability limits shall not be less than Two Million Dollars (\$2,000,000.00).

8.4 Employment Practices Liability Insurance.

Operator shall at all times maintain employment practices liability at limits not less than Five Million Dollars (\$5,000,000).

8.5 Fidelity Bond.

Operator shall provide to the City a Fidelity Bond covering all personnel under this Agreement in the amount of Five Million Dollars (\$5,000,000.00) for each loss, to reimburse the City for losses experienced due to the dishonest acts of Operator's employees.

8.6 Property Insurance.

(a) Operator shall maintain sufficient property damage or loss insurance to cover personal property owned by the City and Operator at the Facility and shall maintain such insurance throughout the term of this Agreement. At least ninety (90) days prior to the commencement of the Management Term hereunder, the City shall provide to Operator a schedule of declaration of values at replacement cost for the personal property owned by the City at the Facility.

(b) The City shall maintain its current property insurance covering the premises of the Facility. The City shall cause Operator to be named as an additional insured under all of the City's property and hazard insurance policies covering or relating to the Facility. In addition, the City shall, with respect to the Losses covered by such property and hazard insurance and business interruption and extra expenses insurance, waive any subrogation rights that it may have against Operator, its partners and their respective officers, employees and agents, whether or not the City self-insures for the Losses covered by such insurance. Nothing in this Agreement is intended to require Operator to maintain property and hazard insurance covering the premises at the Facility or business interruption insurance covering the interruption of operations by or for whatever cause at the Facility.

(i) The original or a certified copy of the above policy, or policies, referred to in Section 8.6(b) (with all required policy endorsements), plus certificates evidencing the existence thereof, all in such form as Operator may reasonably require, shall be delivered to Operator prior to the commencement of this Agreement. Notwithstanding the provisions of this Section 8.6(b), the parties hereto acknowledge that the above policies may contain exclusions, from coverage which are reasonable and customary for policies of such type. Each such policy or certificate shall, if possible, contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to Operator, Vice President, Risk And Insurance sent by certified mail, return receipt requested."

(ii) A certificate of insurance (or satisfactory evidence of such renewal) shall be delivered to Operator within thirty (30) days after a policy's expiration date except for any policy expiring on the termination date of this Agreement or thereafter.

8.7 Certain Other Insurance.

If any of the Pre-Existing Agreements, not executed by Operator, consist of agreements with independent contractors to provide services in respect of the Facility, the City shall use its best efforts to cause such contractors to name Operator as an additional insured under any insurance maintained by such contractors pursuant to the terms of such Pre-Existing Agreements and in such event to deliver to Operator promptly after request therefore a certified copy of such policy and a certificate evidencing the existence thereof. In addition, if Operator enters into any agreements during the term of this Agreement with any independent contractors for the provision of services hereunder, Operator shall have the right to require such contractors to name Operator as an additional insured under any insurance required by Operator thereunder and to deliver to Operator prior to the performance of such services a certificate evidencing the existence thereof.

8.8 Insurance Generally. With respect to Sections 8.2, through 8.7 the foregoing insurance will be obtained and maintained by Operator and shall be an Operating Expense during the Management Term. All self insured retentions and deductibles to be procured under the required insurance coverages as well as posting of required collateral behind self insured retention and deductibles shall be Operating Expenses.

9. Ownership of Assets.

9.1 Ownership.

Except as otherwise provided in Section 5.13. above, the ownership of buildings and real estate, technical and office equipment and facilities, furniture, displays, fixtures, vehicles and similar tangible property located at the Facility shall remain with the City. Ownership of and title to all intellectual property rights of whatsoever value, held in the City's name shall remain in the name of the City. The ownership of consumable assets (such as office supplies and cleaning materials) purchased with Operating Revenues or City funds shall remain with the City, but such assets may be utilized and consumed by Operator in the performance of services under this Agreement. The ownership of data processing programs and software owned by the City shall remain with the City, and the ownership of data processing programs and Software owned by Operator shall remain with Operator. Operator shall not take or use, for its own purposes, customer or exhibitor lists or similar materials developed by the City for the use of the Facility, unless written consent is granted by the Mayor. Ownership of equipment, furnishings, materials, or fixtures not considered to be real property and other personal property purchased by Operator with City funds for use at and for the Facility shall vest in the City automatically and immediately upon purchase or acquisition. The assets of the City as described herein shall not be pledged, liened, encumbered or otherwise alienated or assigned other than in the ordinary course of business of the Facility without the prior approval of the City. Notwithstanding any of the foregoing, all Operator Customer Data shall remain the property of Operator and/or its Affiliates at all times.

9.2 City Obligations.

Except as herein otherwise set forth, throughout the term of this Agreement, the City will maintain full beneficial use and ownership of the Facility and will pay, keep, observe and perform all payments, terms, covenants, conditions and obligations under any bonds, debentures or other security agreements or contracts relating to the Facility to which the City may be bound.

10. Assignment; Affiliates.

10.1 Assignment.

Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party hereto. Notwithstanding the foregoing, (i) Operator may assign all or any part of its rights hereunder to an Affiliate, provided that (x) such Affiliate possesses substantially the same degree of expertise and quality of personnel as originally provided under this Agreement, and (y) such assignment shall be at no increased cost to the City, and (ii) the City may assign all of its rights hereunder to City

Authority. For sake of clarity, the parties acknowledge that the foregoing does not preclude the assignment by Operator of its rights to receive its Management Fees hereunder to its lender(s) as collateral security for Operator's obligations under any credit facilities provided to it by such lender(s), provided that such collateral assignment shall not in any event cover Operator's rights to manage, promote or operate the Facility hereunder

10.2 Operator Affiliates.

(a) Transactions with Affiliates. Any contract entered into between Operator and an Affiliate of Operator relating to the Facility shall be on terms and for prices customarily charged in the industry for comparable goods and services, and shall be approved in writing by the City. In addition, Operator, as agent for the City, may rent the Facility or any part thereof to itself in connection with any event in the promotion of which Operator is involved, so long as such rental is on prevailing rates and terms or such other rates and terms consistent with other facilities of similar size, as the Mayor or the City Council approves.

(b) Conflicts of Interest. The City acknowledges that Operator manages other public assembly facilities which may, from time to time, be in competition with the Facility. The management of competing facilities will not, in and of itself, be deemed a conflict of interest or breach of Operator's duties hereunder; provided, however, in all instances in which the Facility is in competition with other public assembly facilities managed by Operator for the solicitation of certain events, Operator shall not involve its principal office (currently in Las Vegas, Nevada) on behalf of any such other facility in an attempt to influence the decision-making process regarding the selection of a site by such events.

(c) Discounting Tickets for Events. If at a point in time after the commencement of ticket sales for an event and no greater than fourteen (14) days prior to the date of the scheduled event, the parties represented by the General Manager of the Facility and a representative of the Arena Commission mutually determine that it is in the best interests of the Facility to allow discounted tickets to be sold to the employees of the parties or the public at large or a certain segment thereof, the representatives of the parties shall cause the effected groups to be properly notified of the availability of such discounted tickets.

(i) If prior to the commencement of sales, Operator or its Affiliates desire to make discounted tickets available for employees of Operator or employees of Operator's Affiliates, Operator's Affiliates or customers of Operator or its Affiliates, the aforementioned representative shall meet at least twenty-one (21) days prior to the date when the tickets are scheduled to go on sale and determine the amount of the discount that will be permitted and the number of tickets to be sold at the discounted rates. In no case shall the discount be less than ten percent (10%) nor greater than fifty percent (50%) or exceed more than twenty-five percent (25%) of the tickets available but be less than ten percent (10%) of the tickets available.

(ii) If Operator or its Affiliates elect to promote an event at the Facility there will be no limit on the amount of discount to be offered, but no more than fifty (50%) of the tickets available will be allocated to their employees, affiliates, or customers. In the event Operator or its Affiliates elect to promote an event at the Facility that is not available for

attendance by members of the general public, Operator shall reimburse the Facility for the actual cost and expense of such event plus one percent (1%).

(iii) It is understood between the parties that some contracts for events may further restrict or prohibit such discounted sales of tickets and the parties shall abide by such limitation.

11. Laws and Permits.

11.1 Permits, Licenses, Taxes and Liens.

Operator shall use ~~reasonable efforts~~ to procure any permits and licenses required for the business to be conducted by it hereunder. The City shall cooperate with Operator in applying for such permits and licenses. Operator shall deliver copies of all such permits and licenses to the Mayor. Operator shall pay promptly, out of the accounts specified in Section 5.6, all taxes, excises, license fees and permit fees of whatever nature arising from its operation, promotion and management of the Facility. Operator shall use ~~reasonable efforts~~ to prevent mechanic's or materialman's or any other lien from becoming attached to the premises or improvements at the Facility, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any mechanic or materialman, so long as the work, labor or material was provided at Operator's direction and the City has supplied funds for the payment of charges therefor in accordance with this Agreement.

11.2 Governmental Compliance.

Operator, its officers, agents and employees shall comply with all federal, state, local and municipal regulations, ordinances, statutes, rules, laws and constitutional provisions (collectively, "Laws") applicable to Operator's management of the Facility hereunder, including without limitation Title III of the ADA and the provision of such auxiliary aids or alternate services as may be required by the ADA. Nothing in this Section 11.2 or elsewhere in this Agreement shall, however, require Operator to undertake any of the foregoing compliance activity, nor shall Operator have any liability under this Agreement therefor, if (a) such activity requires any Capital Improvements or Capital Equipment purchases, unless the City provides funds for such Capital Improvements and Capital Equipment purchases pursuant to Section 5.8 hereof, or (b) any Pre-Existing Agreement fails to require any licensee, lessee, tenant, promoter or user of any portion of the Facilities to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such licensee, lessee, tenant, promoter or user at the Facilities. Furthermore, Operator shall have the right to require any licensee, lessee, tenant, promoter or user of any portion of the Facility to comply, and to be financially responsible for compliance, with Title III of the ADA in connection with any activities of such licensee, lessee, tenant, promoter or user at the Facility.

11.3 No Discrimination in Employment.

In connection with the performance of work under this Agreement, Operator shall not refuse to hire, discharge, refuse to promote or demote, or to discriminate in matters of compensation against, any person otherwise qualified, solely because of race, color, religion,

gender, age, national origin, military status, sexual orientation, marital status or physical or mental disability.

12. Termination.

12.1 Termination Upon Default.

Either party may terminate this Agreement upon a default by the other party hereunder. A party shall be in default hereunder if (i) such party fails to pay any sum payable hereunder within thirty (30) days after same is due and payable, or (ii) such party fails in any material respect to perform or comply with any of the other terms, covenants, agreements or conditions hereof and such failure continues for more than sixty (60) days after written notice thereof from the other party. In the event that a default (other than a default in the payment of money) is not reasonably susceptible to being cured within the sixty (60) day period, the defaulting party shall not be considered in default if it shall within such sixty (60) day period have commenced with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default.

12.2 Termination Other than Upon Default.

(a) If the City fails to make Capital Improvements or Capital Equipment purchases at the Facility to the extent that such omission, in Operator's judgment, materially interferes with, impedes or impairs the ability of Operator to manage the Facility effectively either party may submit such disagreement to Expert resolution according to the guidelines established in Section 5.2(c).

(b) Operator shall have the right to terminate this Agreement upon sixty (60) days written notice to the City if the City fails to comply with an Experts' resolution of a disagreement as described in Sections 5.2, 5.3, 5.5, or 12.2(a) hereof.

(c) Either party shall have the right to terminate this Agreement under the circumstances specified in Section 13.6(d).

12.3 Effect of Termination.

In the event this Agreement expires or is terminated, (i) all Operating Expenses incurred or committed for prior to the date of expiration or termination shall be paid using funds on deposit in the account(s) described in Sections 5.6 and 5.7 and to the extent such funds are not sufficient, the City shall pay all such Operating Expenses and shall indemnify and hold Operator harmless therefrom, and (ii) the City shall promptly pay Operator all fees earned to the date of expiration or termination (the Management Fees described in Section 4 hereof being subject to proration). Upon a termination pursuant to Section 12.1, all further obligations of the parties hereunder shall terminate except for the obligations in this Section 12.3 and in Sections 7.1(c), 8.1 and 12.4; provided, however, that if such termination is the result of a willful default, the nondefaulting party exercising its right to terminate this Agreement shall be entitled to recover its actual damages for breach arising from such willful default.

12.4 Surrender of Premises.

Upon termination of this Agreement (termination shall, for all purposes in this Agreement, include termination pursuant to the terms of this Section 12 and any expiration of the term hereof), Operator shall surrender and vacate the Facility upon the effective date of such termination. The Facility and all equipment and furnishings shall be returned to the City in good repair, reasonable wear and tear excepted, to the extent funds were made available therefor by the City. All reports, records, including financial records, and documents maintained by Operator at the Facility relating to this Agreement other than materials containing Operator's proprietary information shall be immediately surrendered to the City by Operator upon termination.

12.5 Dispute Resolution. In the event that the parties cannot resolve any dispute not subject to resolution by the Expert as required by this Agreement, either party may pursue their remedies at law or in equity subject to the foregoing provisions hereof.

13. Miscellaneous.

13.1 Use of Facility at Direction of City.

(a) At the direction of the Mayor, upon reasonable advance notice and subject to availability, Operator shall provide use of the Facility or any part thereof to civic and nonprofit organizations located in Southwest, Iowa area at reduced rates. All event-related expenses, including but not limited to ushers, ticket-takers, security and other expenses incurred in connection with the use of the Facility by such organizations, if not reimbursed to Operator by the organization using the Facility, shall be reimbursed by the City to Operator for deposit into the operating accounts specified in Section 5.6.

(b) The City shall have the right to use the Facility or any part thereof, upon reasonable advance notice and subject to availability, for such purposes as meetings, seminars, training classes or other uses without the payment of any rental or use fee (or at a reduced fee), except that direct out-of-pocket expenses incurred in connection with such uses shall be paid by the City.

(c) The City shall not schedule use of the Facility pursuant to subparagraphs (a) and (b) above if such use will conflict with paying events booked by Operator and shall in all instances be subordinate thereto in terms of priority of use of the Facility. In all instances when the Facility, or part thereof, is to be used at the City's request or by the City pursuant to subparagraph (a) or (b) above, a rent or use fee which otherwise would be chargeable for such event shall be deemed to have been paid and such deemed payment shall constitute Operating Revenues.

(d) Operator shall actively promote either non-fee or reduced fee charitable, community and school events (including ice skating at family-oriented or other reasonable times) at the Facility. The City shall work with Operator to utilize the City's insurance policies to most cost efficiently promote such events.

(e) The Council Bluffs Convention & Visitors' Bureau will continue to have scheduling priority for events planned more than eighteen (18) months in the future. Operator will have scheduling priority for events planned within eighteen (18) months.

13.2 Intentionally Omitted.

13.3 No Partnership or Joint Venture.

Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between the City and Operator. None of the officers, agents or employees of Operator shall be or be deemed to be employees of the City for any purpose whatsoever.

13.4 Entire Agreement.

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings with respect thereto. No other agreements, representations, warranties or other matters, whether oral or written, will be deemed to bind the parties hereto with respect to the subject matter hereof.

13.5 Written Amendments.

This Agreement shall not be altered, modified or amended in whole or in part, except in a writing executed by each of the parties hereto.

13.6 Force Majeure.

(a) No party will be liable or responsible to the other party for any delay, damage, loss, failure, or inability to perform caused by "Force Majeure" if notice is provided to the other party within ten (10) days of date on which such party gains actual knowledge of the event of "Force Majeure" that such party is unable to perform. The term "Force Majeure" as used in this Agreement means the following: an act of God, strike, war, public rioting, lightning, fire, storm, flood, explosions, inability to obtain materials, supplies, epidemics, landslides, lightening storms, earthquakes, floods, storms, washouts, civil disturbances, explosions, breakage or accident to machinery or lines of equipment, temporary failure of equipment, freezing of equipment and any other cause whether of the kinds specifically enumerated above or otherwise which is not reasonably within the control of the party whose performance is to be excused and which by the exercise of due diligence could not be reasonably prevented or overcome (it being acknowledged that under no circumstances shall a failure to pay amounts due and payable hereunder be excusable due to a Force Majeure).

(b) Neither party hereto shall be under any obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the provision of any component necessary therefor shall be prohibited or rationed by any Law.

(c) Except as otherwise expressly provided in this Agreement, no abatement, diminution or reduction of the payments payable to Operator shall be claimed by the City or

charged against Operator, nor shall Operator be entitled to additional payments beyond those provided for in this Agreement for any inconvenience, interruption, cessation, or loss of business or other loss caused, directly or indirectly, by any present or future Laws, or by priorities, rationing, or curtailment of labor or materials, or by war or any matter or thing.

(d) In the event of damage to or destruction of the Facility by reason of fire, storm or other casualty or occurrence of any nature or any regulatory action or requirements that, in either case, is expected to render the Facility materially untenable, notwithstanding the City's reasonable efforts to remedy such situation, for a period, estimated by an Architect selected by the City at the request of Operator, of at least one hundred eighty (180) days from the happening of the fire, other casualty or any other such event, either party may terminate this Agreement upon written notice to the other. In the event that the Facility becomes either wholly or partially untenable as a result of any of the foregoing, appropriate adjustments to the Net Operating Losses/Profit benchmarks shall be made.

(e) Operator may suspend performance required under this Agreement, without any further liability, in the event of any act of God or other occurrence, which act or occurrence is of such effect and duration as to effectively curtail the use of the Facility so as effect a substantial reduction in the need for the services provided by Operator for a period in excess of ninety (90) days; provided, however, that for the purposes of this subsection, Operator shall have the right to suspend performance retroactively effective as of the date of the use of the Facility was effectively curtailed. "Substantial reduction in the need for these services provided by Operator" shall mean such a reduction as shall make the provision of any services by Operator economically impractical. No payments of the Management Fees otherwise due and payable to Operator shall be made by the City during the period of suspension. In lieu thereof, the Mayor and Operator may agree to a reduced Management Fee payment for the period of reduction in services required.

13.7 Binding Upon Successors and Assigns; No Third-Party Beneficiaries.

(a) This Agreement and the rights and obligations set forth herein shall inure to the benefit of, and be binding upon, the parties hereto and each of their respective successors and permitted assigns.

(b) This Agreement shall not be construed as giving any person, other than the parties hereto and their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any of the provisions herein contained, this Agreement and all provisions and conditions hereof being intended to be, and being, for the sole and exclusive benefit of such parties and their successors and permitted assigns and for the benefit of no other person or entity.

13.8 Notices.

Any notice, consent or other communication given pursuant to this Agreement will be in writing and will be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by an overnight courier service that is generally recognized as reliable, (c) on the fifth day following mailing by certified or registered

mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefor as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the City:

Mayor City Hall
209 Pearl Street
Council Bluffs, Iowa 51503
Telecopy: 712-328-4685

With a copy to:

Richard B. Wade City Hall
209 Pearl Street
Council Bluffs, Iowa 51503
Telecopy: 712-322-9255

To Operator:

Harrah's Iowa Arena Management
d/b/a Harrah's Council Bluffs
2701 23rd Avenue
Council Bluffs, Iowa 51501
Attention: Bo Guidry
Telecopy: 712-322-9354

With a copy to:

Caesars Entertainment Operating Company, Inc.
One Operator Palace Drive
Las Vegas, NV 89109
Attention: General Counsel
Telecopy: (702) 892-2795

13.9 Section Headings and Defined Terms.

The section headings contained herein are for reference purposes only and shall not in any way affect the meaning and interpretation of this Agreement. The terms defined herein and in any agreement executed in connection herewith include the plural as well as the singular and the singular as well as the plural, and the use of masculine pronouns shall include the feminine and neuter. Except as otherwise indicated, all agreements defined herein refer to the same as

from time to time amended or supplemented or the terms thereof waived or modified in accordance herewith and therewith.

13.10 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute but one and the same agreement.

13.11 Severability.

The invalidity or unenforceability of any particular provision, or part of any provision, of this Agreement shall not affect the other provisions or parts hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions or parts were omitted.

13.12 Non-Waiver.

A failure by either party to take any action with respect to any default or violation by the other of any of the terms, covenants, or conditions of this Agreement shall not in any respect limit, prejudice, diminish, or constitute a waiver of any rights of such party to act with respect to any prior, contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default.

13.13 Certain Representations and Warranties.

(a) The City represents and warrants to Operator the following: (i) all required approvals have been obtained, and the City has full legal right, power and authority to enter into and perform its obligations hereunder, (ii) this Agreement has been duly executed and delivered by the City and constitutes a valid and binding obligation of the City, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles, (iii) the Pre-Existing Agreements listed on Exhibit __ attached hereto and made a part hereof are the only Pre-Existing Agreements in effect with respect to the use, operating, management and maintenance of the Facility, and (iv) no other party has any right to the operation or management of any portion of the Facility.

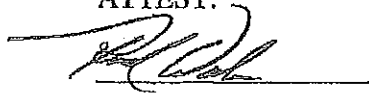
(b) Operator represents and warrants to the City the following: (i) all required approvals have been obtained, and Operator has full legal right, power and authority to enter into and perform its obligations hereunder, and (ii) this Agreement has been duly executed and delivered by Operator and constitutes a valid and binding obligation of Operator, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.

13.14 Governing Law.

This Agreement will be governed by and construed in accordance with the internal laws of the State of Iowa, without giving effect to otherwise applicable principles of conflicts of law.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

ATTEST:



CITY OF COUNCIL BLUFFS, IOWA:

By: 

Mayor

HARRAH'S IOWA ARENA MANAGEMENT, LLC

By: Caesars Entertainment Operating Company, Inc.,
a Delaware corporation, its sole member

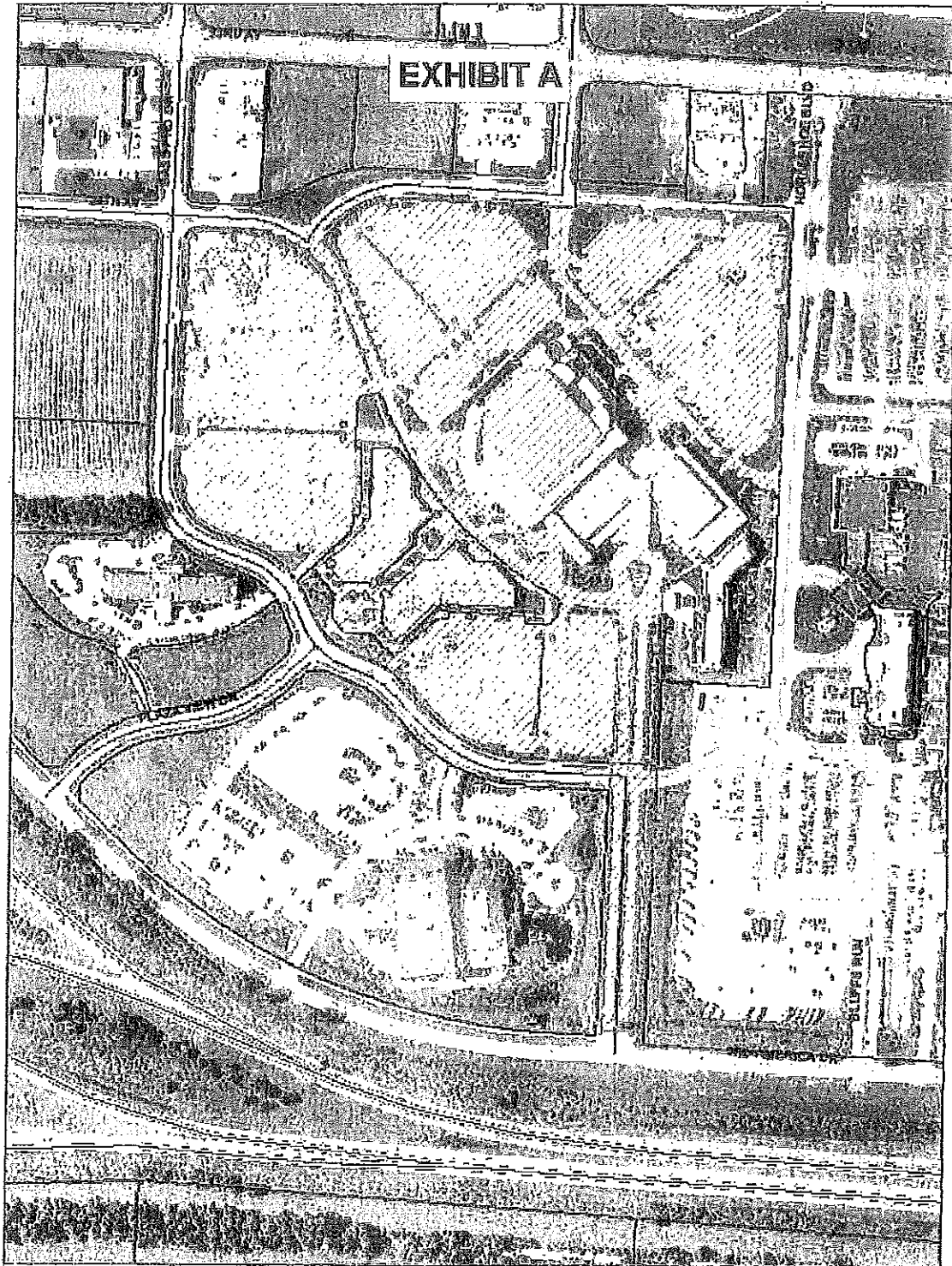
By: 

Name: BO GORDIN

Title: GENERAL MANAGER

EXHIBIT A

Depiction of Facility



RESOLUTION NO. 18-208

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE DOCUMENT ENTITLED “MANAGEMENT AGREEMENT BETWEEN THE CITY OF COUNCIL BLUFFS, IOWA AND HARRAH’S IOWA ARENA MANAGEMENT, LLC”.

WHEREAS, a management agreement between the City of Council Bluffs and a subsidiary of Caesars Entertainment Operating Company has been drafted; and

WHEREAS, it is in the best interest of the City to enter into said agreement.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the Mayor is hereby authorized to execute said management agreement.

ADOPTED
AND
APPROVED

July 9, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

Council Communication

Department: Health
Case/Project No.: Building Division
Submitted by: Steve Carmichael, Chief Building
Official

Resolution 18-218

Council Action: 7/9/2018

Description

Resolution assessing removal of solid waste nuisance from private property and public right-of-way or for removal of solid waste nuisance deemed an emergency.

Background/Discussion

This item is a resolution assessing \$3,463.00 in unpaid costs of solid waste abatement against these Properties. It is recommended that Council pass this resolution.

PERTINENT FACTS

The properties were inspected by personnel of the Building Division and found to contain a nuisance of solid waste on private property or on public right-of-way, as specified in municipal code 10.02.040 and/or 4.12.140. The title-holder of record was notified by posting notice on the property and given 48 hours to remove materials from public right-of-way and 3 days to remove materials from private property.

Or, in the case of a nuisance deemed an emergency, Municipal code 10.02.060 states that the “city may perform any action required by this chapter without prior notice to the abutting property owner, and assess the costs and administrative charges in the same fashion as set out in 10.02.040.”

CASE HISTORY

Upon failure of the owner to abate the problems, the property was referred to the city contractor who abated the nuisance. The city was billed for this work and has paid the contractor. We have in turn sent a statement to the titleholder of record requesting payment of this amount plus the cost to the city for enforcing the ordinance. To date, payment has not been received and at least ten (10) days have elapsed from the date of billing.

ALTERNATIVE ACTIONS

City Ordinance states that these unpaid costs “may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each delinquent account if it is certified for collection by the county auditor.”

1. Take no action: The cost of the abatement at these properties will be paid from the general fund. Thus, the cost will be spread among all taxpayers including the vast majority who care for their property, keeping it free of solid waste.
2. Assess the costs to the specific property: Thus, the responsible property owner will bear the cost of failing to comply with City Ordinance (unless they choose not to pay the taxes). In addition to all costs incurred, an additional \$5.00 has been added to each amount to help pay for the extra work involved in the assessment process.

Recommendation

RECOMMENDATION

The Chief Building Official is recommending that the Council adopt alternative 2: Assessment of all costs against the properties. This resolution accomplishes this alternative.

ATTACHMENTS:

Description

[PROPERTY LIST OF UNPAID ABATEMENS](#)

[Resolution 18-218](#)

Type

Resolution

Resolution

Upload Date

6/27/2018

7/2/2018

2018

Quarter 2 Solid Waste Abatements

START: March 13, 2018

Parcel	Address	Description	Name	Num	
7543 30 379 005	321 LINCOLN AVE	LINCOLN PLACE N10 FT LT 31 & ALL LT 32	WELLING, SHARON L	SW 20	\$183.00
7544 25 355 015	224 N 8TH ST	GRIMES ADD N33' LT 1 BLK 5	GUZMAN, ABEL	SW 27	\$174.00
7544 28 430 014	622 N 34TH ST	HOME PLACE ADD N 1/2 LTS 1 & 2 BLK 5	HAUPTMAN, RICHARD	SW 23	\$1,434.00
7544 33 429 013	3518 10TH AVE	BROWN SUB LT 26 BLK 32	SLECHTA, JONATHAN W	SW 32	\$412.00
7544 35 165 004	2211 8TH AVE	SQUIRES ADDITION LT 2 BLK 12 E1/2 LT 3 BLK 12	CRUZ, JOSE	SW 29	\$432.00
7544 35 186 009	1828 7TH AVE	PIERCES SUB LTS 11-12 BLK 8	PAGE, JANICE ANN	SW 30	\$320.00
7544 35 182 002	1813 5TH AVE	PIERCES SUB LTS 7-8 BLK 5	RICE, JAMES DELANO	SW 21	\$368.00
7544 35 266 006	across street fr 1610 7th Ave	EVERETTS ADD LT 3 BLK 33 EX UNION AVE	LERETTE, GERALD D-TERESE M	NSW-2	\$140.00
				Total	\$3,463.00

RESOLUTION NO. 18-218

- WHEREAS, City Ordinance No. 5219 and 5220, passed and approved by the Council Bluffs City Council on May 22, 1995, requires all property owners to abate any nuisance upon public right-of-way of materials stored for more than 24 hours, or materials stored on private property for more than 3 days; and
- WHEREAS, the owner of each specific property was given proper notification to remove materials from public right-of-way and from private property; and/or
- WHEREAS, an emergency existed as defined in section 10.02.060 and /or 4.12.140; and
- WHEREAS, the owner failed to remove the materials in the allotted time; and
- WHEREAS, the City, through it's contractor removed the materials; and
- WHEREAS, the City has billed the owner by mail for the cost of removing the materials from their properties; and
- WHEREAS, more than 10 days have elapsed since the billing and the bills remain unpaid; and
- WHEREAS, the City Council may have these unpaid costs assessed against the properties from which the materials were removed pursuant to Section 10.02.070 or 4.12.140 of the Municipal Code of the City of Council Bluffs, Iowa,

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the unreimbursed costs incurred by the City for the removal of nuisances found on these properties be assessed against said properties; and

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized, empowered and directed to certify said properties and assessments to the Pottawattamie County Treasurer to be collected in the same manner as a property tax.

ADOPTED
AND
APPROVED

July 9, 2018

BY: _____
Matthew J. Walsh, Mayor

ATTEST: _____
Jodi Quakenbush, City Clerk

Council Communication

Department: Health
Case/Project No.: Building Division
Submitted by: Steve Carmichael, Chief Building
Official

Resolution 18-219

Council Action: 7/9/2018

Description

Resolution assessing unpaid costs of weed abatement against properties.

Background/Discussion

This item is a resolution assessing \$3,329.00 in unpaid costs of weed abatement against these Properties. It is recommended that Council pass this resolution.

PERTINENT FACTS

The properties were inspected by personnel of the Building Division and found to contain weeds, brush and/or debris in violation of City Ordinance 4.19.010 or 8.54.010. The titleholder of record was notified by mail of the violation and given at least seven (7) days to abate the nuisance.

CASE HISTORY

Upon failure of the owner to comply with the notice the property was referred to the city contractor who abated the weeds, brush and/or debris. The city was billed for this work and has paid the contractor. We have in turn sent a statement to the titleholder of record requesting payment of this amount plus the cost to the city for enforcing the ordinance. To date, payment has not been received and at least ten (10) days have elapsed from the date of billing.

The Council has for the past thirty-seven years assessed all costs of weed abatement against other properties.

ALTERNATIVE ACTIONS

City Ordinance states that these unpaid costs “may be assessed, therefore, there are two major alternatives possible:

1. Take no action: The cost of the abatement at these properties will be paid from the general fund. Thus, the cost will be spread among all taxpayers including the vast majority who care for their property and keep it cut.

Asses the costs to the specific property: Thus, the responsible property owner will bear the cost of failing to comply with City Ordinance (unless they choose not to pay the taxes). In addition to all costs incurred, an additional \$5.00 has been added to each amount to help pay for the extra work involved in the assessment process.

Recommendation

RECOMMENDATION

The Chief Building Official is recommending that the Council adopt alternative 2: Assessment of all costs against the properties. This resolution accomplishes this alternative.

ATTACHMENTS:

Description

[List](#)

[Resolution 18-219](#)

Type

Other

Resolution

Upload Date

6/28/2018

7/2/2018

2018

Quarter 2 Weed Abatements

START: March 3-13-2018

Parcel	Address	Description	Name	Num	Lien
7543 30 127 010	1200 N BROADWAY ST	BABBITT PLACE LT 9 BLK 3	AHERN, PATRICK	11	\$ 159.00
7543 31 158 009	730 MADISON AVE	A S ORIGINAL PLAT 93 LT 3	REINDERS, JOSHUA	24	\$ 155.00
7544 25 278 005	Vac Lt N of 278 Benton St	PT LT 4 COMMSW COR TH NLY10'NE27.8' S18.9' SW13.4' TO POB BLK 6	BERNER, WILLIAM A-JENNIFER L	10	\$ 155.00
7544 25 356 002	1st Vac Lt S of 215 N 8 St	GRIMES ADD N26' W94' EXC 3.5' LT 7 BLK 3	BIG CAT INC	1	\$ 155.00
7544 25 356 003	2nd Vac Lt S of 215 N 8 St	GRIMES ADDITION S32 FT W94 FT LT 7 BLK 3	ATHAY, WILLIAM T III	2	\$ 155.00
7544 26 283 007	1316 AVE I	POTTER - COBBS FIRST ADD LOT 0012BLOCK 0008	HANISCH, JAMES M	7	\$ 247.00
7544 26 308 004	2213 AVE G	BURKES ADD LT 4 BLK 1	VALE LLC	4	\$ 213.00
7544 26 410 005	1625 AVE D	MULLINS SUB LT 6 BLK 34	DILLEY, RUSSELL A	19	\$ 159.00
7544 26 418 005	1407 AVE F	MULLINS SUB LT 3 BLK 18	J P MORGAN CHASE BANK NA	14	\$ 156.00
7544 27 432 002	2555 AVE E	CENTRAL SUB LT 13 BLK 28	KERNES, ANNA L	21	\$ 155.00
7544 33 281 004	3523 6TH AVE	BROWNS SUB LT 6 BLK 29	HADLUND, RICHARD JOSEPH JR	15	\$ 278.00
7544 35 190 007	L W of 1816 8TH AVE	PIERCES SUB LT 11 BLK 11	L B T IOWA 9591	8	\$ 162.00
7544 35 406 008	1604 10TH AVE	FLEMING & DAVIS LTS 13 & 14 BLK 6 & S1/2 VAC E/W ALLEY ADJ	ROLLINS, OTIS-NANCY	3	\$ 242.00
7544 36 181 009	705 6TH AVE	JEFFERIS SUB E77 FT LTS 1-2-3 BLK 10	PHILLIPS, DAVID A-ANGELA	22	\$ 262.00
7544 36 262 004	706 S 3RD ST	JACKSONS ADDITION LT 2 AND S2' LT 1 BLK 12	RAITHER, ROBERT R-JANE A	6	\$ 182.00
7544 36 407 017	212 11TH AVE	PARK ADDITION LOT 0013BLOCK 0004	WILSON, ROGER B-DAWN A	17	\$ 170.00
7544 36 460 002	Vac Lt of 193 15 AVE	CHAPMANS ADD LT 2	DEVELOPMENT SERVICES LLC	12	\$ 155.00

Total	\$3,160.00
--------------	-------------------

RESOLUTION NO. 18-219

- WHEREAS, City Ordinance No. 4849, passed and approved by the Council Bluffs City Council on April 15, 1988, requires all property owners within the City of Council Bluffs, Iowa, to cut or destroy all weeds exceeding 18 inches in height; and
- WHEREAS, all property owners in Council Bluffs were notified of the above requirements by ordinance and by publication in the Council Bluffs Nonpareil; and
- WHEREAS, the owner of each specific property was notified by regular mail and given at least seven (7) days to abate the nuisance; and
- WHEREAS, the City, through its contractor, has attempted to cut or destroy all weeds exceeding 18 inches in height found upon property where the owners have failed to cut or destroy the weeds themselves; and
- WHEREAS, more than ten days have elapsed since the City has billed each property owner by mail for the cost of removing the weeds from their properties; and
- WHEREAS, the cost of weed abatement on these properties has been incurred by the City and remains unpaid; and
- WHEREAS, the City Council may have these unpaid costs assessed against the properties from which the weeds were removed pursuant to Section 4.19.010 or 8.54.010 of the Municipal Code of the City of Council of Council Bluffs, Iowa, and Section 364.12(3) (g) and (h) of the State Code of Iowa:

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the unreimbursed costs incurred by the City for the abatement of weeds found upon the properties be assessed against said properties; and

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized, empowered and directed to certify said properties and assessments to the Pottawattamie County Treasurer to be collected in the same manner as a property tax.

ADOPTED
AND
APPROVED

July 9, 2018

BY: _____
Matthew J. Walsh, Mayor

ATTEST: _____
Jodi Quakenbush, City Clerk

Council Communication

Department: Community Development
Case/Project No.:
Submitted by: Brenda Carrico

Resolution 18-220

Council Action: 7/9/2018

Description

Resolution rejecting all bids and authorizing the City Clerk to re-advertise for bids for the River's Edge Subdivision Improvement Project – Piazza Parking and Improvements to the south side of Avenue B from 40th to 42nd Street.

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Bid rejection - cc stf rpt - piazza parking & Avenue B (7-9-18) CC	Other	6/29/2018
River's Edge Piazza and Ave B Bid Recommendation 6-29-18 (7-9-18) CC	Other	6/29/2018
Resolution 18-220	Resolution	7/2/2018

Council Communication
July 9, 2018 City Council Meeting

Department: Community Development	Resolution No. 18-_____	City Council: July 9, 2018						
<div style="text-align: center;">Subject/Title</div> River's Edge Subdivision Improvement Project - Piazza parking and improvements to the south side of Avenue B from 40 th to 42 nd Street – resolution rejecting bid and authorizing the City Clerk to re-advertise for bids								
<div style="text-align: center;">Background/Discussion</div> <p><u>Background</u></p> <p>This project will involve construction of parallel parking on the south side of Avenue B from North 40th to 42nd Street, including the removal of existing curb and gutters, modifications of the storm sewers, construction of the parking, sidewalk and streetlights, planting of ornamental trees and burying of the existing overhead power line at North 41st Street prior to the start of construction.</p> <p>The project also includes the construction of parallel parking along both sides of the existing street in the piazza and a sidewalk on the west side of the new parking to allow access from the parking to the other sidewalks in the area.</p> <p><u>Discussion</u></p> <p>Originally, this project required bids due to the City Clerk's office on May 31, 2018. However, no bids were received. Contractor feedback included the heavy workload on other projects, concerns with the end of August completion date, lead-time needed for the light poles/fixtures, availability of tree species in the summer and lack of responsiveness from sprinkler contractors.</p> <p>Based on this feedback, the project partners (including HDR, Noddle, Broadmoor, Public Works and Community Development) rebid the project with a due date of June 28, 2018. The substantial completion date was changed to December 1, 2018 with final completion on or before May 15, 2019.</p> <p>One bid was received from a contractor in the second round. It is summarized below:</p> <table style="margin-left: auto; margin-right: auto;"><tr><td style="text-align: left;"><u>Bidder</u></td><td style="text-align: left;"><u>Total Bid</u></td></tr><tr><td>Carley Construction</td><td>\$552,632.75</td></tr><tr><td>Engineer's Estimate</td><td>\$339,550.00</td></tr></table> <p>It is recommended that the bid be rejected as the bid exceeds the project budget. The project team will work together to discuss the completion date and other options for completing the work. Additional efforts will be made to encourage contractors to bid on the project.</p>			<u>Bidder</u>	<u>Total Bid</u>	Carley Construction	\$552,632.75	Engineer's Estimate	\$339,550.00
<u>Bidder</u>	<u>Total Bid</u>							
Carley Construction	\$552,632.75							
Engineer's Estimate	\$339,550.00							
<div style="text-align: center;">Staff Recommendation</div> <p>The Community Development Department recommends rejection of the bid from Carley Construction and authorizing the City Clerk to re-advertise for bids for the River's Edge Subdivision Improvement Project – Piazza parking and improvements to the south side of Avenue B from 40th to 42nd Street.</p>								

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department
Approved by: Brandon Garrett, Director, Community Development Department



June 29, 2018

Mr. Brandon Garrett, Director
Planning and Community Development
209 Pearl Street
Council Bluffs, IA 51503

Subject: River's Edge Development
Council Bluffs, Iowa
Avenue B and Piazza Parking
Bid Recommendation

Dear Mr. Garrett,

Bids for the construction of the Avenue B and Piazza Parking Project were received on June 28, 2018. One bid was received. A copy of the bid tabulation is attached.

Carley Construction submitted a bid in the amount of \$552,632.75. The bid was above the engineer's estimate of \$339,550.

We recommend rejection of the bid and re-bidding of the project later this year for a construction start in the spring of 2019. Contractor work load appears to be a factor in the pricing and lack of additional bids. Timing for the Avenue B work is not critical, as Broadmoor will not start taking occupancy of the adjacent building until November and there is adequate parking in the short term. Likewise, the additional Piazza parking is not critical for this year.

Please feel free to contact me if you have any questions or need additional information.

Sincerely,

HDR ENGINEERING INC.

A handwritten signature in blue ink that reads 'Chris Cain'.

Chris A. Cain, P.E.
Senior Project Engineer

Attachment

hdrinc.com

8404 Indian Hills Drive, Omaha, NE 68114
T 402.399.1000 F 402.399.4918

CITY OF COUNCIL BLUFFS, IOWA

Rivers Edge Subdivision

BID TABULATION

Piazza Parking and Avenue B Parking

June 28, 2018

				Engineer's Estimate		Carley Construction	
Bid Item No.	Description	EST QTY	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
SCHEDULE A: PIAZZA PARKING							
DIVISION I - GENERAL							
1	Mobilization	1	LS	\$5,000.00	\$5,000	\$28,000.00	\$28,000.00
2	Silt Fence	100	LF	3.75	\$375	8.00	\$800.00
3	Inlet Protection	8	EA	275.00	\$2,200	500.00	\$4,000.00
4	No-Mow Turf Grass	400	SY	1.50	\$600	3.25	\$1,300.00
5	Rolled Erosion Control Type 1.A	400	SY	2.50	\$1,000	5.00	\$2,000.00
6	Concrete Washout	1	EA	1,000.00	\$1,000	1,500.00	\$1,500.00
7	Traffic Control	1	LS	1,000.00	\$1,000	6,500.00	\$6,500.00
8	Quality Control	1	LS	1,500.00	\$1,500	15,000.00	\$15,000.00
				Subtotal - Schedule A Division I	\$12,675		\$59,100
DIVISION II - PAVEMENT AND APPURTENANCES							
1	Geotextile Fabric	750	SY	4.00	\$3,000	3.50	\$2,625.00
2	6" Longitudinal Subdrain	530	LF	12.50	\$6,625	18.00	\$9,540.00
3	6" Longitudinal Subdrain Outlet	8	EA	90.00	\$720	500.00	\$4,000.00
4	6" Granular Subbase	250	TN	32.00	\$8,000	50.00	\$12,500.00
5	4" Concrete Sidewalk	1,350	SF	5.00	\$6,750	6.50	\$8,775.00
6	7" Concrete Pavement	550	SY	52.00	\$28,600	58.50	\$32,175.00
7	Adjust Inlet to Grade	4	EA	250.00	\$1,000	2,100.00	\$8,400.00
				Subtotal - Schedule A Division II	\$54,695		\$78,015
DIVISION VI - TRAFFIC SIGNALIZATION							
1	Pavement Marking	1	LS	1,000.00	\$1,000	3,500.00	\$3,500.00
				Subtotal - Schedule A Division VI	\$1,000		\$3,500
DIVISION VIII - MISCELLANEOUS							
1	Electrical Duct - 1" Sch. 40	730	LF	10.00	\$7,300	14.40	\$10,512.00
				Subtotal - Schedule B Division VIII	\$7,300		\$10,512
				Subtotal Schedule A:	\$75,670		\$151,127
SCHEDULE B: AVENUE B IMPROVEMENTS							
DIVISION I - GENERAL							
1	Mobilization	1	LS	\$10,000.00	\$10,000	\$28,000.00	\$28,000.00
2	Saw Cut - Full Depth	950	LF	4.00	\$3,800	6.50	\$6,175.00
3	Remove Inlet	2	EA	450.00	\$900	1,250.00	\$2,500.00
4	Remove Pavement	35	SY	18.00	\$630	50.00	\$1,750.00
5	Remove Sidewalk	550	SY	9.00	\$4,950	18.00	\$9,900.00
6	Remove Curb and Gutter	750	LF	10.00	\$7,500	10.00	\$7,500.00
7	Remove Sign	1	EA	200.00	\$200	500.00	\$500.00
8	Silt Fence	100	LF	3.75	\$375	8.00	\$800.00
9	Inlet Protection	4	EA	275.00	\$1,100	500.00	\$2,000.00
10	Concrete Washout	1	EA	1,000.00	\$1,000	1,500.00	\$1,500.00
11	Traffic Control	1	LS	5,000.00	\$5,000	6,500.00	\$6,500.00

12	Quality Control	1	LS	5,000.00	\$5,000	15,000.00	\$15,000.00
				Subtotal - Schedule B Division I	\$40,455		\$82,125
DIVISION II - PAVEMENT AND APPURTENANCES							
1	Geotextile Fabric	1,100	SY	4.00	\$4,400	3.50	\$3,850.00
2	6" Longitudinal Subdrain	590	LF	12.50	\$7,375	18.00	\$10,620.00
3	6" Longitudinal Subdrain Outlet	3	EA	90.00	\$270	500.00	\$1,500.00
4	6" Granular Subbase	230	TN	32.00	\$7,360	50.00	\$11,500.00
5	6" Concrete Sidewalk	4,900	SF	6.00	\$29,400	8.00	\$39,200.00
6	7" Concrete Pavement	800	SY	52.00	\$41,600	58.50	\$46,800.00
7	6" Concrete Base	265	SF	18.00	\$4,770	15.00	\$3,975.00
8	Brick Pavement	265	SF	20.00	\$5,300	50.00	\$13,250.00
9	Detectible Warning Panel	75	SF	35.00	\$2,625	50.00	\$3,750.00
10	Adjust Manhole to Grade	1	EA	500.00	\$500	2,100.00	\$2,100.00
				Subtotal - Schedule B Division II	\$103,600		\$136,545
DIVISION III - STORM SEWER APPURTENANCES							
1	Construct 12" R.C.P., Class III	80	LF	50.00	\$4,000	80.00	\$6,400.00
2	Construct 18" R.C.P., Class III	30	LF	55.00	\$1,650	90.00	\$2,700.00
3	Construct 60" I.D. Manhole	4	VF	475.00	\$1,900	1,850.00	\$7,400.00
4	Construct Grate Inlet	4	EA	3,500.00	\$14,000	3,500.00	\$14,000.00
5	Connect to Existing Pipe	1	EA	500.00	\$500	1,850.00	\$1,850.00
6	Connect to Existing Manhole	1	EA	750.00	\$750	2,500.00	\$2,500.00
7	Perform Television Inspection	95	LF	3.00	\$285	10.00	\$950.00
				Subtotal - Schedule B Division III	\$23,085		\$35,800
DIVISION VI - TRAFFIC SIGNALIZATION							
1	Traffic Signs	1	LS	500.00	\$500	21,000.00	\$21,000.00
2	Pavement Marking	1	LS	1,000.00	\$1,000	7,800.00	\$7,800.00
				Subtotal - Schedule B Division VI	\$1,500		\$28,800
DIVISION VIII - MISCELLANEOUS							
1	Electrical Duct - 1" Sch. 40 w/ 2#8 and 1#8G	350	LF	12.00	\$4,200	17.05	\$5,967.50
2	Electrical Duct - 1" Sch. 40 w/ 2#8 and 1#8G - Directional Drilled	75	LF	50.00	\$3,750	17.05	\$1,278.75
3	Electrical Duct - 1" Sch. 40	30	LF	10.00	\$300	14.40	\$432.00
4	Electrical Duct - 1" Sch. 40 - Directional Drilled	50	LF	50.00	\$2,500	14.40	\$720.00
5	Electrical Duct - 2" Sch. 40	100	LF	18.00	\$1,800	39.30	\$3,930.00
6	Electrical Duct - 2" Sch. 40 Directional Drilled	70	LF	50.00	\$3,500	39.30	\$2,751.00
7	Handhole	3	EA	1,400.00	\$4,200	1,345.00	\$4,035.00
8	Lighting Controller and Foundation	1	EA	8,500.00	\$8,500	9,305.00	\$9,305.00
9	Streetlight w/ Base	8	EA	5,500.00	\$44,000	7,135.00	\$57,080.00
10	Street Tree	13	EA	500.00	\$6,500	488.50	\$6,350.50
11	Amended Topsoil	50	CY	75.00	\$3,750	98.40	\$4,920.00
12	Mulch	10	CY	50.00	\$500	57.60	\$576.00
13	Irrigation	1	LS	10,000.00	\$10,000	17,500.00	\$17,500.00
14	No-Mow Turf Grass	600	SY	0.40	\$240	3.25	\$1,950.00
15	Rolled Erosion Control Type 1.A	600	SY	2.50	\$1,500	2.40	\$1,440.00
				Subtotal - Schedule B Division VIII	\$95,240		\$118,235.75
				Subtotal Schedule B:	\$263,880		\$401,505.75
				TOTAL CONSTRUCTION	\$339,550		\$552,632.75

RESOLUTION NO. 18 -220

RESOLUTION REJECTING ALL BIDS AND AUTHORIZING THE CITY CLERK TO RE-ADVERTISE FOR BIDS FOR THE RIVER'S EDGE SUBDIVISION IMPROVEMENT PROJECT – PIAZZA PARKING AND IMPROVEMENTS TO THE SOUTH SIDE OF AVENUE B FROM 40TH TO 42ND STREET.

WHEREAS, the plans, specifications, and form of contract for the River's Edge Subdivision Improvement Project - piazza parking and improvements to the south side of Avenue B from 40th to 42nd Street are on file in the office of the City Clerk; and

WHEREAS, one bid was received in the City Clerk's office on June 28, 2018; and

WHEREAS, it is appropriate to reject the bid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the bid received for the River's Edge Subdivision Improvement Project - piazza parking and improvements to the south side of Avenue B from 40th to 42nd Street is rejected and the City Clerk is hereby authorized to re-advertise for bids for said project.

ADOPTED
AND
APPROVED

July 9, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by:

Liquor License Renewals

Council Action: 7/9/2018

Description

- 1) American Legion, 716 4th Street
- 2) Casey's General Store, 701 32nd Avenue
- 3) Fox Run Golf Course, 3001 Mac Ineery Drive
- 4) Hooters, 2910 23rd Avenue
- 5) Hy-Vee Drug Store, 757 W Broadway
- 6) Jonsey's Taco House, 1117 16th Avenue
- 7) Main Street Tavern, 519 South Main Street
- 8) Pilot Travel Center, 2647 South 24th Street

Background/Discussion

- 1) American Legion, 716 4th Street- No significant calls over the last year.
- 2) Casey's General Store, 701 32nd Avenue- 7 Disturbance and 6 Intoxicated Person calls but no arrests from those calls. 1 OWI Arrest on the property for a guy passed out behind the wheel.
- 3) Fox Run Golf Course, 3001 Mac Ineery Drive- No significant calls over the last year.
- 4) Hooters, 2910 23rd Avenue- 2 Disturbance and 1 Suspicious Activity Call leading to 1 Arrest for Disorderly in a Place of Business and 1 Arrest for Possession of a Controlled Substance- Marijuana.
- 5) Hy-Vee Drug Store, 757 W Broadway- 14 Disturbance calls leading to 2 arrests, 2 Vice calls leading to 1 arrest for Possession of Meth and 3 Intoxicated Person calls.
- 6) Jonsey's Taco House, 1117 16th Avenue- No significant calls over the last year.
- 7) Main Street Tavern, 519 South Main Street- 2 Disturbances with 1 Arrest for Assault.
- 8) Pilot Travel Center, 2647 South 24th Street- 6 Intoxicated Person calls with 1 arrest and 8 Disturbance calls with 3 Arrests for Domestic Abuse, Assault and Disorderly in a Place of Business.

Recommendation

ATTACHMENTS:

Description

[Applications](#)

Type

Other

Upload Date

6/29/2018



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
Home
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>am</u>	Local Amt	
FIRE	Endorsed	
HEALTH	Issued	
BUILDING <u>DS</u>	Expires	
ZONING		

Help

License Search

License List

On-Demand
ReportingKeg Registration
Search

User Profile

Logoff

> License

> Privileges

> Applicant

> Status Of Business

> Ownership

> Criminal History

> Premises

> General Premises

> Applicant Signature

> Dram Cert

> Local Endorse

> History

Applicant LA0000203, American Legion Rainbow Post #2, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): Rainbow Post #2, American Legion (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): American Legion Rainbow Post #2

Address of Premise: 716 4th Street

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51503-0000

Business Phone: (712) 325-4874

Cell / Home Phone: (402) 490-0223

☐ Same Address

Mailing Address: 716 4th Street

Mailing Address Line 2:

City: Council Bluffs

Zip: 51503-0000

State: Iowa

Contact Name: Curt Smith

Phone: (402) 968-5645

Email Address: curtsmith29@yahoo.com

Prev

Next

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

Terms and Conditions
Privacy Policy

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL		<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>dm</u>	Local Amt _____		
FIRE _____	Endorsed _____		
HEALTH _____	Issued _____		
BUILDING _____	Expires _____		
ZONING <u>17</u>			

Help License Search License List On-Demand Reporting Keg Registration Search User Profile Logoff

- » License
- » Privileges
- » Applicant
- » Status Of Business
- » Ownership
- » Criminal History
- » Premises
- » General Premises
- » Applicant Signature
- » Local Endorse
- » History

Applicant BC0030023, CASEY'S GENERAL STORE #3201, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen. The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): CASEY'S MARKETING COMPANY (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): CASEY'S GENERAL STORE #3201

Address of Premise: 701 32ND AVE

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 366-5453

Cell / Home Phone:

☐ Same Address

Mailing Address: PO Box 3001

Mailing Address Line 2:

City: Ankeny

State: Iowa

Zip: 50021-8045

Contact Name: JESSICA FISHER, Store Operations

Phone: (515) 446-6404

Email Address: JESSICA.FISHER@caseys.c

Prev

Next

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

Terms and Conditions
Privacy Policy

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>CL</u>	Local Amt _____	
FIRE _____	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING <u>8</u>	Expires _____	
ZONING <u>BZ</u>		

Help

License Search

License List

On-Demand
ReportingKeg Registration
Search

User Profile

Logoff

> License

> Privileges

> Applicant

> Status Of Business

> Ownership

> Criminal History

> Premises

> General Premises

> Applicant Signature

> Dram Cert

> Local Endorse

> History

Applicant LC0033993, Fox Run Golf Course, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): Authier Properties, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Fox Run Golf Course

Address of Premise: 3001 Mac Ineery Dr.

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 366-4653

Cell / Home Phone:

☐ Same Address

Mailing Address: 3001 MacIneery Dr.

Mailing Address Line 2:

City: Council Bluffs

State: Iowa

Zip: 51501

Contact Name: Grant Wakefield

Phone: (712) 366-4653

Email Address: gbwakefield@gmail.com

[Prev](#)

[Next](#)

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

[Terms and Conditions](#)
[Privacy Policy](#)

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>ra</u>	Local Amt _____	
FIRE _____	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING <u>28</u>	Expires _____	
ZONING <u>02</u>		

Help

License Search

License List

On-Demand
ReportingKeg Registration
Search

User Profile

Logoff

> License

> Privileges

> Applicant

> Status Of Business

> Ownership

> Criminal History

> Premises

> General Premises

> Applicant Signature

> Dram Cert

> Local Endorse

> History

Applicant LC0041042, Hooters of Council Bluffs, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor
Name/Partnership Name(s): HOA Restaurant Holder, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Hooters of Council Bluffs

Address of Premise: 2910 23rd Ave.

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (770) 799-2316

Cell / Home Phone:

Same Address

Mailing Address: 1815 The Exchange - Attn. Legal Department

Mailing Address Line 2:

City: Atlanta

State: Georgia

Zip: 30339

Contact Name: Shauna Fulton or Nicholas Cooper (515)558-0180

Phone: (770) 799-2316

Email Address: sfulton@hooters.com

Prev

Next

Follow us with RSS, Facebook or Twitter

**Contact Us**

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

Terms and Conditions
Privacy Policy

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
Home
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>in</u>	Local Amt _____	
FIRE <u>AF</u>	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING <u>OK</u>	Expires _____	
ZONING <u>OK</u>		

Help License Search License List On-Demand Reporting Keg Registration Search User Profile Logoff

Applicant LE0001210, Hy-Vee Drugstore, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen. The navigation links on the top may also be used to move around the application.

- License
- Privileges
- Applicant
- Status Of Business
- Ownership
- Criminal History
- Premises
- General Premises
- Applicant Signature
- Bond Cert
- Local Endorse
- History

Corporation Name/Sole Proprietor Name/Partnership Name(s): Hy-Vee, Inc (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Hy-Vee Drugstore

Address of Premise: 757 W Broadway

Address Line 2: _____

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 328-3277

Cell / Home Phone: _____

Same Address

Mailing Address: 5820 Westown Pkwy

Mailing Address Line 2: _____

City: Des Moines

State: Iowa

Zip: 50266

Contact Name: Jackie Russo

Phone: (515) 267-2874

Email Address: jrusso@hy-vee.com

Prev

Next

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

Terms and Conditions
Privacy Policy

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u> ✓ </u>	Local Amt <u> </u>	
FIRE <u> </u>	Endorsed <u> </u>	
HEALTH <u> </u>	Issued <u> </u>	
BUILDING <u> </u>	Expires <u> </u>	
ZONING <u> C9 </u>		

Help	License Search	License List	On-Demand Reporting	Keg Registration Search	User Profile	Logoff
------	----------------	--------------	---------------------	-------------------------	--------------	--------

- > License
- > Privileges
- > Applicant
- > Status Of Business
- > Ownership
- > Criminal History
- > Premises
- > General Premises
- > Applicant Signature
- > Dram Cert
- > Local Endorse
- > History

Applicant LC0035603, Jonesy's Taco House, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen. The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s):	M. J. Abel Inc		(Sole Proprietorship, Partnership, Corporation, etc.)
Name of Business (D/B/A):	Jonesy's Taco House		
Address of Premise:	1117 16 Ave		
Address Line 2:			
City:	Council Bluffs		
County:	Pottawattamie		
Zip:	51503		
Business Phone:	(712) 322-8747	Cell / Home Phone:	(712) 323-6838
<input type="checkbox"/> Same Address			
Mailing Address:	1117 16 Ave		
Mailing Address Line 2:			
City:	Council Bluffs		State: Iowa
Zip:	51503		
Contact Name:	Mary Abel		
Phone:	(712) 322-5747	Email Address:	steven.petty@rocketmail.com

[Prev](#)
[Next](#)

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

[Terms and Conditions](#)
[Privacy Policy](#)

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>Law</u>	Local Amt _____	
FIRE _____	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING <u>SK</u>	Expires _____	
ZONING <u>29</u>		

Help

License Search

License List

On-Demand
ReportingKeg Registration
Search

User Profile

Logoff

> License

> Privileges

> Applicant

> Status Of Business

> Ownership

> Criminal History

> Premises

> General Premises

> Applicant Signature

> Dram Cert

> Local Endorse

> History

Applicant LC0043482, Main Street Tavern, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): THE COLOR OF MONEY, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Main Street Tavern

Address of Premise: 519 South Main Street

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 256-3613

Cell / Home Phone:

☐ Same Address

Mailing Address: 519 South Main Street

Mailing Address Line 2:

City: Council Bluffs

State: Iowa

Zip: 51501

Contact Name: John Salanitro

Phone: (402) 305-9326

Email Address: jsalan4644@msn.com

Prev

Next

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

[Terms and Conditions](#)
[Privacy Policy](#)

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input checked="" type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input type="checkbox"/> SPECIAL EVENT
POLICE <u>dm</u>	Local Amt _____	
FIRE _____	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING _____	Expires _____	
ZONING <u>cg</u>		

Help License Search License List On-Demand Reporting Keg Registration Search User Profile Logoff

Applicant BC0027517, Pilot Travel Center #329, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

- > License
- > Privileges
- > Applicant
- > Status Of Business
- > Ownership
- > Criminal History
- > Premises
- > General Premises
- > Applicant Signature
- > Local Endorse
- > History

Corporation Name/Sole Proprietor Name/Partnership Name(s): Pilot Travel Centers, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Pilot Travel Center #329

Address of Premise: 2647 S 24th St

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 322-0088

Cell / Home Phone:

Same Address

Mailing Address: Pilot Travel Centers LLC

Mailing Address Line 2: PO Box 10146 Attn: Tax Dept.

City: Knoxville

State: Tennessee

Zip: 37939

Contact Name: Chris Muth

Phone: (865) 588-7488

Email Address: Chris.Muth@pilottravelcenter

Prev

Next

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

Terms and Conditions
Privacy Policy

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.



State of Iowa
ALCOHOLIC
BEVERAGES DIVISION
About
Alcohol
Tobacco
Links
Contact

<input type="checkbox"/> RENEWAL	<input type="checkbox"/> NEW	<input checked="" type="checkbox"/> SPECIAL EVENT
POLICE <u>du</u>	Local Amt _____	
FIRE _____	Endorsed _____	
HEALTH _____	Issued _____	
BUILDING <u>8</u>	Expires _____	
ZONING <u>8</u>		

Help License Search License List On-Demand Reporting Keg Registration Search User Profile Logoff

- > License
- > Privileges
- > Applicant
- > Status Of Business
- > Ownership
- > Criminal History
- > Premises
- > General Premises
- > Applicant Signature
- > Dram Cert
- > Local Endorse
- > History

Applicant LC_V_80579, Southport Marketing, Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): Southport Marketing (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Southport Marketing

Address of Premise: Tom Hanafan River's Edge Park

Address Line 2: Bob Kerrey Pedestrian Bridge

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (805) 499-5303 Cell / Home Phone: (805) 341-9551

☐ Same Address

Mailing Address: 1090 Avenida Acaso

Mailing Address Line 2: _____

City: Camarillo State: California

Zip: 93012

Contact Name: Tom Johnson

Phone: (805) 499-5303 Email Address: tom@southportmktg.com

[Prev](#)

[Next](#)

Follow us with RSS, Facebook or Twitter



Contact Us

Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road, Ankeny, IA 50021
Toll Free 866.IowaABD (866.469.2223)
Local 515.281.7400

[Terms and Conditions](#)
[Privacy Policy](#)

Copyright ©2009 State of Iowa
Alcoholic Beverages Division. All Rights Reserved.

Taco Fest
8-2-18
Five day
Permit

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by:

Liquor License - Special Events

Council Action: 7/9/2018

Description

1) Taco Fest, August 2nd August 5th, 2018 - River's Edge Park

Background/Discussion

Recommendation

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by:

Cigarette Permits

Council Action: 7/9/2018

Description

Background/Discussion

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Applications	Other	7/6/2018



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 07 / 01 / 2018 through June 30, 2019

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA: Alohma
Physical Location Address: 285 West Broadway City: Council Bluffs ZIP: 51503
Mailing Address: 285 West Broadway City: Council Bluffs State: IA ZIP: 51503
Business Phone Number: (712) 256-2587

Legal Ownership Information:

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC ☒ LLP ☐
Name of sole proprietor, partnership, corporation, LLC, or LLP: Alohma LLC
Mailing Address: 9117 M Street City: Omaha State: NE ZIP: 68127
Phone Number: (402) 905-0599 Fax Number: () Email:

Retail Information:

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☐ Tobacco ☐ Alternative Nicotine Products ☐ Vapor Products ☒

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store ☒ Bar ☐ Convenience store/gas station ☐ Drug store ☐
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐
Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)

Name (please print): Jenifer Randol Name (please print): _____
Signature: Jenifer Randol Signature: _____
Date: 06/19/2018 Date: _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.9.18
- Fill in the permit number issued by the city/county: 614418
- Fill in the name of the city or county issuing the permit: Council Bluffs

*RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: iapledge@iowaabd.com
- Fax: 515-281-7375



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 6/20/18 through June 30, 2019

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA: Andrews Lounge
Physical Location Address: 1210 N. 25th St City: Council Bluffs ZIP: 51503
Mailing Address: 1210 N. 25th St City: Council Bluffs State: IA ZIP: 51503
Business Phone Number: (712) 328-2209

Legal Ownership Information:

Type of Ownership: Sole Proprietor ☒ Partnership ☐ Corporation ☐ LLC ☐ LLP ☐

Name of sole proprietor, partnership, corporation, LLC, or LLP: Jim Andrews

Mailing Address: 19402 Monument Drive City: Council Bluffs State: IA ZIP: 51503

Phone Number: (402) (689-1687) Fax Number: (712) 328-2209 Email: N/A

Retail Information:

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☐ Alternative Nicotine Products ☐ Vapor Products ☐

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☒ Drug store ☐
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐
Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)

Name (please print): James Andrews Name (please print): _____
Signature: James Andrews Signature: _____
Date: 6-20-18 Date: _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.9.18
- Fill in the permit number issued by the city/county: 614415
- Fill in the name of the city or county issuing the permit: Council Bluffs

X RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: iapledge@iowaabd.com
- Fax: 515-281-7375



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 6 / 30 / 2018 through June 30, 2019

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA: Generation V
Physical Location Address: 2015 W Broadway City: Council Bluffs ZIP: 51501
Mailing Address: 1701 O Street, 1st floor City: Lincoln State: NE ZIP: 68508
Business Phone Number: (760) 429-8585

Legal Ownership Information:

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐
Name of sole proprietor, partnership, corporation, LLC, or LLP: Generation V, Inc.
Mailing Address: 1701 O Street, 1st Floor City: Lincoln State: NE ZIP: 68508
Phone Number: (760) 429-8585 Fax Number: () Email: sarah@generationv.com

Retail Information:

Types of Sales: Over-the-counter ☒ Vending machine ☐
Types of Products Sold: (Check all that apply)
Cigarettes ☐ Tobacco ☐ Alternative Nicotine Products ☐ Vapor Products ☒

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store ☒ Bar ☐ Convenience store/gas station ☐ Drug store ☐
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐
Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)

Name (please print): Sarah Linden Name (please print): _____
Signature: [Signature] Signature: _____
Date: 6/14/18 Date: _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.9.18
- Fill in the permit number issued by the city/county: 614765
- Fill in the name of the city or county issuing the permit: Council Bluffs

*RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: iapledge@iowaabd.com
- Fax: 515-281-7375



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 07 / 01 / 2018 through June 30, 2019

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA: Mega Saver
Physical Location Address: 3540 W Broadway City: Council Bluffs ZIP: 51501
Mailing Address: 202 S 73rd St. City: Omaha State: NE ZIP: 68114
Business Phone Number: (402) 399-5377

Legal Ownership Information:

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☒ LLC ☐ LLP ☐
Name of sole proprietor, partnership, corporation, LLC, or LLP: TFL Inc.
Mailing Address: 202 S 73rd St. City: Omaha State: NE ZIP: 68114
Phone Number: (402) 399-5377 Fax Number: (402) 625-0399 Email: kamol@tflcorp.net

Retail Information:

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☐ Vapor Products ☒

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☒ Drug store ☐
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐
Has vending machine that assembles cigarettes ☐ Other ☐

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)

Name (please print): KAMOL SAMIEV
Signature: [Signature]
Date: 07/02/18

Name (please print): _____
Signature: _____
Date: _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.9.18
- Fill in the permit number issued by the city/county: 617905
- Fill in the name of the city or county issuing the permit: Council Bluffs

*RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: iapledge@iowaabd.com
- Fax: 515-281-7375



SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 6/30/18 through June 30, 2019

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA: Aperomones Glass & Gifts LLC
Physical Location Address: 1417 W Broadway City: Council Bluffs ZIP: 51501
Mailing Address: Ste B City: _____ State: _____ ZIP: _____
Business Phone Number: (712) 323-0404

Legal Ownership Information:

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC ☒ LLP ☐
Name of sole proprietor, partnership, corporation, LLC, or LLP: _____
Mailing Address: 1417 W Broadway Ste B City: Council Bluffs State: IA ZIP: 51501
Phone Number: (712) 323-0404 Fax Number: (____) _____ Email: aperomonesglass@yahoo.com

Retail Information:

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☒ Vapor Products ☒

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store ☒ Bar ☐ Convenience store/gas station ☐ Drug store ☐
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☒
Has vending machine that assembles cigarettes ☐ Other ☐ _____

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)

Name (please print): Farah Froehlich Name (please print): Rodney Froehlich
Signature: Farah Froehlich Signature: R. Froehlich
Date: 6-20-18 Date: 6-20-18

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7-9-18
- Fill in the permit number issued by the city/county: 614780
- Fill in the name of the city or county issuing the permit: Council Bluffs

*RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: iapledge@iowaabd.com
- Fax: 515-281-7375



Iowa Department of Revenue
https://tax.iowa.gov

JUN 21 2018

Iowa Retail Permit Application For Cigarette/Tobacco/Nicotine/Vapor

SEE INSTRUCTIONS ON THE REVERSE SIDE

For period (MM/DD/YYYY) 07 / 01 / 2018 through June 30, 19

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA: Sapp Bros

Physical Location Address: 2608 S 24th St City: Council Bluffs ZIP: 51501

Mailing Address: same City: _____ State: _____ ZIP: _____

Business Phone Number: (712) 322-3000

Legal Ownership Information:

Type of Ownership: Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC ☒ LLP ☐

Name of sole proprietor, partnership, corporation, LLC, or LLP: Sapp Bros Travel Centers Inc

Mailing Address: same City: _____ State: _____ ZIP: _____

Phone Number: (____) _____ Fax Number: (____) _____ Email: _____

Retail Information:

Types of Sales: Over-the-counter ☒ Vending machine ☐

Types of Products Sold: (Check all that apply)

Cigarettes ☒ Tobacco ☒ Alternative Nicotine Products ☒ Vapor Products ☒

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store ☐ Bar ☐ Convenience store/gas station ☒ Drug store ☐
Grocery store ☐ Hotel/motel ☐ Liquor store ☐ Restaurant ☐ Tobacco store ☐
Has vending machine that assembles cigarettes ☐ Other ☐ _____

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

SIGNATURE OF OWNER(S), PARTNER(S), OR CORPORATE OFFICIAL(S)

Name (please print): Jesse Wanning

Name (please print): _____

Signature: _____

Signature: _____

Date: 6/21/18

Date: _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY - MUST BE COMPLETE

- Fill in the amount paid for the permit: \$100.00
- Fill in the date the permit was approved by the council or board: 7.9.18
- Fill in the permit number issued by the city/county: 614907
- Fill in the name of the city or county issuing the permit: Council Bluffs

*RENEWAL

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: japledge@iowaabd.com
- Fax: 515-281-7375