

**COUNCIL PROCEEDINGS
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:37 p.m., Monday, May 23, 2011.

The Meeting was opened by Pledging Allegiance to the Flag followed by moment of silent prayer.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

Aldermen: Judy Stearns, Mboka Mwilambwe, Bernie Anderson, David Sage, Robert Fazzini, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

City Manager David Hales, Chief Deputy Clerk Renee Gooderham, and Corporate Counsel Todd Greenburg were also present.

Staff absent: City Clerk Tracey Covert.

The following was presented:

Mayor Stockton introduced Bob Cleary, Japan Sister Cities Committee Member, Mori Yurika, and Alejandro Montesdeca exchange students.

Mr. Cleary addressed the Council. This had been an outstanding year. Each year the Committee identifies a student to spend the year in Asahikawa Japan. The City also hosts a student. Both students had adjusted to the cultural. They were good ambassadors. He cited the natural disasters in Japan. Asahikawa was untouched by these disasters.

Ms. Yurika addressed the Council. She had enjoyed her time in Bloomington and the United States. She had learned things that she never would have in Japan. She had stayed with three (3) host families. All had been nice. She attended Normal Community High School. The school was big and the teachers were nice. She will return June 10, 2011.

Mr. Montesdeca addressed the Council. He was not in the same city as the earthquake. He felt its effect on the third (3rd) floor of the school he was attending. The culture was more structured. He was able to learn a language he thought impossible. He thanked Bloomington/Normal for their support. He stated that he intends on returning next year.

The following was presented:

Marcos Mendez, Zoological Society President, addressed the Council. Mr. Mendez described the organization. The mission was to support the history of the Miller Park Zoo through fundraising, community outreach and education. He believed that Miller Park Zoo could be the leader in worldwide conservation efforts. He cited the purchase of the camera to monitor the Red Wolf pups. The Zoo was able to place the pups back into the wild. Mr. Mendez presented a check in the amount of \$115, 000 to the Miller Park Zoo, and its Staff. He stated that Miller Park Zoo had been in existence for 120 years.

Jay Tetzloff, Zoo Superintendent addressed the Council. Mr. Tetzloff stated the Zoological Society had donated \$2000 towards the replacement of the carousel roof damaged during the snow storm.

Mayor Stockton expressed his appreciation. It took hard work and creativity to fundraise. The community was better for it. The Zoo was a wonderful place. Mayor Stockton cited fond memories of the Zoo.

Alderman Fruin read the same statement that appeared on the August 23, 2010 Council meeting prior to voting.

The following was presented:

SUBJECT: Council Proceedings of May 9, 2011

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of May 9, 2011 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of May 9, 2011 have been reviewed and certified as correct and complete by the City Clerk.

In accordance with the Open Meetings Act, Council Proceedings are made available for public inspection and posted to the City's web site within ten (10) days after Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Meeting of May 9, 2011 be dispensed with and the minutes approved as printed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

RECOMMENDATION: That the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

FINANCIAL IMPACT: Total disbursements to be approved \$6,674,083.90, (Payroll total \$1,588,584.13, and Accounts Payable total \$5,085,499.77).

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Timothy Ervin
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Use of a City Owned Lot Located at 508 N. Roosevelt Street for a Community Garden

RECOMMENDATION: That the Agreement with West Bloomington Revitalization Project (WBRP) to use the lot located at 508 N. Roosevelt as a community garden space be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The WBRP has been operating a community garden space on City owned properties located at 507, 509 and 517 N. Roosevelt for the past three (3) years. Due to the program success, there are not enough plots to meet neighborhood demand. The lot directly across the street from the existing community garden is 508 N. Roosevelt. It is also a City owned lot, acquired in lieu of demolition of a dilapidated structure a few years ago. In the past, City owned lots have been considered for the possibility of economic development. The community gardens will provide a positive influence in this area, until final determination is made regarding the disposition of these lots.

The goal of the community garden program is to provide fresh food and good nutrition for all of those interested in participating. WBRP and Master Gardeners hold classes on recycling, composting and plan to add classes on nutrition and the preparation of garden produce for daily meals. In addition they host a seed giveaway and plant exchange. The garden provides a sense of community.

WBRP has agreed to maintain the property, which would save the City mowing and maintenance costs. They will utilize an existing water source that was provided by the City at the current garden space across the street.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Val Dumser, WBRP President.

FINANCIAL IMPACT: Water usage, which is strictly monitored.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Sharon Walker
Division Manager

Mark R. Huber
Director of PACE

Rosalee Dodson
Asst. Corporation Counsel

Financial review by:

Reviewed by:

Recommended by:

Timothy Ervin
Director of Finance

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
BLOOMINGTON AND THE WEST BLOOMINGTON REVITALIZATION
PROJECT**

This Memorandum of Understanding is entered into on 24th day of May, 2011, by and between the City of Bloomington, a municipal corporation of McLean County, Illinois, (hereinafter referred to as “City”) and the West Bloomington Revitalization Project, (hereinafter referred to as “WBRP”).

WBRP

The WBRP is a non-profit organization committed to improving the West Bloomington neighborhood by creating a safe, thriving and livable community with projects focused on safety and well-being, youth, economic development, housing, education and community greening. Community gardens provide an opportunity to use vacant land for neighborhood beautification by transforming parcels into passive garden space or noncommercial vegetable gardens. Currently, WBRP maintains community gardens on City owned vacant land located at 507, 509 and 517 N. Roosevelt in Bloomington, Illinois.

Intent of Parties

The City owns vacant parcels of land that are presently not needed for public purpose or development. It is the intent of the parties to reach an agreement regarding the use of vacant land owned by the City for community gardening to be maintained by WBRP.

Agreement

The parties agree to the following:

1. The City shall allow WBRP to maintain a community garden on City owned vacant property located at 508 N. Roosevelt in Bloomington, Illinois (“plot”) for an initial one-year term beginning on the date this agreement is signed by both parties. Following the initial term, this agreement shall be automatically renewed for successive one-year periods, unless either party requests termination of the agreement in writing, not less than ninety (90) days prior to termination of the existing term.

2. WBRP shall be responsible for maintaining the plot and areas immediately surrounding the plot in good condition on a year-round basis. Maintenance includes, but is not limited to, watering, picking up any trash and litter generated from the plot and depositing it in the appropriate location (either a trash can or compost bin); mowing and trimming the grass and weeds as needed; and removing dead/dying plants and rotting vegetables. The City shall notify WBRP in writing if such maintenance is not provided. Failure of WBRP to take corrective action, as requested by the City in such notice, shall result in forfeiture of the plot.
3. WBRP shall conserve the use of water in maintaining the plot by, and not limited to, mulching, watering mornings and evenings instead of afternoons, and not allowing water to run unattended. No water timers, soaker hoses, or irrigation systems are permitted. If a gardener lives in the immediate surrounding area and intends to use the plot, he or she shall use his or her own water source. Where this is not the case, watering shall be accomplished by hand; using a vessel (watering can/pail) to transport water from the City-provided water source currently used for existing WBRP community garden plots at 507, 509 and 517 N. Roosevelt. The City shall notify WBRP in writing if it fails to conserve water use in maintaining the plot. Failure of WBRP to take corrective action, as requested by the City in such notice, shall result in forfeiture of the plot.
4. No permanent structures shall be erected on the plot.
5. Dogs, cats, and other animals are not allowed on the plot at any time; except for service animals.
6. The City shall be free of any and all liability for acts of vandalism, destructive storms, insect infestations, or any other loss or claim that occurs in connection with use of the plot.
7. WBRP shall allow the City to have access to the plot when needed.
8. The City reserves the right to order the sale of all or any portion of the plot at any time.
9. At the expiration of the term provided for under paragraph 1, WBRP shall leave and surrender the plot in as good a state and condition as it was in at the commencement of the term.

City of Bloomington

West Bloomington Revitalization Project

By: Stephen F. Stockton, Mayor

By: Valerie Dumser, President,

Date: May 24, 2011

Date: _____

Attest:

Attest:

Tracey Covert
City Clerk

Alderman Schmidt thanked staff. She stated that Valerie Dumser had also received the YWCA'S Woman of Distinction, Harriet F. Rust, Volunteer Service award. She believed Ms. Dumser received the award for the work on WBRP.

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the use of the lot located at 508 N. Roosevelt Street by WBRP for a Community Garden be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Renewal of Lease Agreement between the City of Bloomington and the United States Postal Service for Postal Substation located at 400 N. Center Street, Market Street Garage

RECOMMENDATION: That the Lease Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The United States Postal Service (USPS) has requested to renew its lease with the City for an additional five (5) years for the postal substation located at 400 N. Center Street at the Market Street Garage.

For the past several years, in consecutive five (5) year periods, USPS has leased the substation located in the Downtown. This high volume substation services many Downtown businesses and area residents, and offers a convenient alternative to the other post offices located in the City. The current hours of operation are Monday through Friday, 9:00 a.m. – 4:30 p.m. The facility is closed on the weekends.

The current lease expires May 31, 2011. The term of the new lease will begin June 1, 2011 and terminate on May 31, 2016. Many of the provisions of the lease remain the same as the current agreement. The City proposed the following revisions which were accepted by the USPS.

- The USPS may not sublet any part of the premises or assign the lease without the prior written consent of the City (such consent shall not be unreasonably withheld).
- The City shall not be responsible for rebuilding the facility if damaged or destroyed by fire or other casualty, Acts of God, of a public enemy, riot or insurrection, vandalism, or otherwise (the City is only responsible for maintenance, repair, or replacement as provided in the lease).
- The USPS shall pay for all recurring water and sewer bills during the continuance of the lease (provided the City furnishes the appropriate systems in good working order).

The rental rate for the new lease is \$13,800 to be paid in equal installments at the end of each calendar month. This is the rental rate for the current term. At the start of negotiations, the Postal Service proposed a ten percent (10%) rent decrease for the first two (2) years of \$12,420 per year. They proposed \$13,800 for years three through five (3-5). The Postal Service explained that they offered a reduced rental rate because of the economic downturn, decreased market rates and commercial real estate vacancies. After negotiations, both parties agreed to the rental rate of \$13,800 for all five (5) years.

The proposed price per square foot is comparable to the price per square foot for other commercial properties in the Downtown area. The net interior floor space of the substation consists of 1,456 square feet. For the proposed rental rate of \$13,800 this amounts to \$9.48 per square foot. Staff spoke to several commercial property owners in the downtown area regarding their current rental rates. Rates range from \$7 - \$14, with the average rate being \$10.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The lease fee of \$13,800 will be deposited into Parking Fund/Property and Facilities Rental Fees #X54100-54430.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Rosalee Dodson
Assistant Corporation Counsel

Bob Floyd
Facilities Manager

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

(PARIALLY EXECUTED LEASE AGREEMENT ON FILE IN THE CLERK'S OFFICE)

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Lease Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Intergovernmental Agreement with the Village of Downs for Assistance with Plan Review and Inspection Services on Commercial Projects

RECOMMENDATION: That the Intergovernmental Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Starting in 2005, the City has entered into agreements with the Village of Downs to provide plan review and inspection services for commercial projects. This has been in an effort to help provide expertise and enforcement of standards on commercial projects since Downs does not maintain staff to provide this service. Projects have included a strip shopping center near I-74, a new fire station in their downtown area, and the current Cornbelt Energy complex at 1 Energy Way. Since the number of projects (1 - 2 per year) is minimal, the proximity of the Village, and the City's ability to collect normal plan review and inspection fees, staff has been willing to help this neighboring community.

Currently, the Village has a proposed additional commercial building at Corn Belt Energy's facility at 1 Energy Way and they have requested assistance. The last intergovernmental agreement expired January 31, 2010. The new agreement is similar to those approved in the past. Providing for employment status (inspectors are not employees of Downs), hold harmless agreements, and agreement termination standards. Staff believes this activity will have a minimal impact on obligations to City residents.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Any costs to the City would be offset by the collection of fees.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Mark R. Huber
Director of PACE

Todd Greenburg
Corporation Counsel

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2011 - 09

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT
FOR COMMERCIAL BUILDING INSPECTION SERVICES WITH
THE CITY OF BLOOMINGTON**

WHEREAS, the Village of Downs desires to enter into an Agreement with the City of Bloomington for commercial building inspection services; and

WHEREAS, the City of Bloomington is able and willing to provide the services of a Commercial Building Inspector for inspections within the Village of Downs; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of Downs to enter into an Agreement with the City of Bloomington for commercial building inspection services; and

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF DOWNS:

SECTION ONE: That the President be and he is hereby authorized to execute for and on behalf of the Village of Downs an Agreement with the City of Bloomington for Commercial Building Inspection Services all in accordance with the terms and conditions set forth in said Agreement. A copy of said Agreement is marked Exhibit "A", attached hereto and incorporated herein by reference.

SECTION TWO: That the Village Clerk be and she is hereby authorized to attest the signature of the President on this Resolution and maintain a fully executed copy of the same with the identified Agreement in her office for public inspection.

ADOPTED this 5th day of May, 2011.

Ryan McLaughlin
President

ATTEST:

Tammie Keener
Village Clerk

EXHIBIT A

AGREEMENT FOR COMMERCIAL BUILDING INSPECTION SERVICES

THIS AGREEMENT is entered into by and between the Village of Downs and City of Bloomington.

WHEREAS, The Village of Downs is a municipal corporation in the State of Illinois with authority to inspect commercial buildings within its corporate limits; and

WHEREAS, the City of Bloomington is a home rule unit of local government within the State of Illinois; and

WHEREAS, pursuant to Article VII, Section 10 of the Illinois Constitution, the Village of Downs and the City of Bloomington may associate by intergovernmental agreement for the delivery of services in any manner not prohibited by law; and

WHEREAS, no law prohibits the City of Bloomington from providing commercial building inspection services for buildings constructed within the Village of Downs

NOW, THEREFORE, in consideration of the mutual promises contained herein and pursuant to authority granted by the Illinois Constitution, the Village of Downs and the city of Bloomington agree as follows:

1. That the City of Bloomington shall, upon request from the Village of Downs, provide a Building Inspector to the Village of Downs for the purpose of inspecting commercial buildings constructed within the Village of Downs to determine compliance with the Village codes and ordinances.
2. The City of Bloomington will provide commercial building inspection services as provided herein in accordance with the fee schedule for similar inspection in the City of Bloomington. Such fees shall be paid directly by the private commercial developer at the time building plans are delivered to the City of Bloomington for review.
3. During the term of this Agreement, any Inspector provided by the City of Bloomington shall be considered an employee of the City of Bloomington and not an employee of the Village of Downs.

4. This agreement may be terminated by either party upon (30) days written notice. This agreement will expire on January 31, 2012.
5. Upon termination of this Agreement the City of Bloomington shall complete any and all commercial building inspections for which plans have been submitted and fees paid to such termination.
6. The City of Bloomington agrees to indemnify, defend and hold harmless the Village of Downs from any civil liability which may arise as a result of claims filed against the Village of Downs for actions taken by the loaned Commercial Building Inspector pursuant to the terms of this Agreement including but not limited to Workers Compensation Claims.
7. That with regard to third party claims neither the Village of Downs nor the City of Bloomington waives any immunities provided pursuant to the Local Governmental and Governmental Employees Tort Immunity Act or common law.
8. The provisions of paragraphs 6 and 7 shall survive termination of this Agreement and continue until any outstanding claim is totally resolved.

Done this 5th day of May, 2011

Village of Downs

City of Bloomington

Ryan McLaughlin, President

Stephen F. Stockton, Mayor

Attest:

Attest:

Tammie Keener
Village Clerk

Tracey Covert
City Clerk

Date: May 5, 2011

Date: May 24, 2011

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Intergovernmental Agreement be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Ratification of Contract with Library Employees (AFSCME Local 699)

RECOMMENDATION: That the Contract be ratified.

BACKGROUND: Slightly more than one year ago, representatives from the Library staff, City staff, and AFSCME Local 699 began negotiating the terms for a collective bargaining agreement to replace the agreement which expired on April 30, 2010. The parties reached tentative agreement on May 2, 2011. The union ratified the contract on May 5, 2011, and the Library Board ratified the contract on May 17, 2011. It is now in order for Council to ratify.

Highlights of Contract:

Term: The contract is for a term of two (2) years, retroactive to May 1, 2010 and expiring on April 30, 2012.

Wages: The parties have agreed to a zero percent (0%) increase in wages for 2010 - 2011 and a 2 percent (2%) increase in base wages for 2011 - 2012.

Sick Leave Buyback: Employees hired after May 1, 2010 are not eligible for payment of accrued unused sick leave when they leave the employment of the Library.

Health Insurance: Effective January 1, 2012, Library employees will participate in the Blue Cross/Blue Shield PPO Well Plan and the Health Alliance HMO Well Plan. The Well Plan raises deductibles from \$250 to either \$300 or \$400.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: City Council, Library Board, and Local 699.

FINANCIAL IMPACT: Not yet calculated because of time restraints.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Alderman Fruin questioned the availability of the final contract on the City's web site. David Hales, City Manager addressed the Council. Mr. Hales stated all contracts were available on the City's web site.

Alderman Fazzini questioned the financial impact. Mr. Hales stated that the expenditure was within the approved Library budget. The impact of two percent (2%) increase would be provided.

Mike Fitzgerald, 1805 Dunraven Rd., addressed the Council. Mr. Fitzgerald requested the financial calculations and the impact on the budget. Todd Greenburg, Corporation Counsel, addressed the Council. Mr. Greenburg stated that the calculations had not been completed. This was the first (1st) Union to voluntarily agree to a zero percent (0%) salary increase. Per Council direction, a two percent (2%) increase on base wages for the following year was negotiated.

Mr. Greenburg noted that this contract was perceived as a take away contract. A strike had been adverted.

Mayor Stockton reminded Council that the Library's budget was prepared by the Library Board. The City controls the collective bargaining. The wage increase was within the parameters authorized by the City Council. He expressed appreciation to the library employees.

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Contract be ratified.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Police Department Supervisory Training

RECOMMENDATION: That an agreement with The Northwestern University Center for Public Safety for Police Supervisory Training be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

BACKGROUND: In past years Police Department supervisory staff and prospective supervisory staff have attended supervision training conducted by the Northwestern University Center for Public Safety (NUCPS). In an effort to conserve funds over the last few years, this training has not taken place.

Funds are now available to facilitate this training and staff seeks to bring it to a City’s facility to maximize the number of staff to be trained while keeping costs as low as possible. The training will also be available to other agencies in the area that have expressed an interest in attending. NUCPS has agreed to provide this training at a City’s facility from November 7, through November 18, 2011.

The minimum cost for this training for up to twenty-two (22) participants is \$17,600, averaging \$800 per participant. This amount may vary dependent upon the total number of participants. The Police Department plans for twelve (12) officers to attend this training. The final amount to be paid by the City depends on the total number of participants. The local area Police Training Unit MTU 8 (a group which consists of several outside agencies) has agreed to purchase ten (10) seats at a cost of \$8,000, reducing the City’s cost to \$9,600.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Police Training Unit MTU 8.

FINANCIAL IMPACT: Funds for this training are available in the professional development line G15110-70790.

Respectfully submitted for Council consideration.

Prepared by:	Financial review:	Reviewed as to legal sufficiency:
Randall D. McKinley Police Chief	Timothy Ervin Director of Finance	J. Todd Greenburg Corporate Counsel

Recommended by:

David A. Hales
City Manager

**AGREEMENT BETWEEN
THE CITY OF BLOOMINGTON POLICE DEPARTMENT
AND
THE NORTHWESTERN UNIVERSITY CENTER FOR PUBLIC SAFETY**

THIS AGREEMENT entered into by and between The City of Bloomington Police Department (hereinafter referred to as the “Host Agency”) and Northwestern University on behalf of the Center for Public Safety, 1801 Maple Ave, Evanston, Illinois 60208 (hereinafter referred to as NUCPS).

This Agreement is based on information presented in a proposal (hereinafter referred to as the “Proposal”) submitted by NUCPS to the Host Agency to conduct the program of Supervision of

Police Personnel (hereinafter referred to as the "SPP") in a mutually agreed upon location. The proposal is incorporated herein and by reference made a part of this Agreement.

WITNESSETH

In consideration of the mutual promises, covenants, and representations herein contained, the parties hereto agree as follows:

I. PERIOD OF PERFORMANCE AND TERMINATION

- 1.1 The period of performance for this Agreement shall be from November 7, 2011 through November 18, 2012 unless amended by written mutual agreement.
- 1.2 This Agreement may be terminated for cause or convenience by either party upon sixty (60) days written notice to the other party.
- 1.3 In the event the work under this Agreement is terminated, in whole or in part, by the Host Agency, the Host Agency shall reimburse NUCPS for all costs and expenses incurred through the date of termination.

II. THE HOST AGENCY AGREES

- 2.1 To make all arrangements for the selection of candidates to attend the SPP and advise all candidates of their admission and details pertaining to the program schedule, dates, and accommodations. The total number of students in the class will be at least 22.
- 2.2 To submit a roster of the names, titles, and addresses of the candidates accepted for admission to the program to NUCPS no later than one week prior to the first day of class.
- 2.3 To make arrangements for suitable classroom space, breakout rooms or areas, and audiovisual equipment (e.g., an overhead projector, screen, VCR and monitor, DVD player, a microphone, chalkboard /whiteboard, easel and newsprint, and podium), to accommodate the participants and instructors. In addition:
 - A computer equipped with Windows 2000 or XP and Microsoft PowerPoint 2000 or later, with an Internet connection for use by the instructor
 - A projection device capable of displaying Microsoft PowerPoint presentations from the above computer
 - One or more student accessible computers with internet connectionsSuch facilities and equipment are to be provided without financial obligation to NUCPS.

- 2.4 Assign a contact person at the training facility who is not a member of the class to assist NUCPS, as needed, with the following activities:
- assist NUCPS staff with the setup of the classroom on the day before the first class,
 - distribute grade sheets to the students,
 - distribute examinations and instructional materials to NUCPS instructors,
 - inform NUCPS of student requests,
 - provide limited clerical assistance, reproduction capabilities, and other assistance for NUCPS instructors as needed,
 - mail student reports, exams, and other materials to NUCPS,

III. NUCPS AGREES

- 3.1 To present the Supervision of Police Personnel (SPP) in Bloomington, IL on mutually acceptable dates.
- 3.2 To deliver the SPP based on the course topics identified in the “SPP Program Outline.”
- 3.3 To make all arrangements for selecting and obtaining instructors, preparation of instructor outlines, scheduling and coordination of instructor activities, and all other arrangements pertaining to instructor transportation and lodging.
- 3.4 To have full responsibility for conducting lectures, discussions and work project sessions, and examinations for the course.
- 3.5 To prepare all necessary training aids and provide each registered course participant with course reference materials pertinent to the subject areas to be covered.
- 3.6 To provide the Host Agency with one complete set of course reference materials used in the course.
- 3.7 To provide course evaluation forms to be completed by each participant following the final examination and prior to graduation.
- 3.8 To provide the Center for Public Safety's certificate of successful completion to each student who fulfills the requirements of the course.

- 3.9 To award each student who successfully completes the SPP 1.5 units of credit from the Northwestern University School of Continuing Studies which corresponds to just over 4 semester credit hours of undergraduate credit from most universities on the semester system.

IV. COMPENSATION AND METHOD OF PAYMENT

- 4.1 The Host Agency agrees to compensate NUCPS to provide the services described in section III above.
- 4.2 Total compensation shall be based on the conditions and table presented in the Program Cost section attached to this agreement (Addendum).
- 4.3 Unless modified by mutual agreement, one invoice will be submitted to the Host Agency for payment at the end of the course.
- 4.4 The Host Agency agrees to reimburse Northwestern University within thirty days of receipt of the invoice.

V. PERSONNEL

- 5.1 NUCPS will provide qualified personnel to deliver the instruction required for the completion of the Supervision of Police Personnel program.

VI. RELATIONSHIP

- 6.1 NUCPS shall perform the work under this Agreement as an independent contractor and agrees that the Host Agency is free from all liability and damages resulting from or arising out of NUCPS willful misconduct or neglect in the performance or activities hereunder.

VII. ENTIRE AGREEMENT

- 7.1 This instrument contains the entire Agreement between the parties hereto. This Agreement may be amended only in writing and only with the authorized signatures of both parties. No verbal agreement, conversation, or representation by or between any officer, agent, or employee of the parties hereto, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained.
- 7.2 In the event of an interpretation or dispute concerning the terms of this Agreement, the law of the state of Illinois shall apply.

IN WITNESS WHEREOF, the Host Agency and NUCPS have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first written below.

City of Bloomington Police Department

Northwestern University Center for Public Safety

Stephen F. Stockton
Mayor

Signature and Title

Date: May 24, 2011

Date: _____

Addendum

SPP PROGRAM COSTS

Total program cost is based on the number of paying students in the class and the per student tuition.

Number of Students*	Number of free seats	Total number of Tuition students	Total Cost **
1-22	0	22	\$17,600.00
23	0	23	\$18,400.00
24	0	24	\$19,200.00
25	1	24	\$19,200.00
26	1	25	\$20,000.00
27	1	26	\$20,800.00
28	1	27	\$21,600.00
29	1	28	\$22,400.00
30	2	28	\$22,400.00
31	2	29	\$23,200.00
32	2	30	\$24,000.00
33	2	31	\$24,800.00
34	2	32	\$25,600.00
35	3	32	\$25,600.00
36	3	33	\$26,400.00
37	3	34	\$27,200.00
38	3	35	\$28,000.00
39	3	36	\$28,800.00
40	4	36	\$28,800.00
41	4	37	\$29,600.00
42	4	38	\$30,400.00
43	4	39	\$31,200.00
44	4	40	\$32,000.00
45***	5	40	\$32,000.00

*Includes free seats.

**Total costs equals number of paying students at \$ 800 per student

***Maximum class size.

Unless modified by mutual agreement, only one invoice will be issued to the host agency and is payable in full prior to the end of the course.

RESOLUTION NO. 2011 - 17

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING AN AGREEMENT FOR POLICE SUPERVISORY TRAINING FROM
THE NORTHWESTERN UNIVERSITY CENTER FOR PUBLIC SAFETY**

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and an agreement be approved for Police Supervisory Training from The Northwestern University Center for Public Safety.

ADOPTED this 23rd day of May, 2011.

APPROVED this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fazzini, seconded by Alderman Schmidt that an Agreement with the Northwestern University Center for Public Safety for Police Supervisory Training be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Resolution to Reserve the City’s Allocation of the Private Activity Bonding Cap

RECOMMENDATION: That the Resolution be adopted.

BACKGROUND: The Internal Revenue Code permits the City, as an Illinois Home Rule Municipality, to issue private activity bonds. The federal tax code classifies private activity bonds as those that are utilized for projects that primarily benefit private entities. A chart of eligible projects has been provided. Congress uses an annual state volume cap, which is currently capped at the rate of \$95 per capita for the 2011 calendar year. Based upon a population of 74,184, the City’s volume cap is \$7,047,480 for calendar year 2011.

In the past, the City has ceded over its bond volume cap to the Illinois Housing Development Authority (IHDA) to further homeownership within the community (2003, 2004, 2007, 2008, 2009, and 2010). IHDA works with community’s to help working families and individuals achieve homeownership through their Mortgage Credit Certificate (MCC) program and the Mortgage Revenue Bond (MRB) program. IHDA has enough funding for these two (2) programs for 2011 and is not requesting the ceding of the City’s bond authority. Other private activity bond projects have been: 2000 Marc Foundation Project; 2001 Chestnut Health Services Facility Expansion; 2005 Lincoln Tower’s renovations; 2006 Habitat, Mid Central Community Action and Clayton Jefferson for Affordable Housing Development, (project not completed, bonding authority returned to the state).

Staff requests to reserve the City’s volume cap for an eligible activity, yet to be determined. This does not obligate the City financially or in any other way. This resolution simply “reserves” the City’s portion to possibly be used at a later date for an activity within the community. The City may elect to carry any unused volume cap of a calendar year forward for three (3) years.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

Sharon Walker
Code Enforcement
Division Manager

Mark R. Huber
Director of PACE

Timothy Ervin
Director of Finance

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

RESOLUTION NO. 2011 - 18

**A RESOLUTION TO RESERVE CITY OF BLOOMINGTON'S ALLOCATION OF THE
2011 PRIVATE ACTIVITY BONDING CAP**

BE IT RESOLVED by the City Council of Bloomington, Illinois:

Section 1: That the CITY OF BLOOMINGTON reserves the City's share of the Activity Bond Volume Cap for Calendar Year 2011. Said Volume Cap to be used for eligible activities, yet to be determined.

Section 2: That the City Manager is authorized to execute a letter to reserve the City's share of the Activity Bond Volume Cap for Calendar Year 2011.

Section 3: That the City Manager is authorized and directed to maintain a record of bonds that are issued, in accordance with the Tax Reform Act of 1986, as amended and 30 ILCS 345.

Section 4: That the City Manager shall provide a notice of reallocation to the Office of the Governor.

Section 5: That this Resolution shall be effective from and after its passage.

ADOPTED this 23rd day of May, 2011.

APPROVED this 24th day of May, 2011.

Stephen F. Stockton
Mayor

ATTEST:

Tracy Covert
City Clerk

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Resolution
be adopted.**

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Resolution Adopting an Identity Protection Policy and Guidelines for Implementation and Practice

RECOMMENDATION: That the Resolution be adopted.

BACKGROUND: In January 2010, the Illinois General Assembly passed the Identity Protection Act, which became effective on July 1, 2010. The Act prohibits state and local government agencies from using Social Security numbers (SSNs) in a number of ways, including, public posting or display; printing on any card required to access products or services; requiring transmission over the Internet, unless using a secure connection or encryption; and printing on any materials mailed to the individual.

There are several exceptions to the disclosure prohibitions, including, disclosure to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; disclosure pursuant to a court order, warrant, or subpoena; and disclosure for internal verification or administrative purposes.

The Act also requires each local government agency to draft and approve an Identity Protection Policy by June 1, 2011. The Act sets forth five (5) requirements that the policy must meet. The policy must:

1. Reference the Identity Protection Act.
2. Require that all employees with access to SSNs in the course of their job duties be trained to protect the confidentiality of the numbers. The training should include instructions on the proper handling of information that contains SSNs from the time of collection through the destruction of the information.
3. Direct that only employees who are required to use or handle information or documents that contain SSNs have access to such information or documents.
4. Require that SSNs requested from an individual be provided in a manner that makes the number easily redacted if required to be released as part of a public records request.

5. Require that, when collecting a SSN or upon request by the individual, a statement of the purpose(s) for which the agency is collecting and using the SSN be provided.

Once a policy is approved, each agency must advise its employees of the existence of the policy, and make copies of it available to each employee. Agencies must implement each of the above components of their Identity Protection Policy within twelve (12) months after it is approved.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Administrative costs associated with staff training, which are unknown at this time.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Rosalee Dodson
Asst. Corporation Counsel

Emily Bell
Director of Human Resources

Scott Sprouls
Director of Info. Services

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2011 - 19

A RESOLUTION ADOPTING AN IDENTITY PROTECTION POLICY AND GUIDELINES FOR IMPLEMENTATION AND PRACTICE

WHEREAS, in January 2010, the Illinois General Assembly passed the Identity Protection Act, which became effective on July 1, 2010; and

WHEREAS, the Act prohibits State and local government agencies from using social security numbers in a number of ways, including public posting or display of numbers; printing the numbers on any card required to access products or services; requiring transmission of the numbers over the Internet, unless using a secure connection or the number is encrypted; and printing the numbers on any materials mailed to an individual; and

WHEREAS, the Act requires each local government agency to draft and approve an Identity Protection Policy by June 1, 2011; and

WHEREAS, the City of Bloomington has determined that the attached policy is in the best interest of the municipality and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS, that:

The City of Bloomington Identity Protection Policy, attached, is hereby adopted and approved; and be it further

RESOLVED, that the City Clerk of Bloomington shall attest the same after signature of the Mayor.

PASSED this 23rd day of May, 2011.

APPROVED this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

**CITY OF BLOOMINGTON
IDENTITY PROTECTION POLICY**

The City of Bloomington (“City”) adopts this Identity Protection Policy pursuant to the Identity Protection Act, 5 ILCS 179/1 *et seq.* The Identity Protection Act requires each local and State government agency to draft, approve, and implement an Identity Protection Policy to ensure the confidentiality and integrity of Social Security Numbers that are collected, maintained, and used.

1. DEFINITIONS.

“Act” means the Illinois Identity Protection Act, 5 ILCS 179/1 *et seq.*

“City” means the City of Bloomington.

“Employee” means any individual in the employ of the City of Bloomington.

“Policy” means the City of Bloomington Identity Protection Policy.

“Publicly post” or “publicly display” means to intentionally communicate or otherwise intentionally make available to the general public.

“Redact” means to alter or truncate data so that no more than five sequential digits of a SSN are accessible as part of personal information.

“SSN(s)” means any Social Security Number provided to an individual by the Social Security Administration.

2. PROHIBITED ACTIVITIES.

- a. No employee, official or other representative of the City shall do any of the following:
 - i. Publicly post or publicly display in any manner an individual’s SSN.
 - ii. Print an individual’s SSN on any card required for the individual to access products or services provided by the person or entity.
 - iii. Require an individual to transmit a SSN over the Internet, unless the connection is secure or the SSN is encrypted.
 - iv. Print an individual’s SSN on any materials that are mailed to the individual, through the U.S. Postal Service, any private mail service, electronic mail, or any similar method of delivery, unless State or federal law requires the SSN to be on the document mailed. SSNs may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Unemployment Insurance Act, any material mailed in connection with any tax administered by the Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the SSN. A SSN that is permissibly mailed will not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.
 - v. Collect, use, or disclose a SSN from an individual, unless (1) required to do so under State or federal law, rules or regulations or the collection, use or disclosure of the SSN is otherwise necessary for the performance of the City’s duties and responsibilities; (2) the need and purpose for the SSN is documented before collection of the SSN; and (3) the SSN collected is relevant to the documented need and purpose.
 - vi. Require an individual to use his or her SSN to access an Internet website.
 - vii. Use the SSN for any purpose other than the purpose for which it was collected.
 - viii. Encode or embed a SSN in or on a card or document, including, but not limited to, using a bar code, chip magnetic strip, RFID technology, or other technology, in place of removing the SSN as required by this Policy.

- b. The prohibitions in subsection (a) do not apply in the following circumstances:
- i. The disclosure of SSNs to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities and, if disclosing to a contractor or subcontractor, prior to such disclosure, the City first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's SSN will be achieved.
 - ii. The disclosure of SSNs pursuant to a court order, warrant, or subpoena.
 - iii. The collection, use, or disclosure of SSNs in order to ensure the safety of: State and local government employees; persons committed to correctional facilities, local jails, and other law-enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a State or local government agency facility.
 - iv. The collection, use, or disclosure of SSNs for internal verification or administrative purposes.
 - v. The collection or use of SSNs to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit, such as a pension benefit or an unclaimed property benefit.
- c. Any standards of the City for the collection, use, or disclosure of SSNs that are stricter than the standards under this Policy with respect to the protection of those SSNs, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

3. PUBLIC INSPECTION AND COPYING OF DOCUMENTS.

Notwithstanding any other provision of this Policy to the contrary, the City shall comply with the provisions of any other State law, including the Illinois Freedom of Information Act, 5 ILCS 140/1 *et. seq.*, with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's SSN. The City shall redact SSNs from the information or documents before allowing the public inspection or copying of the information or documents.

4. APPLICABILITY.

- a. This Policy does not apply to the collection, use, or disclosure of SSN as required by State or federal law, rule, or regulation.
- b. This Policy does not apply to documents that are required to be open to the public under any State or federal law, rule, or regulation, applicable case law, Supreme Court rule, or the Constitution of the State of Illinois.

5. PERSONNEL AND TRAINING REQUIREMENTS.

- a. All employees, officials, or other representatives of the City identified as having access to SSNs in the course of performing their duties are to be trained to protect the confidentiality of SSNs. Training shall include instructions on the proper handling of information that contains SSNs from the time of collection through the destruction of information.
- b. Only employees who are required to use or handle information or documents that contain SSNs shall have access to such information or documents.
- c. SSNs requested from an individual shall be provided in a manner that makes the SSN easily redacted if required to be released as part of a public records request.
- d. When collecting a SSN or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the SSN shall be provided.
- e. The City shall advise its employees of the existence of the Policy and make a copy of the Policy available to each employee, and shall also make this Policy available to any member of the public, upon request. If the City amends this Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

What does the City of Bloomington do with your Social Security Number?

Statement of Purpose for Collection of Social Security Numbers Identity Protection Policy

The Identity Protection Act, 5 ILCS 179/1 *et seq.*, requires each local and State government agency to draft, approve, and implement an Identity Protection Policy that includes a statement of purpose or purposes for which the agency is collecting and using an individual's Social Security Number (SSN). This statement of purpose is being provided to you because you have been asked by the City to provide your SSN or because you requested a copy of this statement.

Why do we collect your SSN?

You are being asked for your SSN for one or more of the following reasons:

Complaint mediation or investigation;

- Vendor services, such as executing contracts and/or billing;

- Law enforcement investigation;
- Child support collection;
- Internal investigation;
- Administrative services; and/or
- Other: _____

What do we do with your SSN?

- We will only use your SSN for the purpose for which it was collected.
- We will not:
 - Sell, lease, loan, trade, or rent your SSN to a third party for any purpose;
 - Publicly post or publicly display your SSN;
 - Print your SSN on any card required for you to access our services;
 - Require you to transmit your SSN over the Internet, unless the connection is secure or your SSN is encrypted; or
 - Print your SSN on any materials that are mailed to you, unless State or federal law requires that number to be on documents mailed to you, or unless we are confirming the accuracy of your SSN.

Alton Franklin, 5 Andy Ct., addressed the Council. He believed that the identity protection policy was limited in scope. More than social security numbers need to be protected. He cited personally identified information as an example. He requested thoughts from the Council on what other information should be protected.

Scott Sprouls, Information Services Director, addressed the Council. This policy complied with state law. There were other security measures in place. Currently staff was working towards payment card industry (pci) standards – data security standard (dss).

Todd Greenburg, Corporation Counsel, addressed the Council. The City was required to have a policy in place by June 1, 2011. He acknowledged the possibility of expansion.

Mayor Stockton stated that this does not imply that there are no other safe guards in place. He stated his belief that prevention was foremost on staff's mind.

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Resolution be adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of Board of Trustees of Illinois State University, d/b/a Shakespeare Festival, located at the Ewing Cultural Center, 48 Sunset Rd., requesting a LB Liquor License which would allow the limited sale of beer and wine only by the glass for consumption on the premises from June 23 to August 14, 2011

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a LB liquor license for Board of Trustees of Illinois State University, located at the Ewing Cultural Center, 48 Sunset Rd., for the 2011 Illinois Shakespeare Festival to be held from June 23 to August 14, 2011, be created, contingent upon compliance with all applicable health and safety codes.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to hear the application of the Board of Trustees of Illinois State University, d/b/a Shakespeare Festival located at the Ewing Cultural Center, 48 Sunset Rd., requesting a LB liquor license which would allow limited sales of beer and wine only by the glass for consumption on the premises seven (7) days a week for the performance season, (June 23, 2011 to August 14, 2011). Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen and George Tompkins; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk; and Dick Folse, Managing Director and Applicant representative.

Commissioner Stockton opened the liquor hearing. He noted that this would be the fourth year for the Shakespeare Festival to hold a LB liquor license. Dick Folse, Managing Director and Applicant representative, addressed the Commission. He acknowledged that this would be the fourth year for the Illinois State University to request a LB liquor license for the Shakespeare Festival. This application was the same as last year. Liquor sales represented a small percentage of the overall revenue. There were no incidents involving alcohol during last three years at the Festival. Festival staff received training for alcohol sales. The Festival is a family oriented event. The Festival was a successful event.

Mr. Folse noted that patrons have dinner on the grounds. The Festival offered a concession area. The theater offered 480 seats. He estimated that a quarter (25%) of the patrons purchased alcohol. He noted that the performance season was from June to August 2011.

Commissioner Stockton noted that the City had not received any complaints. He agreed that the Festival was well run. Hearing no planned changes, he encouraged the Applicant to keep up the fine work.

Commissioner Stockton questioned if there was anyone present to address the Commission. No one came forward to address the Commission.

Commissioner Stockton extended best wishes for a successful season.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the May 10, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: A LB liquor license has an annual fee of \$500.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Fazzini, seconded by Alderman Schmidt that an LB liquor license for the Board of Trustees of Illinois State University, d/b/a Shakespeare Festival, located at the Ewing Cultural Center, 48 Sunset Rd., for the 2011 Shakespeare Festival to be held from June 23 to August 14, 2011 be created, contingent upon compliance of all applicable health and safety codes.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, Anderson, Fazzini, Sage, Fruin and Purcell.

Abstain: Aldermen Mwilambwe and McDade.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Change of Corporation from Hooters of Bloomington Inc., d/b/a Hooters, located at 409 N. Hershey Rd., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week to Hooters of Bloomington, LLC

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that the change of ownership for Hooters of Bloomington, Inc., to Hooters of Bloomington, LLC, d/b/a Hooters, located at 409 N. Hershey Rd., currently holding an RAS liquor license be approved contingent upon compliance with all applicable health and safety codes.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to address the notification of change of corporation from Hooters of Bloomington Inc., d/b/a Hooters, located at 409 N. Hershey Rd., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises

seven (7) days a week to Hooters of Bloomington, LLC. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief and Tracey Covert, City Clerk.

Commissioner Stockton opened the liquor hearing and noted that no one was present to represent the current license holder. The change of corporate ownership was prompted by the death of Robert Brooks. The local restaurant would be held through seven (7) layers of nested LLCs, (HOA Holdings, LLC, Night Owl, LLC, Owl Wings, LLC, Owl Restaurant Holdings, LLC, Hooters Restaurant Group, LLC, Hooters of America, LLC to Hooters of Bloomington, LLC). George Boyle, Asst. Corporation Counsel, addressed the Commission. He recommended that further documentation was necessary, (liquor license application). This was a significant change of ownership. As of this date, all of the appropriate documentation has been received.

City staff provided a liquor license application packet to the law firm representing Hooters of Bloomington, LLC. It has been received and reviewed, this item has been placed on the Council's meeting agenda for approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the February 8, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: None. This application was for a change of ownership. Annual fee for an RAS liquor license is \$2,210.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the change of ownership for Hooters of Bloomington, Inc., to Hooters of Bloomington, LLC., d/b/a Hooters, located at 409 N. Hershey Rd., currently holding an RAS liquor license be approved contingent upon compliance with all applicable health and safety codes.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Suspension of Chapter 6 Section 26(d) to Allow Possession of Open Alcohol on Public Property for the WGLT Event June 11, 2011

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: WGLT is sponsoring an outdoor summer concert in downtown Bloomington on Saturday, June 11, 2011. This will be the eighth (8th) of what has become an annual event. The organizers have had beer and wine at the previous events and would like to have both available again this year. They would like the people who attend the event to be able to purchase a drink and move about freely within the designated event area rather than have a designated “beer garden”. Beer and wine would be sold only by an existing liquor license holder via an extension of premise for the event and only beer and wine purchased from the event vendor could be consumed within the designated event area. Outdoor consumption would be allowed between 3:00 o’clock p.m. and 11:00 o’clock p.m.

The event organizers met with staff, including representatives from the police, legal and administrative departments to review this plan. Given the nature of the event, the type of crowd it attracts and the high degree of involvement by event staff, all concerned believe this plan could work without problems.

Staff prepared an Ordinance suspending the code as needed for this event. Council will note that the Ordinance makes the suspension effective one (1) hour before the sales begin to allow the organizers time to set up for the event. Staff respectfully recommends that the Ordinance be passed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: None.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

George Boyle
Asst. Corporation Counsel

David A. Hales
City Manager

ORDINANCE NO. 2011 - 21**AN ORDINANCE SUSPENDING PORTIONS OF SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE TO ALLOW POSSESSION OF OPEN ALCOHOL ON PUBLIC PROPERTY DURING THE WGLT OUTDOOR CONCERT IN DOWNTOWN BLOOMINGTON**

Whereas, WGLT will hold an outdoor concert in downtown Bloomington on June 11, 2011; and

Whereas, WGLT requested permission to allow sales and consumption of beer and wine during the concert on Jefferson Street between Main Street and the north/south alley between Center Street and Madison Street and on Center Street between Washington Street and the east/west alley between Jefferson Street and Monroe Street; and

Whereas, to allow possession of an open container of alcohol on a public street, Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits the possession of open containers of alcohol on public streets, must be suspended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, is suspended on the following dates during the following hours: June 11, 2011 between 3:00 o'clock p.m. and 11:00 o'clock p.m. for Jefferson Street between Main Street and the north/south alley between Center Street and Madison Street and on Center Street between Washington Street and the east/west alley between Jefferson Street and Monroe Street. This suspension shall be effective only as to persons inside the designated area only and for alcohol purchased from an event vendor within the designated area. No alcohol may be taken out of licensed premises into the designated area, notwithstanding the fact that the premises are operated by the event vendor.

Section 2: Except for the dates, times and location set forth in Section 1 of this Ordinance, Section 26(d) of Chapter 6 of the Bloomington City Code, 1969, as amended, shall remain in full force and effect. Nothing in this ordinance shall be interpreted as repealing said Section 26(d).

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

PASSED this 23rd day of May, 2011.

APPROVED this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, Anderson, Fazzini, Sage, Fruin and Purcell.

Abstain: Aldermen Mwilambwe and McDade.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Suspension of Chapter 6 Section 26(d) to Allow Possession of Open Alcohol on Public Property for the McLean County Arts Center Event on June 3, 2011

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: The McLean County Arts Center is hosting a Margarita Night for a fund raiser on June 3, 2011 from 5:00 p.m. until 8:00 p.m. As the name implies, they will be serving margaritas as well as wine and beer to the people who attend. They will be closing East Street in front of their building and will have a band performing in that area. The event organizers want to allow people to walk into the street with their drinks to enjoy the music and have requested Chapter 6 Section 26(d) of the City Code, which prohibits having open containers of alcohol on public rights of way, be suspended for the date, time and location of the event.

This has been done for other organizations. Council has suspended the Ordinance to allow consumption of alcohol on the Downtown streets during the WGLT summer concerts and for this event. The Special Events Committee has reviewed plans for the Arts Center event with the organizer. Given the nature event, the type of crowd it attracts, and the high degree of

involvement by event staff, all concerned believe that there would be no problem with suspending the ordinance as requested.

Staff prepared the necessary Ordinance suspending the code as needed for this event and respectfully requests Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: None.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed and concur:

Tracey Covert
City Clerk

Randall D. McKinley
Police Chief

Recommended by:

David A. Hales
City Manager

ORDINANCE NO. 2011 - 22

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE TO ALLOW POSSESSION OF OPEN ALCOHOL ON PUBLIC PROPERTY DURING THE MARGARITA NIGHT – McLEAN COUNTY ARTS CENTER

Whereas, McLean County Arts Center will hold a Margarita Night fundraiser on June 3, 2011; and

Whereas, McLean County Arts Center plans to have a band performing on East Street outside of the facility and has requested permission to allow the consumption of alcohol on East Street and the adjacent sidewalks in front of the Arts Center during the fundraiser; and

Whereas, to allow possession of an open container of alcohol on a public street, Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits the possession of open containers of alcohol on public streets, must be suspended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, is suspended on the following dates during the following hours: June 3, 2011 between 5:00 o'clock p.m. and 8:00 o'clock p.m. in front of the Arts Center on East Street. This suspension shall be effective only as to persons inside the designated area and for alcohol provided by the McLean County Arts Center.

Section 2: Except for the dates, times and location set forth in Section 1 of this Ordinance, Section 26(d) of Chapter 6 of the Bloomington City Code, 1969, as amended, shall remain in full force and effect. Nothing in this ordinance shall be interpreted as repealing said Section 26(d).

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

Passed this 23rd day of May, 2011.

Approved this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 2, Block 10 of Camp Potawatomie from Richard M. Miller, Trustee to Charlotte J. Brucker

RECOMMENDATION: That the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 2, Block 10 of Camp Potawatomie from Richard M. Miller, Trustee to Charlotte J. Brucker. The sewage disposal system inspection was completed at the end of April and one (1) material deficiency was noted. The system did not have a rock evaporation trench. This deficiency must be corrected by July 1, 2011.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a positive financial impact in that the lease will move from the previous formula of \$0.15 per \$100 of Equalized Assessed Value to the current formula of \$0.40 per \$100 of Equalized Assessed Value for determining the Lake Lease Fee. The current lease rate is \$182. This will increase to \$485 next year. The closing has not been scheduled. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590. It should be noted that the term of this lease is until December 31, 2131, the same term as other lease renewals since 1998.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed as to legal sufficiency:

Craig M. Cummings
Director of Water

Timothy Ervin
Director of Finance

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Amendment to Lake Bloomington Lease - Refinancing

RECOMMENDATION: That the Amendment to the Lake Bloomington Lease be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff requests Council approval of an amendment to the Lake Bloomington Lease which is being requested by CEFCU and their representative law firm. Several years ago, Council approved a similar “rider” to the standard lake lease involving the Easter Seals Rehabilitation Center. Staff believes that this proposed rider does not adversely affect the ability of the City to exercise control of the premises in the event of a foreclosure.

Basically, the City agrees that in the event of any delinquency in lease payments or other breach of the lease, it will notify CEFCU as well as the lessee so that CEFCU can protect its mortgage interest by eliminating the delinquency or breach. In the event CEFCU has to foreclose on its mortgage interest in the house, the City agrees that CEFCU may take over the ground lease also. The City retains the ability to refuse to assign the lease to a new owner other than CEFCU, but will not “unreasonably refuse” a new lease pursuant to a contract between CEFCU and the new proposed lessee.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

Craig Cummings
Director of Water

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Amendment to the Lake Bloomington Lease be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Variance from Chapter 38, Section 123(a) of City Code to Allow a Driveway Approach 34 Feet Wide at 2004 Ebo Lane, Lot 308 in Tipton Trails Subdivision Fifth Addition (Ward 3)

RECOMMENDATION: That the Variance be approved.

BACKGROUND: Staff has received a request from Larry Schumacher, owner of 2004 Ebo Lane, to grant a variance to Chapter 38, Section 123(a) of City Code to allow a thirty-five foot (35') wide driveway. This is a new single family residence with a three (3) car garage on a lot that has eighty-three feet (83') of frontage. The owner plans to taper the driveway from the garage to thirty feet (30') at the property line.

City Code allows residential double wide driveways to be up to twenty feet (20') wide at the property line. The maximum taper allowed by City Code is two feet (2') on either side of the driveway, resulting in a curb cut of thirty-four feet (34'). Driveway variances are recommended by the Public Works Department on a case by case basis after evaluation of criteria such as sight distance, width of adjacent roadway and amount of property frontage.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by: Reviewed as to legal sufficiency: Recommended by:

Jim Karch
Director of Public Works

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Variance be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Forrest D. Lauher et al., Requesting Approval of an Annexation Plat and Rezoning for Lauher Family Subdivision commonly located north of Six Points Road and west of Morris Avenue (Ward 2)

RECOMMENDATION: That the Annexation and Rezoning be approved and the Ordinances passed.

BACKGROUND: On February 14, 2011, Council approved an Annexation Agreement between the City, Forrest Deane Lauher and Forrest Deane Lauher and Jeanne Marie Lauher as Co-Trustees of the Forrest Deane Lauher & Jeanne Marie Lauher Revocable Living Trust Dated November 14, 1991, Forrest Brian Lauher, Valerie Sue Mudd and Douglas Mudd. The proposed Annexation and Rezoning is in accordance with this agreement. The subject area is immediately north of Six Points Road and west of the existing Timbers Subdivision. It will contain four (4) residential lots and right of way for Six Points Road.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public hearings on the Annexation Agreement were held by the Planning Commission and City Council in January and February 2011.

FINANCIAL IMPACT: The residential properties will generate property tax revenue, existing infrastructure tap on fees and annexation fees. There is no City expense associated with the subdivision.

Respectfully submitted for Council consideration.

Prepared by: Reviewed as to legal sufficiency: Recommended by:

Jim Karch
Director of Public Works

Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR ANNEXATION TO THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS AND FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

State of Illinois)
) ss.
County of McLean)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now comes FORREST DEANE LAUHER, FORREST DEANE LAUHER & JEANNE MARIE LAUHER AS CO-TRUSTEES OF THE FORREST DEANE LAUHER & JEANNE MARIE LAUHER REVOCABLE LIVING TRUST DATED NOVEMBER 14, 1991, FORREST BRIAN LAUHER, VALERIE SUE MUDD AND DOUGLAS MUDD, hereinafter referred to as your petitioners, respectfully representing and requesting as follows:

1. That your petitioners are the owners of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibits A which is attached hereto made and a part hereof by this reference, and are a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix), trustee, lessee or other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises presently have a zoning classification of A, Agricultural under the provisions of the McLean County Zoning Ordinance;
3. That there is attached hereto and made a part hereof a proposed Annexation Agreement between said City and your petitioners which provides for the annexation of the premises described in Exhibit A to said City;
4. That said Annexation Agreement provides that, upon annexation of said premises to said City, said premises would be zoned as follows under the provisions of

Chapter 44 of the Bloomington City Code-1960, as amended: R-1A Single Family Residence District;

5. That your petitioners hereby requests that they Honorable Mayor and City Council of the City of Bloomington, McLean County, Illinois approve said Annexation Agreement, annex said premises to said City and amend the Official Zoning Map of said City to reclassify said premises into the zoning district classification;
6. That said requested zoning classification is more compatible with existing uses and/or zoning of adjacent property than the zoning of said premises to the A-Agriculture District; and
7. That said requested zoning classification is more suitable for said premises and the benefits realized by the general public in approving this petition will exceed the hardships imposed on your petitioner(s) by the zoning of said premises to the A-Agriculture District.

WHEREFORE, your petitioners respectfully pray that said Annexation Agreement be approved, that said premises be annexed to the City of Bloomington, McLean County, Illinois, and that the Official Zoning Map of the City of Bloomington, McLean County, Illinois be amended by changing the zoning classification of the above described premises to R-1A Single Family Residence District.

Respectfully submitted,

Forrest Deane Lauher

Jeanne Marie Lauher

Forrest Brian Lauher

Valerie S. Mudd

Douglas Mudd

ORDINANCE NO. 2011 - 23**AN ORDINANCE ANNEXING CERTAIN TERRITORY AS HEREINAFTER DESCRIBED TO THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS**

WHEREAS, there has heretofore entered into a certain Agreement for Annexation between the City of Bloomington and FORREST DEANE LAUHER, FORREST DEANE LAUHER & JEANNIE MARIE LAUHER AS CO-TRUSTEES OF THE FORREST DEANE LAUHER & JEANNIE MARIE LAUHER REVOCABLE LIVING TRUST DATED NOVEMBER 14, 1991, FORREST BRIAN LAUHER, VALERIE SUE MUDD AND DOUGLAS MUDD, the owners of the premises hereinafter described, which Agreement is attached hereto and made a part hereof by this reference as Exhibit A; and

WHEREAS, the City Council of the City of Bloomington, after proper notices were given, conducted a Public Hearing on said Annexation Agreement; and

WHEREAS, the City Council of the City of Bloomington has considered the question of annexation and has determined that said Annexation Agreement is proper and in due form according to the statutes of the State of Illinois as in such case made and provided. Said City Council has further determined that the proposed zoning, as established in the aforesaid Agreement, follows the general comprehensive plan and development theme heretofore established by the corporate authorities of the City of Bloomington and should be place in effect as to said land upon the annexation of same, all as by Statute specifically provided.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Bloomington, McLean County, Illinois:

SECTION ONE: That the City Council of the City of Bloomington, Illinois, determines that the territory described in the attached Exhibit A is not within the confines of any municipality of the State of Illinois, but is however, contiguous to the City of Bloomington.

SECTION TWO: That the property hereinabove described is by this Ordinance hereby annexed to and does by said Ordinance become a part of the incorporated City of Bloomington, McLean County, Illinois and that the boundary of said City is hereby changed to include the property hereinabove described.

SECTION FOUR: That the Annexation Agreement, hereinabove referred to and hereto attached be and the same hereby is ratified, affirmed, and incorporated into this Ordinance.

SECTION FIVE: That this Ordinance shall be in full force.

PASSED this 23rd day of May, 2011.

APPROVED this 24th day of May, 2011.

May 23, 2011

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Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

ORDINANCE NO. 2011 - 24**AN ORDINANCE REZONING LAUHER FAMILY SUBDIVISION
FROM A, AGRICULTURAL TO R-1A SINGLE FAMILY RESIDENCE**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for rezoning of certain premises hereinafter described in Exhibit "A"; and

WHEREAS, the Bloomington Planning Commission, after proper notice was given, conducted a public hearing on said Petition; and

WHEREAS, the City Council of said City has the power to pass this Ordinance and rezone said premises.

NOW THEREFORE BE IT ORDAINED by the City of Bloomington, McLean County, Illinois,

1. That the premises hereinafter described in Exhibit(s) "A" shall be and the same are hereby rezoned from A, Agricultural District to R-1A Single Family Residence District.
2. The Official Zoning Map of said City shall be amended to reflect this change in zoning classification.
3. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 23rd day of May, 2011.

APPROVED this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A**LEGAL DESCRIPTION**

The West 808 feet of Lots 10, 11 and 13 in the Southwest ¼ of Section 8, Township 23 North, Range 2 East of the Third Principal Meridian, according to plat recorded in Book 34 of Deeds, Page 72, recorded in the Recorder's Office, McLean County, Illinois

P.I.N. 05-21-08-376-029 and 05-21-08-376-030

ANNEXATION AGREEMENT

PURSUANT to legislative authorization found in Article 11 Division 15.1 of the Illinois Municipal Code of 1961, and as an exercise of the Home Rule powers of the City of Bloomington, and for and in consideration of the mutual promises contained herein and other good and valuable consideration, the undersigned CITY OF BLOOMINGTON, ILLINOIS, a Municipal Corporation, hereinafter referred to as "City" and FORREST DEANE LAUHER AND FORREST DEANE LAUHER AND JEANNE MARIE LAUHER AS CO-TRUSTEES OF THE FORREST DEANE LAUHER & JEANNE MARIE LAUHER REVOCABLE LIVING TRUST DATED NOVEMBER 14, 1991, FORREST BRIAN LAUHER, VALERIE SUE MUDD AND DOUGLAS MUDD, hereinafter referred to as "Owner", are the owners of property, a legal description of which is on Exhibit "A", hereinafter "the property", AGREE AS FOLLOWS:

I. ANNEXATION PETITION. The Owner, subject to the terms and conditions set forth in this annexation agreement, has petitioned the City of Bloomington, requesting annexation of the property to the corporate limits of the City of Bloomington, Illinois. The City has heretofore published and given such notices and conducted such public hearings as may be required to annex the property, including specifically a public hearing on this annexation agreement conducted after notice as required by law and ordinance on the 14th day of February, 2011.

II. ANNEXATION. The City agrees to adopt an ordinance annexing the property to the City of Bloomington within 60 days from the date of submission of an annexation plat depicting the area to be annexed and all required supporting documentation.

III. ZONING, CONCEPT PLAN APPROVAL, SUBDIVISION AND DEVELOPMENT.

A. Zoning - Within 60 days of annexation, the City agrees to rezone the property annexed to R-1A Single Family Residence District. The public hearings required for such rezoning having been held before the Planning Commission of the City of Bloomington on the 12th and 26th day of January, 2011, after notice required by law and ordinance.

B. Subdivision Plan and Plat Approval

1. Preliminary Plan. Within 60 days from the submission of a Preliminary Subdivision Plan in the form and with the content required by the City's Land Subdivision Code, the City agrees to approve the Preliminary Plan if it is in substantial conformance with the

Sketch Plan attached as Exhibit B. The public hearings required for such Preliminary Plan approval having been held before the Planning Commission of the City of Bloomington on the 12th and 26th day of January, 2011 after notice as required by law and ordinance.

2. Final Plat(s). Within 60 days from submission of a Final Plat for all or any portion of the approved Preliminary Plan in the form and with the content required by the City's Land Subdivision Code, the City agrees to approve the Final Plat if it is in substantial accordance with the approved Preliminary Plan.

C. In connection with the subdivision and development of the property, City agrees to permit the property to be used for single family dwelling(s), including customary accessory buildings. A private drive access to proposed Lot 1 from Six Points Road may serve proposed Lots 1 and 2. Garbage pick-up for all lots shall be from Six Points Road.

IV. PUBLIC IMPROVEMENTS. With regard to the annexation, rezoning and subdivision, the installation of public improvements within and serving the property, and the use and development of the property during the term of this Agreement, the following agreements and conditions shall apply in place of those that might otherwise apply during subdivision or development of the site:

A. Streets & Sidewalks

1. Six Points Road - The owner may subdivide, develop and use the Property as proposed in this Annexation Agreement without any adjacent street improvement obligation, the payment of any tap-on fee or connection charge, or the posting of any bond or security for access to Six Points Road, provided however, any division of the property into more than the 4 lots shown on the Sketch Plan or change in use of the property from single family residential shall require the posting of substandard adjacent street improvement bond with security based on the City standards at that time. The owner shall dedicate 43 feet of right-of-way for north half of Six Points Road at the time of Final Platting.

B. Water

1. Owner may tap and use a water main in the Six Points Road right-of-way for any or all of the lots, in which case Owner shall pay a tap-on fee (\$28 x 600 = \$16,800.00), due at final platting of the first lot platted (all other required water tap-on fees having been paid previously). The water service line from the public main to any single family residence shall be at the lot owner's expense. Only one water main tap per lot will be permitted.

C. Septic System

Any single family residence on any lot may be served by a private septic system meeting County Health Department and all other applicable standards. No public sanitary sewer extension shall be required and no tap on fee shall be payable at this time

for the currently planned single family residential use. At any time when connection to a City sanitary sewer is granted, all applicable permit, tap-on, and connection fees shall be paid.

D. Storm Water Drainage

Owner agrees to discharge storm water to an existing pond on the property. No other storm water detention requirements shall be imposed at this time for the currently planned single family residential use. Any future changes in use or division of the property shall comply with City regulations.

E. Park Land Dedication

Owner agrees to pay a fee of \$520.00 per lot in lieu of park land dedication per City Code at final platting, based on one additional dwelling unit per lot.

F. School Site Dedication

None required.

G. Annexation Fee

Owner agrees to pay an annexation fee of \$540.41 per lot. The fee shall be paid on a lot by lot basis at the time building permits issue.

V. The Owner, not later than thirty (30) days after the date of annexation of the Tract, shall file the necessary petitions to annex that area to the Central Illinois Regional (Bloomington-Normal) Airport Authority and Bloomington and Normal Water Reclamation District. The owner is responsible to pay any fees as required by either entity.

VI. Except as provided in the agreement, the Owner shall in the use and development of the property comply with all then applicable zoning, subdivision, building and mechanical codes of the City.

VII. This Agreement is declared to be enforceable by the parties for a period of twenty (20) years from the date of its execution. Said Agreement is further binding upon the present Owners, their heirs, successors or assigns and upon the City of Bloomington's designated corporate authorities and successors in office.

DATED at Bloomington, Illinois, this 22nd day of February, 2011.

CITY OF BLOOMINGTON, ILLINOIS,
A MUNICIPAL CORPORATION

BY: Stephen F. Stockton

ATTEST:

Tracey Covert

OWNERS

Forrest Deane Lauher

Jeanne Marie Lauher

Forrest Brian Lauher

Valerie Sue Mudd

Douglas Mudd

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Annexation and Rezoning be approved and the Ordinances passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Forrest D. Lauher et al., Requesting Approval of a Preliminary Plan for Lauher Family Subdivision commonly located north of Six Points Road and west of Morris Avenue (Ward 2)

RECOMMENDATION: That the Preliminary Plan be approved and the Ordinance passed.

BACKGROUND: On February 14, 2011, Council approved an Annexation Agreement between the City, Forrest Deane Lauher and Jeanne Marie Lauher as Co-Trustees of the Forrest Deane Lauher & Jeanne Marie Lauher Revocable Living Trust Dated

November 14, 1991, Forrest Brian Lauher, Valerie Sue Mudd and Douglas Mudd. The Preliminary Plan is in substantial conformity with the annexation agreement. The subdivision consists of 16.55 acres which will be divided into four (4) residential lots and right of way for Six Points Road. The subdivision is located immediately north of Six Points Road and west of the existing Timbers Subdivision.

A public hearing on this petition was before the Planning Commission on January 12 and 26, 2011, for a review of the annexation agreement, the rezoning, and the preliminary plan. The petitioner and staff spoke at the meetings. No one from the public spoke in favor or against the request however one person questioned where the entrance would be located and if the trees in the rear would be destroyed. The petitioner responded that access to the rear would be along the east side of the property and that no one would want to alter the landscaping. The commission voted 7-0 in favor of recommending approval of the annexation agreement and the rezoning and 6-1 in favor of recommending approval of the preliminary plan.

The petitioner desires to create a four (4) lot subdivision to be used as single family residences for family members. The proposed zoning change is for low density residential and is compatible with the surrounding zoning. The lots will be served by City water and will have septic systems. The existing City sanitary sewer lines are not sufficiently close to the property to require an extension and connection to serve them.

There was an initial concern that the preliminary plan should not be approved because only a sketch plan was submitted. After additional discussion the Planning Commission recommend approval of such since it is only for four (4) lots and a full plan will be reviewed at a later time.

The petitioner discussed changes to the annexation agreement with staff and has made such changes.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: All of the required public hearings regarding the Preliminary Plan were held by the Planning Commission in January and February 2011.

FINANCIAL IMPACT: The residential properties will generate property tax revenue, existing infrastructure tap on fees, and annexation fees. There is no City expense associated with the subdivision.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Jim Karch
Director of Public Works

Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR APPROVAL OF PRELIMINARY PLAN FOR A SUBDIVISION

State of Illinois)
) ss.
 County of McLean)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now comes FORREST DEANE LAUHER, FORREST DEANE LAUHER & JEANNIE MARIE LAUHER AS CO-TRUSTEES, FORREST BRIAN LAUHER, VALERIE SUE MUDD, DOUGLAS MUDD, hereinafter referred to as your Petitioner(s) respectfully representing and requesting as follows:

1. That your petitioners are interested as Owners in the premises hereinafter described in Exhibit A attached hereto and made a part hereof to be known by this reference;
2. That your Petitioners seek approval of the Preliminary Plan for a subdivision of said premises to be known and described as LAUHER FAMILY SUBDIVISION, which Preliminary Plan is attached hereto and made a part hereof;
3. That your Petitioners also seek approval of the following exemptions or variations from the provisions of Chapter 24, of the Bloomington City Code: **All those listed in the signed and approved Annexation Agreement, if any.**

WHEREFORE, your Petitioners pray that the Preliminary Plan for the LAUHER FAMILY SUBDIVISION submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

Forrest Brian Lauher

ORDINANCE NO 2011 - 25

**AN ORDINANCE APPROVING THE PRELIMINARY PLAN OF THE
LAUHER FAMILY SUBDIVISION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition for approval of the Preliminary Plan of Lauher Family Subdivision, legally described in Exhibit A attached hereto and made a part hereof by this reference;

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code, 1960, as amended: All those listed in the signed and approved Annexation Agreement, and;

WHEREAS, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and the Preliminary Plan attached to said Petition was prepared in compliance with the requirements of the Bloomington City Code except for said requested exemptions and/or variations; and

WHEREFORE, said exemptions and/or variations are reasonable and in keeping with the intent of the Land Subdivision code, Chapter 24 of the Bloomington City Code, 1960, as amended.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, McLean County, Illinois:

1. That the Preliminary Plan of the Lauher Family Subdivision and any and all requested exemptions and/or variations be, and the same is hereby approved.
2. That this Ordinance shall be in full force and effective as the time of its passage on this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

LEGAL DESCRIPTION

The West 808 feet of Lots 10, 11 and 13 in the Southwest ¼ of Section 8, Township 23 North, Range 2 East of the Third Principal Meridian, according to plat recorded in Book 34 of Deeds, Page 72, recorded in the Recorder's Office, McLean County, Illinois

P.I.N. 05-21-08-376-029 and 05-21-08-376-030

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Preliminary Plan be approved and the Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Forrest D. Lauher et al., Requesting Approval of a Final Plat for Lauher Family Subdivision commonly located north of Six Points Road and west of Morris Avenue (Ward 2)

RECOMMENDATION: That the Final Plat be approved and the Ordinance passed.

BACKGROUND: On February 14, 2011, Council approved an Annexation Agreement between the City, Forrest Deane Lauher and Forrest Deane Lauher and Jeanne Marie Lauher as Co-Trustees of the Forrest Deane Lauher & Jeanne Marie Lauher Revocable Living Trust Dated November 14, 1991, Forrest Brian Lauher, Valerie Sue Mudd and Douglas Mudd. The Final Plat is in substantial conformity with the Preliminary Plan. The subdivision consists of 16.55 acres which will be divided into four (4) residential lots and right of way for Six Points Road. The subdivision is located immediately north of Six Points Road and west of the existing Timbers Subdivision. Staff recommends that Council accept the petition and pass an Ordinance approving the Final Plat for Lauher Family Subdivision subject to the Petitioner paying the fees indicated in Items IV B & E of the Annexation Agreement. Since no extensions or modifications to City infrastructure are necessary a surety for uncompleted public improvements is not required.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTE: Public hearings regarding the subdivision were held by the Planning Commission in January and February 2011.

FINANCIAL IMPACT: The residential properties will generate property tax revenue, existing infrastructure tap on fees and annexation fees. There is no City expense associated with the subdivision.

Respectfully submitted for Council consideration.

Prepared by: Reviewed as to legal sufficiency: Recommended by:

Jim Karch
Director of Public Works

Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR APPROVAL OF FINAL PLAT

State of Illinois)
) ss.
County of McLean)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now comes FORREST DEANE LAUHER, FORREST DEANE LAUHER & JEANNIE MARIE LAUHER AS CO-TRUSTEES, FORREST BRIAN LAUHER, VALERIE SUE MUDD, DOUGLAS MUDD, hereinafter referred to as your petitioners, respectfully representing and requesting as follows:

- 1. That your petitioners are the owners of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit A which is attached hereto and made a part hereof by this reference, of is are) a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix), trustee, lessee or other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
- 2. That your petitioners seek approval of the Final Plat for the subdivision of said premises to be known and described as LAUHER FAMILY SUBDIVISION
- 3. That your petitioners also seek approval of the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960: all those enumerated in the approved Annexation Agreement.

WHEREFORE, your petitioners respectfully pray that said Final Plat for the LAUHER FAMILY SUBDIVISION submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

By: Frank Miles, For Owners

ORDINANCE NO. 2011 - 26**AN ORDINANCE APPROVING THE FINAL PLAT OF THE
LAUHER FAMILY SUBDIVISION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for approval of the Final Plat of the Lauher Family Subdivision, legally described in Exhibit A attached hereto and made a part hereof by this reference; and

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code-1960, as amended: all those enumerated in the approved Annexation Agreement; and

WHEREAS, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and provided and the Final Plat attached to said Petition was prepared in compliance with requirements of the Bloomington City Code except for said requested exemptions and/or variations; and

WHEREFORE, said exemptions and/or variations are reasonable and in keeping with the intent of the Land Subdivision Code, Chapter 24 of the Bloomington City Code-1960, as amended.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS:

1. That the Final Plat of the Lauher Family Subdivision and any and all requested exemptions and/or variations be, and the same is hereby approved.
2. That this Ordinance shall be in full force and effective as of the time of its passage this 24th day of May, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A**LEGAL DESCRIPTION**

The West 808 feet of Lots 10, 11 and 13 in the Southwest ¼ of Section 8, Township 23 North, Range 2 East of the Third Principal Meridian, according to plat recorded in Book 34 of Deeds, Page 72, recorded in the Recorder's Office, McLean County, Illinois

P.I.N. 05-21-08-376-029 and 05-21-08-376-030

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Final Plat be approved and the Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Refinance Approximately \$10 Million of the \$29.5 Million Taxable Bonds General Obligation Series 2004

RECOMMENDATION: That Ordinance No. 2011 - 13 be rescinded and the new Ordinance passed.

BACKGROUND: In 2004, the City issued \$29.5 million in debt to construct the US Cellular Coliseum. Debt service payments for this issuance began in December 2004, and are scheduled to conclude in June 2034. The total debt service that will be paid on this issuance is \$74.1 million with \$29.5 million in principal and \$44.6 million in interest. The debt service payments for this bond series is paid by an annual transfer from the City's General Fund. The source of revenue within the General Fund that supports this transfer is the 0.25% increase to the Home Rule Sales Tax approved by the Council on February 11, 2008. This increase is set to expire on July 1, 2015.

Since 2010, the City in cooperation with Mesirow Financial, and Chapman and Cutler, LLP has explored options to refinance a portion or the entire amount of the original issuance. The goal in these efforts have focused upon whether the City can incur long term interest rate savings and accelerate the payoff of the original 2004 General Obligation Bonds. These efforts have focused on two (2) options:

1. Refinance the original Taxable series as **taxable debt**, or
2. Refinance the original Taxable series as **tax-exempt debt**.

These efforts have led staff to recommend the City directly repurchase approximately \$10 million of the series 2004 Bonds through the issuance of \$10 million in **tax exempt** debt. This tax exempt issuance would repurchase a portion of the Series 2004 Bonds that are set to mature in 2029 to 2034. In the current market, a direct repurchase of the series 2004 Bonds can produce greater savings than a traditional tax exempt advance refunding with an escrow.

On March 14, 2011, the City Council approved Bond Ordinance No. 2011 - 13 to refinance approximate \$10 million of the \$29.5 million 2004 Taxable General Obligation Bond issuance. The authority to refinance the bonds in the bond ordinance was valid through April 30, 2011. The authority was limited due to the fact a new City Council would be seated on May 1, 2011. Mesirov Financial began negotiations with the holders of the City's bonds, but was unable to close the transaction by April 30, 2011. Staff requests Council approve a new bond ordinance to allow Mesirov Financial to continue to negotiate with the bond holders to allow the City to repurchase up to \$10 million in outstanding bonds. Staff believes the City is in the optimal position to repurchase approximately \$5 million in bonds and negotiate with other holders for the remaining \$5 million.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Todd Krzyskowski, Mesirov Financial; and Lynda Given, Chapman and Cutler, LLP. A Council Work Session was held on March 14, 2011 regarding this item.

FINANCIAL IMPACT: The City can reduce its interest cost by over \$4.9 million through the accelerated pay down, bank qualified repurchase of approximately \$10 million of the 2004 Taxable Series General Obligation Bonds (original amount \$29.5 million) which financed the construction of the US Cellular Coliseum.

The City calculated the total present value of debt service savings to be approximately \$1.1 million, eleven percent (11%) of the par value of the bonds refinanced), if the City retained the original payoff of the bonds to 2034. However, staff recommends the City accelerate the payoff of the refinanced bonds to begin in 2013 and end in 2021. This accelerated payoff of refinancing \$10 million in bonds would result in present value debt service **savings of approximately \$4.9 million**, forty-nine percent (49%) of the par value of the bonds refinanced). The City may not be able to refinance the entire \$10 million at one time since the City may have to negotiate with multiple bond holders.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Tim Ervin
Director of Finance

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

(PARTIALLY EXECUTED BOND ORDINANCE ON FILE IN CLERK'S OFFICE)

Mayor Stockton introduced this item. This item was discussed at a Work Session held earlier tonight. It was an opportunity to take action. He explained this was similar to the discussion held at the Work Session on March 14, 2011. A new bond ordinance was required due to the spring election.

David Hales, City Manager addressed the Council. Mr. Hales reminded Council that in 2004 the City issued \$29.5 million in debt to construct the US Cellular Coliseum. A portion of the debt issued was taxable, and the interest rate higher. Chapman and Cutler, bond counsel and Mesirow Financial conducted an analysis. They determined that \$10 million of the \$29.5 million could be converted to tax exempt bonds. They proposed contacting investors to and repurchase \$10 million of bonds. In March 2011 Council adopted an ordinance authorizing the repurchase of \$10 million. Negotiations had taken place. Focus had been on the debt obligation which would mature in 2034 or earlier. One (1) investor was willing to sell five million (\$5) of the debt securities. Another investor had not been located. The ordinance approval would provide an additional six (6) months to continue negotiations. The repurchase could provide a savings of \$4.9 million. Interest rates had dropped. Another part of the proposal would be to accelerate some debt service to increase savings. Analysis of the City's financial condition and debt service funds continues. Staff would report back any additional opportunities. Todd Kryskowski, Managing Director – Mesirow Financial, had stated earlier tonight that they were ready to proceed with the \$5 million purchase. Mr. Hales introduced Mr. Kryskowski, and Kyle Harding, attorney - Chapman & Cutler.

Mayor Stockton stated that in the earlier Work Session the present value savings were estimated in the range of \$2.7 to 3 million for the repurchase of the \$5 million. If the same parameters remain for the other \$5 millions potential savings could be \$6 million. The City would be able to take advantage of good terms and interest rates.

Mr. Hales explained the reasoning behind paying the bond off early. Analysis took into account prior to issuance of the 2004 bonds: 1.) all other debt outstanding; 2.) when debt was due; and 3.) which debt had a step up. During the Coliseum's early year's payments were made on interest with the principle pushed off to future years. Other longer term bonds have taxable interest rates of five to six percent (5 – 6 %). The City could incorporate the debt schedule in the long range financial plan. Council had challenged staff for ways to reduce the City's total outstanding debt. He believed this was the step to take given the high interest rates associated with taxable bonds.

Alderman Schmidt stated her appreciation for the clear presentation of the earlier Work Session.

Alderman Purcell believed this was a step in the right direction.

Alderman Fazzini stated that refinancing shortens the entire length of the bond portfolio. In the future long term financing could be use for other needs. The cash flow allows the refinancing at this time. He believed it was a good move.

Motion by Alderman Schmidt, seconded by Alderman Fazzini that the Ordinance No. 2011-13 be rescinded and the new Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Approval of Hockey License Agreement between the City, Central Illinois Arena Management, Inc. (CIAM) and Hockey Sensations, LLC

RECOMMENDATION: That the Hockey License Agreement be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The deadline for BMI Hockey, LLC to request a renewal of the hockey lease between the City, CIAM, and BMI Hockey, LLC was January 1, 2011. Since BMI Hockey did not request a renewal, CIAM and the City were free to explore the possibility of a new hockey tenant. Pursuant to the Management Agreement between the City and CIAM, CIAM began a search for a new hockey team tenant. CIAM has negotiated a tentative three (3) year lease with Hockey Sensations, LLC, an entity registered in the State of Delaware. The primary members of Hockey Sensations are insurance executive Gary DelBuono of Boston and pharmaceutical executive Sandra Hunnewell of New Jersey.

The proposed lease has been amended to reflect five (5) years of experience to encourage attendance at games (which will benefit the City and CIAM) and to ensure that the new team is adequately capitalized. The team will have a membership in the Central Hockey League (CHL). The term of the lease is for three (3) years, with an option by the licensee to extend it for one (1) year.

The licensee's commitments under the lease are secured by a \$100,000 irrevocable letter of credit with the City/CIAM and the CHL as beneficiaries. The lease requires Hockey Sensations to inform the City and CIAM of the identity of every owner of the LLC with an ownership or voting interest of five percent (5%) or more.

All payments from Hockey Sensations go into the Coliseum Fund, from which all payments to CIAM and the City are made. The rental fee to be paid to the Fund is \$6,000 per home game. There will be a minimum of thirty-three (33) home games, for a minimum of \$198,000. However, the amount paid per game may be reduced pursuant to an "attendance incentive credit" which is set forth in Section 9 of the lease. The attendance credit is based on actual turnstile numbers rather than tickets sold. The premise of the incentive is that by using proprietary information of CIAM to calculate the parking fee, facility fee and the average for food and beverage spent by each fan per game, a reduction in the \$6,000 per game amount to be paid by the hockey team for each additional five hundred (500) fans will actually generate more revenue for the Coliseum, to the benefit of the City and CIAM. For each additional five hundred (500) fans, the rental fee will be reduced by \$500.00, but the City and CIAM will net approximately \$900 more in revenue.

The team will pay a parking fee of fifty cents (.50) per ticket sold to each home game, excepting the first seven hundred (700) tickets.

The team will pay a facility fee of fifty cents (.50) per ticket sold to each home game, excepting the first seven hundred (700) tickets.

All suite revenue shall go to the City and CIAM, except that the City and CIAM will pay to the team \$1,662 for each full suite season ticket (total fourteen (14) full season tickets per suite) and \$831 for each half suite season ticket (total seven (7) half season tickets per suite).

The City and CIAM shall retain all Coliseum Club seat membership annual dues and a commission of ten percent (10%) for each Coliseum Club season ticket sold by the licensor. The remaining ninety percent (90%) of this revenue item shall go to the team.

In the event of a cancellation of all or part of a season by the licensee, there is a liquidated damages section specifying the amount of damages to be paid to the City and CIAM (\$100,000 if the licensee cancels prior to January 1st for the season to be held in that calendar year; \$150,000 if the cancellation is after January 1st but prior to March 31st; and \$228,000 for any cancellation after March 31st).

The dispute resolution process has been considerably streamlined from the previous lease.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: CIAM and City staff.

FINANCIAL IMPACT: Revenue neutral, although increased revenues to the City and CIAM are possible by reason of the attendance incentive credit.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

HOCKEY LICENSE AGREEMENT U.S. Cellular Coliseum

THIS HOCKEY LICENSE AGREEMENT (this “Agreement”) is made and entered into this 23rd day of May, 2011, by and among the City of Bloomington, Illinois (the “City”), Central Illinois Arena Management, Inc., an Illinois Corporation (the “Operator”), and Hockey Sensations, L.L.C., a Delaware Limited Liability Company (the “Licensee” or, where the reference may indicate, the “Licensee” as hereinafter further defined). City and Operator are sometimes hereinafter jointly referred to as the “Licensor.”

WITNESSETH:

WHEREAS, the City has developed and is the owner of the U.S. Cellular Coliseum at 101 South Madison Street, Bloomington, McLean County, Illinois, (the “Coliseum” as hereinafter defined) for use for public purposes and gatherings, including, but not limited to, the exhibition of sports contests, such as indoor football, hockey and entertainment and educational events;

WHEREAS, the Operator operates the Coliseum on behalf of the City pursuant to a Development and Management Agreement with the City dated October 10, 2005 (the “Management Agreement”).

WHEREAS, the Licensee is a member of a professional hockey league, or the “League,” as hereinafter defined, which conducts hockey games, including Pre-Season Games, Regular Season Games, and Play-Off Games, together the “Games,” as a league of member clubs/teams. WHEREAS, Licensee desires to conduct Games as a member of a League in the Coliseum; NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants herein contained, the parties hereto, intending to be legally bound mutually agree as follows:

1. DEFINITIONS.

As used in this Agreement each of the terms defined in this section shall have the following meaning ascribed to it, unless the context otherwise requires:

- A. “Change in Ownership of Licensee. Change in Ownership of Licensee means any change, transfer, sale or assignment, direct or indirect, of any like, kind or nature of License Owners or Licensee equity interests of five (5%) percent or more over any consecutive period of twenty-four (24) months.

- B. "Coliseum" means the U.S. Cellular Coliseum located at 101 South Madison Street, Bloomington, McLean County, Illinois 61701.
- C. "Coliseum Advertising" means any advertising in or regarding the U.S. Cellular Coliseum or any event to be performed at or in the Coliseum, excluding On-Ice Advertising or Hockey Advertising, as hereinafter defined.
- D. "Coliseum Premises" means that part of the Coliseum necessary for the proper exhibition of professional hockey, including but not limited to, the seating and access thereto, the playing surface, locker rooms and ticket sales facilities.
- E. "Concessions" means the business of selling food and drinks (alcoholic and non alcoholic), excluding catering, as are commonly sold at professional hockey Games.
- F. "Future League Requirements" means additional requirements, if any are developed in the future, regarding the maintenance and operation of a facility for the play of games in the League in addition to or replacing those currently set forth in the League Constitution, By-Laws, Regulations and League Policies, as amended (the "League Rules").
- G. "Gross Concession Revenues" means revenues from all food and beverage sales, less refunds, all applicable sales and other use taxes and less discounted or complimentary food and beverage items.
- H. "Hockey Advertising" means any advertising in or regarding the team, the Games, the League, or otherwise regarding professional hockey.
- I. "Hockey Season" means the period from the opening of the Pre-Season Games (as hereinafter defined) to and including the last Play-Off Game as set forth in each annual schedule established by the League during the Term of this Agreement.
- J. "Home Game" means any Pre-Season Game, Regular Season Game or Play-Off Game scheduled by the League and/or the Licensee to be played as a home game and/or played by the Licensee as a home game during each Hockey Season during the Term.
- K. "League" means any professional organization of at least ten (10) professional member teams holding a minimum of sixty-six (66) Regular Season Games, including at least thirty-three (33) Home Games for each member team; having in place a bona fide system of rules and procedures to ensure fair play and competition; and making reasonable measures to protect the safety of the players.
- L. "Licensee Owners" means any individual, human shareholders, members, economic interest owners, managers, or anyone with the right to share in the

profits or losses of the Licensee, including the shareholders or members of any business entity owning an interest in Licensee.

- M. “Membership” means all of the rights, privileges and powers now or hereafter granted by the League, or any successor league in name or otherwise or any league that shall be approved in writing by Licensor, regarding the ownership and/or operation of the Licensee including, without limitation, the right to conduct professional hockey Games in and about Bloomington, Illinois, in accordance with the League Rules now in effect or as changed during the Term, as hereinafter defined, of this Agreement.
- N. “On-Ice Advertising” means advertising associated with dasher boards, temporary banner signage, ice surface, electronic messages, players’ uniforms and equipment, and players’ benches during Home Games played at the Coliseum. On-Ice Advertising does not include any other Coliseum Advertising.
- O. “Play-Off Game” means any one of a series of Home Games scheduled by the League after the close of each Regular Season during the Term to determine the ultimate champion of the League for such season.
- P. “Premium Seats/Suites” means seating other than general admission seating, i.e. seats contained in the suites (“Suites”) and seats designated as club seats (“Club Seats”) in the Coliseum and on the Coliseum Premises.
- Q. “Pre-Season Games” means any Game (except intra-squad games) played by the Licensee prior to the first Regular Season Game during each Season during the Term.
- R. “Regular Season” means the period from the opening of the Regular Season Games (as hereinafter defined) to and including the last regularly scheduled Regular Season Game as set forth in each annual schedule established by the League during the Term of this Agreement, but exclusive of any Pre-Season Games and Play-Off Games.
- S. “Regular Season Games” means each Game played by Licensee as part of the Regular Season during the Term.
- T. “Term” means the Initial Term and any Renewal Terms, each as hereinafter defined, of this Agreement.
- U. “Ticket Revenue” means gross revenues from the sale of general admission tickets and Premium Seats/Suites tickets, but excluding any premium amounts for the use of Premium Seats/Suites.

2. GRANT OF LICENSE; PREMISES.

- A. Licensors hereby grants to Licensee the right to use and occupy, and Licensor shall make available to Licensee, the Coliseum Premises, all upon the terms and conditions set forth herein (the "License"). Licensee hereby agrees to, and shall, use the Coliseum to hold and present all Home Games as contemplated by this Agreement. Provided however, Licensee shall be allowed to hold one home game at an alternate location acceptable and approved by Operator.
- B. City represents and warrants that it owns and will own the Coliseum and has the right and power to grant the rights referred to herein.
- C. Licensor shall retain the right to cause the interruption of any Game, practice, or other performance in the interest of public safety and to likewise cause the termination of such Game, practice, or other performance when in the sole judgment of Licensor such act is necessary in the interest of public safety.
- D. Should it become necessary in the judgment of Licensor to evacuate the premises because of adverse weather, a bomb threat or for other reasons of public safety Licensee will peaceably vacate the premises in a timely and orderly manner. Once Licensor has declared that the facility is safe to re-enter, Licensee will be granted use of the facility for sufficient time following evacuation to complete presentation of activity without additional rental charge providing such time does not interfere with another building commitment. If in the sole judgment of the Licensor it is not possible to complete the presentation of the activity, Licensor charges shall be forfeited, prorated, or adjusted at the sole discretion of the Licensor based on the situation and the Licensee hereby waives any claim for damages or compensation from the Licensor.
- E. Licensee agrees not to interfere in any way with the ordinary use by others of any portion of the Coliseum not expressly covered by this Agreement. Licensee agrees that during the Term of this Agreement, other events will be scheduled and held in those parts of the Coliseum not herein licensed to Licensee, and Licensor shall have the right to use and occupy, or to grant to third parties the right to use and occupy, the Coliseum and any portion thereof, so long as such other events do not unreasonably interfere with the License herein granted to Licensee.

3. TERM AND OPTION TERM.

- A. Initial Term. The initial term of this Agreement shall be for a period equal to the completion of two (2) full Seasons being the 2011/2012 and the 2012/2013 Hockey Seasons (the "Initial Term").
- B. Licensee's Renewal Option Terms. Licensee shall have the right and option to extend the Term of the Agreement for an additional Hockey Season (the "Renewal Option"), by notifying Licensor in writing by no later than December 1, 2012 of its intent to exercise such Renewal Option (the "Renewal Notice"). In the event Licensee fails to give the Renewal Notice, this Agreement shall terminate at

the end of the second season, unless the parties otherwise extend the Term by written agreement.

- C. Licensor and Licensee can mutually agree to a revised Agreement anytime during the term of this Agreement. All subsequent amendments and modifications shall be by written agreement signed by all parties hereto.

4. DUTIES OF LICENSEE. Licensee shall:

- A. Pay to the Operator the License Fee defined in Section 9 of this Agreement.
- B. Upon execution of this Agreement, provide to City and Operator in writing the following:
 - 1. A certificate of the Licensee's good standing from the State of Delaware and a copy of the Certification or Articles of Organization as a Delaware Limited Liability Company.
 - 2. Disclose the names and full addresses of Licensee Owners who hold five percent (5%) or more of an ownership or voting interest in the Licensee. The obligation to disclose shall be continuing and Licensee shall disclose to Licensor any and all changes in the Licensee Owners no later than thirty (30) days after the effective date of the change. All changes in Licensee Owners shall comply with Section 21F.
 - 3. Disclose whether Licensee is member or manager-managed, and identify the name and address of the manager or managing members.
 - 4. Provide a copy of the operating agreement of the Licensee's Limited Liability Company.
- C. Hold and maintain at all times a debt-free and legally valid membership in a League and conform at all times to League rules (whether or not the League enforces its rules). Licensor shall have a right to require Licensee to submit upon ten (10) days written notice written proof of its compliance with this provision. Licensee shall provide Licensor at least thirty (30) days written notice prior to withdrawing from or joining any League. If joining a League or upon any League modifications Licensee shall promptly deliver to Operator all of the following: a written copy of the League application, membership, owner rules, and by-laws. Licensor shall have a right to approve or deny all League changes; such approval shall not be unreasonably withheld.
- D. Play all League scheduled Home Games subject to the conditions provided in 2A above. It is understood by Licensor and Operator that the Licensee has no control over the number of games scheduled by the League in any given season and

cannot guarantee the number of games the League schedules for each hockey season subject to the Term of this Agreement.

- E. Employ and maintain a team staff including, but not limited to, a professional general manager, a marketing/sales manager, coach, assistant coaches, trainers, medical staff, office staff, marketing staff, game staff (including, but not limited to, referees/officials, time keepers, score keepers, and announcers), and such other full time staff as would be reasonable and customary to maintain a professional hockey team in the League. Licensee shall provide to Licensor by August 1, of each year a staff organizational chart, and notify Licensor in writing of subsequent changes to the organizational chart. Operator's staff may from time to time attend and participate in Licensee's staff meetings.
- F. At Licensee's expense, provide the following:
 - 1. Team equipment, supplies, uniforms, and other locker room items;
 - 2. Team operating expenses including but not limited to travel, food, beverage, and lodging;
 - 3. Staff parking permits for non-game day parking (8:00 a.m. to 5:00 p.m., Monday through Friday);
- G. Reimburse Licensor for any reimbursable expenses under this Agreement;
- H. Operate the team with sound business practices, including adequate capitalization, and maintaining current accounts payable in good standing with vendors. Licensee shall provide to Licensor an operating budget by August 1st of each year of the Term;
- I. Market and promote at its expense the Home Games pursuant to the terms of Section 6 of this Agreement;
- J. Provide pre-game, post-game and intermission entertainment activities;
- K. As provided in Section 10 below, Licensee shall have the exclusive right to sell only Team Related Merchandise and hockey related novelties ("Team Related Merchandise") during any Home Game at the Coliseum and shall retain one hundred percent (100%) of the proceeds derived from such sales;
- L. Provide twenty full season tickets to Operator with locations of seats to be mutually agreed upon;
- M. Provide and comply with the insurance terms pursuant to Section 16 of this Agreement;

- N. Secure in advance, prior to commencement of the Term and at its sole expense, (a) all licenses and permits that may be required or in connection with the use of the Coliseum for the Games and (b) all licenses required by any performing arts societies, such as ASCAP and/or BMI, for music or other works to be utilized or displayed in connection with the Games. Licensee shall do all other acts necessary to comply with all laws and requirements of all public authorities and all rules and regulations of Licensor in connection with the presentation of the Games.

5. DUTIES OF LICENSOR.

- A. Except and otherwise specifically provided herein, Licensor shall provide or cause to be provided the following, the costs of which shall be borne by Licensor:
1. The Coliseum, including the general concourse area, public address systems and such other parts or areas of the Coliseum as may be necessary for Licensee to present and produce (if applicable) the Games, the costs of which shall be included within the License Fee;
 2. Electricity and other utilities for lighting, heating, air conditioning and other services used in conjunction with the Games, practices, and other use of the Coliseum by Licensee, and the set up and removal related thereto;
 3. Cleaning and janitorial service during and after Games, practices, and other uses of the Coliseum by the Licensee. Provided however, Licensor shall monthly clean the home team locker room area but Licensee shall otherwise keep the home team locker room and area in a clean, neat and tidy condition on a day to day basis.
 4. All necessary support services including, but not limited to, all ancillary staff necessary to hold the Games and practices at the Coliseum, including game staff (one spotlight operator, ushers, doormen, ticket sellers and takers, one sound technician, one ribbon board operator, one scoreboard supervisor) security guards, change over and set up crew, heating and air conditioning superintendent, and one telephone operator for the day or evening of each Game;
- B. Licensor shall provide the following "Licensee Exclusive Use Areas": Licensee locker rooms, showers, toilets, coach's office, trainer's room, equipment room, visiting team locker rooms, showers and toilets. Licensee shall have the exclusive right to use and occupy the Licensee Exclusive Use Areas on any day in which Licensee is hosting a Home Game or practice.
- C. In addition to providing the Licensee's Executive Use Area Licensee shall be provided with an office for the head coach and administrative office space sufficient for six (6) employees in the Box Office area of the Coliseum. Subject to the Licensee's approval, Licensee shall be responsible for any costs associated

with the Licensee's request for upgrades to the office space. The space located at the Coliseum is being provided by the Licensor at no charge to the Licensee except for addition communication lines that may be requested by the Licensee.

- D. Licensor shall make available to Licensee during each Hockey Season on the day of each Home Game thirty (30) parking spaces in the Hermes Equipment Lot for the Licensee's players, on-field and off-field officials and related personnel.
- E. Licensor shall provide for each Home Game a Zamboni Machine and machine operator.
- F. Licensor shall provide goal nets, rink glass, dasher boards, benches, and netting.
- G. Licensor shall work in good faith to store team equipment throughout the Term of this Agreement, however, Operator will be allowed to use the ice surface at its discretion on a year-round basis for other Coliseum events and City parks and recreation programs.
- H. Upon request of Licensee, Licensor may provided from time to time as a reimbursable expense additional equipment including sound and video equipment, sound and video personnel, food and beverage catering, additional personnel and services, additional production crew, use of suites or club seat or concession area, off schedule ice changeovers and other services. All shall be at the standard rental/labor/staff rates to be determined in Licensor's sole discretion and paid by Licensee as a reimbursable expense.

6. MARKETING AND PROMOTION.

- A. Licensee at its expense shall provide all necessary personnel and shall use its best efforts supported by an adequate staff to market, promote, and sell individual game, season and group tickets for the Home Games, but excluding club seats and suites. Licensee shall provide to Licensor by August 1st of each year of the Term a written marketing plan for the upcoming season.
- B. Advertising
 - 1. All advertisements for the Games shall be developed by Licensee (including, but not limited to, all Hockey and On-Ice Advertising, publicity material, promotions material, press releases, posters, flyers and handbills) and shall be produced at the sole cost and expense of Licensee.
 - 2. Without the prior written approval of Licensor, which approval may be withheld in Licensor's sole discretion, Licensee shall not permit any commercial banner, signage, advertisement or promotional announcement to be posted or made within the Coliseum or adjacent grounds. Licensee shall not permit or contract

for any advertising with or on behalf of any competitor of the United States Cellular Corporation, Pepsi or Coliseum exclusive partners.

3. Licensee shall make mention of the name "U.S. Cellular Coliseum" as the site of the Games in connection with all advertising or promotion thereof. All promotional materials shall contain the standard "U.S. Cellular Coliseum" logo positioned full width across the bottom. However, Licensee must submit to Licensor for review and approval all such uses of the U.S. Cellular Coliseum name prior to dissemination of any promotional materials, which approval shall not be unreasonably withheld or delayed.
4. All advertisements promoting the Licensee, the team, or the Games presented pursuant to the provisions of this Agreement (including but not limited to, all Hockey and On-Ice Advertising, publicity material, promotions material, press releases, posters, flyers, handbills and radio and television commercials) shall be submitted by Licensee to Licensor for prior approval before use.

7. BROADCASTING. Licensee shall have the right to broadcast Home Games, whether by radio, television, internet or other media, subject to League rules, all costs of which (including broadcast equipment costs) shall be borne by Licensee.

8. ADVERTISING AND SPONSORSHIPS.

- A. Without the prior written approval of Licensor, which approval may be withheld in Licensor's sole discretion, Licensee shall not permit any commercial banner (interior or exterior), signage, advertisement or promotional announcement to be posted or made within the Coliseum or adjacent grounds. Licensee shall not permit or contract for and sponsorship with or on behalf of any competitor or United States Cellular Corporation, Pepsi, or Coliseum exclusive partners.
- B. Subject to the other provisions of this Section 8, Licensee shall have the right to sell Hockey and On-Ice Advertising for the Games. All revenues generated from the sale by Licensee of such Hockey and On-Ice Advertising shall be retained by Licensee, provided that all such sales shall be subject to the prior written approval of Licensor, with the exception of the U.S. Cellular Coliseum logo to be presented on the ice and on the video board. Licensor hereby retains the right to sell Hockey and On-Ice Advertising for the Home Games, for which Licensor shall receive a commission of ten percent (10%) on gross sales revenues from such sales. All remaining revenues shall be paid to Licensee at the time of settlement in accordance with Section 11 herein.
- C. Licensee shall not sell or receive any sales proceeds from the sale of Coliseum Advertising.
- D. Licensee understands that United States Cellular Corporation ("U.S. Cellular") is the "Official Wireless Provider" of the Coliseum, and hereby agrees that Licensee

shall not sell and Licensor expressly prohibits the sale of any advertising or sponsorship or co-sponsorship to any manufacturer, seller, distributor, or dealer of telecommunications services or telecommunications equipment, other than U.S. Cellular.

- E. Licensee understands that Pepsi-Cola General Bottlers, Inc., d/b/a Pepsi Americas (“Pepsi”) is the “Official Soft Drink” provider of the Coliseum, and hereby agrees that Licensee shall not sell and Licensor expressly prohibits the sale of any advertising or sponsorship or co-sponsorship to any manufacturer, seller, distributor, or dealer of any non-alcoholic beverages, other than Pepsi.
- F. All sponsorships of the Games presented pursuant to the provisions of this Agreement (including but not limited to, all advertising, publicity material, promotions material, press releases, posters, flyers, handbills and radio and television commercials) shall be submitted by Licensee to Licensor for its prior approval before use, which approval shall not be unreasonably withheld.

9. LICENSE FEE; SUITE AND CLUB SUITE TICKETS. In consideration of the License granted herein and Licensor’s agreement to perform its duties as established herein Licensee shall pay Licensor the following (collectively the “License Fee”):

- A. Rental fee of \$6,000 per game, subject to (unless withdrawn by Licensor or Operator on a year to year basis) the “Attendance Incentive Credit” defined in Subparagraph B below (the “Base License Fee”);
- B. Subject to an annual review at the end of each Hockey Season by Licensee and Operator and Operator’s right at the end of the second Hockey Season in the Initial Term to withdraw the Attendance Incentive Credit, Licensor shall reduce or allow as credit against the Base License Fee, as follows:

Number of Fans in Attendance*	Attendance Incentive Credit	Base per Game License Fee
0 — 1,499	\$0	\$6,000.00
1,500 — 1,999	\$500	\$5,500.00
2,000 — 2,499	\$750	\$5,250.00
2,500 — 2,999	\$1,000	\$5,000.00
3,000 — 3,499	\$1,500	\$4,500.00
3,500 — 3,999	\$2,000	\$4,000.00
4,000-4,499	\$3,000	\$3,000.00
4,500-4,999	\$4,000	\$2,000.00
5,000 or over	\$5,500	\$500.00

* As determined by actual turnstile attendance figures but including a maximum of seven hundred complimentary tickets per Home Game to be maintained by Licensor for each Home Game. A complimentary ticket is one for which Licensee received no value or payment.

- C. A parking fee of fifty cents (\$0.50) per ticket sold to each Home Game, except that no Parking Fee shall be due for the first seven hundred (700) tickets per Home Game.
- D. A facility fee of fifty cents (\$0.50) per ticket sold to each Home Game, except that no Facility Fee shall be due for the first seven hundred (700) full, partial and club seat tickets per Home Game;
- E. All suite revenue (suite fee and suite ticket) shall go to Licensor, provided however, Licensor shall pay Licensee the sum of one thousand six hundred sixty-two dollars (\$1,662.00) for each full suite season ticket (total 14 full season tickets per suite) sold and the sum of eight hundred thirty-one dollars (\$831.00) for each half suite season ticket (total 7 half season tickets per suite) sold. Said sum shall be paid pro rata after each game as provided in paragraph 11 C herein.
- F. Licensor shall retain all Coliseum Club seat membership annual dues and a commission of ten percent (10%) for each Coliseum Club season ticket sold by Licensor (ninety percent (90%) to Licensee).
- G. Operator and Licensee may from time to time negotiate and based upon mutual agreement designate up to six (6) Home Games as “special events” with whole or partial waiver of facility fee and/or parking fee.
- H. At each Home Game Licensee shall have the use of two or four Party Suites, that being either two suites with fifty (50) seats or four suites with (25) seats. Licensee shall receive all revenue from the Party Suites. Said sums shall be paid after each game as provided in paragraph 11 C herein.
- I. At each Home Game Licensee shall have the use of the Ice Box Area at the West end of the Coliseum, with maximum capacity of eighteen (18). Licensee shall receive all revenue from the Ice Box Area. Said sums shall be paid after each game as provided in paragraph 11C herein.
- J. Licensor may make available from time to time, in its sole discretion non-leased suites at selected Home Games for Licensee’s use. Such shall be available only if the Party Suites, Ice Box and group areas are sold out. With respect to such non-leased suites Licensor shall receive a minimum of five dollars (\$5.00) per ticket for each suite ticket sold. All such requests shall be made through and coordinated with the Coliseum Director of Premium Seating.

10. MERCHANDISING AND CONCESSIONS.

- A. Concessions. Licensor specifically and exclusively reserves to itself and its concessionaires the right to sell, and all proceeds from the sale of food, refreshments and beverages, parking privileges and all other concessions at the Games and practices (except as otherwise provided for merchandising in

Subsection 10B herein). Licensee shall not sell or distribute, whether or not on a complimentary basis, any food, beverage or other non-Team merchandise concessions and shall have no right to operate a food or beverage concession during the Games, practices, or other Team events. The Gross Concession Revenue from the sales of concessions and catering sales, at each Home Game shall be divided as follows: 90% to Licensor and 10% to Licensee.

- B. Merchandising. With respect to team merchandise concessions, Licensee shall sell such team merchandise, and retain all proceeds from the sale thereof after deduction of applicable taxes and city licenses and inspections charges. Licensee shall provide all labor and staff required by it for all team merchandise concessions. Licensee shall insure against and bear the risk of damage, theft or other losses of such merchandise, whether or not such merchandise is in the possession or control of Licensor at the time of such loss, and shall be responsible for all freight and transportation of such merchandise to and from the Coliseum.
- C. Parking. Licensor shall retain 100% of parking fee revenue.

11. FEE/REIMBURSEMENT SETTLEMENTS.

- A. Licensor shall keep such records as will accurately reflect ticket, concession, and suite revenue for each Game along with records of all reimbursable expenses.
- B. Between September 1 and September 15 preceding each Hockey Season Licensee and Operator shall preliminarily review and account to one another for the reimbursable expenses, club and suite ticket revenue, list and split of shared sponsorships, and commissions for the upcoming Hockey Season (the "Initial Preliminary Settlement").
- C. Within five (5) business days after each Home Game Licensee and Operator shall conduct a preliminary settlement/account for fees, reimbursables, expenses, and commissions due to each party for the Home Game ("Game Settlement"). The Base License Fee (subject to the Attendance Incentive Credit, if applicable), the Parking Fee, the Facility Fee and the Video Production Fee shall be payable to Licensor at the Game Settlement. The pro rata share of Licensee's suite and club seat proceeds shall be paid to Licensee, provided however such sums may be offset by any sums due Licensor by Licensee.
- D. Within 30 days after the last Home Game or the close of the Hockey Season, whichever occurs last, Licensee and Operator shall submit to the other written and itemized final settlements/accounting of fees, reimbursables, expenses, commissions, and any other sums which remain due to the other (the "Final Settlement"). All sums due Licensor shall be paid Licensor within ten (10) days after the Final Settlement.
- E. Licensee shall have no right of set off.

- F. To secure payment of the License Fee, reimbursable expenses, liquidated damages, commissions, and sums due Licensor from Licensee, Licensee hereby grants to Licensor a security interest in all Licensee's property, including without limitation, all equipment, supplies, furniture, fixtures, sales proceeds, accounts, general intangibles, instruments, deposit account, commercial tort claims, investment property, inventory, chattel paper, cash proceeds, deposits, letters of credit rights, and contracts of the Licensee.

12. COLISEUM USE/OCCUPANCY.

- A. Licensor reserves the right and Licensee accepts the right of Licensor to adjust and reschedule the time and date of up to three (3) scheduled Home Games per season. Licensor will exercise its right to reschedule only when, in its sole discretion, the date is needed for a large show or concert. Licensor shall give Licensee at least sixty (60) days notice of any Game date adjustments and substitute best available time and date.
- B. The Operator shall provide practice time to Licensee free of charge with a maximum time of three (3) hours per day and an average of four (4) days per week. Such practice time shall be subject to Coliseum event schedule and availability of the Coliseum ice.

13. TICKET SALES AND BOX OFFICE SERVICES.

- A. During the Term hereof, all admittance into the Coliseum shall be by ticket only. Tickets to the Home Games shall be issued on a reserved seating basis unless otherwise specified in writing by Licensor.
- B. Licensor shall control and be the primary box office for all ticket sales, except group sales. Licensor shall approve in advance Licensee's use of any outside ticket service or outlet for its group ticket sales. Licensor shall not permit tickets or passes in excess of the seating capacity of the Coliseum to be sold or distributed.
- C. Licensee shall control group sales. If Licensee seeks the assistance of Licensor with respect to group sales for the Games, Licensee shall pay Operator a ten percent (10%) commission for all group sales tickets sold by Operator's Group Sales Department, plus approved expenses. Said commission shall be calculated upon the gross ticket price less applicable sales or amusement fees, if any.
- D. Licensor shall have the right to offer tickets at its ticket office and all of its regular outlets or special outlets. Licensor shall cause Ticketmaster to furnish ticketing services for the Home Games, and Licensor shall act as the custodian of all revenue from the sale of tickets sold. Such revenues shall not be released to Licensee until settlement, in accordance with Section 11 herein. Payment of all "inside charges" or similar charges imposed by Ticketmaster upon the event

promoter or venue shall be the sole responsibility of Licensor. Licensee may request that ticket sales privileges be extended to additional outlets, and if approved in writing by Licensor, Licensee shall assume all responsibility for collection of funds from such outlets and shall be liable to Licensor for all fees of tickets cosigned or sold through such outlets.

- E. All general admission and full/partial season tickets shall be sold at the prices established by Licensee. Licensee shall notify Licensor in writing by August 1St of each year the general admission and season ticket prices to be charged for the upcoming season. Licensor shall establish prices for facility fees, club seat and suite tickets and licenses.
- F. Licensee shall have the right to review the seat allocation for all reporters, critics, reviewers and other working press personnel which have been made by Licensor.

14. OTHER AGREEMENTS.

- A. Licensee may cancel this Agreement or relocate its Home Games to another facility by paying the following in liquidated damages to Licensor:
 - 1. If written notice before January 1st for season that begins in the current calendar year - \$100,000.00
 - 2. If written notice between January 1st and March 31st for season that begins in the current calendar year - \$150,000.00
 - 3. Any cancellation after March 31 St for the season that begins in the current calendar year - \$228,000.00
 - 4. Provided however, Licensee shall not be responsible for the liquidated damages described in this Section 14 if the Central Hockey League fails, dissolves, ceases to exist, temporarily halts a Hockey Season or no longer has at least ten (10) professional member teams.
- B. Licensee shall provide Licensor and the Central Hockey League, from a bank acceptable to both, an irrevocable Letter of Credit, guaranteeing Licensee's performance and payment of all sums due Licensor under this Agreement and the Central Hockey League under its league agreement. The Letter of Credit shall be in the amount of One Hundred Thousand Dollars (\$100,000.00) with the Licensor and the Central Hockey League as joint beneficiaries; and shall be irrevocable and non-modifiable during the term of this Agreement, including any extensions thereof. The terms of the Letter of Credit shall allow the Licensor to draw on the Letter of Credit for the payment of any sums due Licensor under this Agreement and which remain due after notice of default as described in Sections 18 and 19 herein. The terms of the Letter of Credit shall allow the Central Hockey League to draw on the Letter of Credit according to the league agreement with the Licensee.

Provided however, the Central Hockey League may draw on the Letter of Credit only with the express written consent of the Licensor.

15. COMPLIANCE WITH LAWS.

- A. Licensee shall abide by, conform to and comply with, and shall cause every person under its direction or control who is connected with the performance of any aspect of this Agreement to fully abide by, conform to and comply with all applicable laws, rules, regulations and ordinances of the United States of America, the State of Illinois, the City of Bloomington (including their income, sales, payroll and withholding tax laws), and their respective agencies, as well as all rules and regulations of Licensor for the use, occupancy and operation of the Coliseum, as they may be amended from time to time by Licensor for the safe, orderly, proper and efficient operation of the Coliseum. If Licensee is controlling any sale or distribution of tickets, Licensee will comply with all federal, state and municipal laws, statutes, ordinances or regulations relating to the payment of taxes or charges on tickets, admissions or reservations, and make returns and pay all such taxes or charges immediately when due, provide evidence of its compliance to Licensor upon request, and indemnify Licensor against all liability, claim, loss or payment of any kind by reason of Licensee's failure or omission to comply with any such law or regulation and/or to pay all or any such taxes or charges. Licensee shall advise all exhibitors offering goods for sale that applicable sales tax must be filed designating that such sales were made in the Coliseum.
- B. Licensee shall not use or attempt to use any part of the Coliseum for any use or proposed use which would be contrary to law, common decency or good morals or otherwise improper or detrimental to the reputation of Licensor. Licensor shall have the right, acting in its sole and exclusive reasonable discretion, to determine a breach of this provision by Licensee and to exercise its remedies pursuant to this Agreement, including voiding the Agreement.
- C. Licensee agrees not to discriminate against any employee or any applicant for employment for any reasons prohibited by law, and further agrees not to discriminate against any person relative to admission, services or privileges offered to or enjoyed by the general public for any reason prohibited by law.
- D. Licensee acknowledges that, in the event Licensor believes and requests in writing, in its sole discretion, that any of the athletes or other team staff members that are subject of the Home Games may be "non-resident aliens" (as defined in Section 7701 (b)(1)(B) of the United States Internal Revenue Code ("IRC")), then Licensor shall have the right, notwithstanding any provision of this Agreement to the contrary, to withhold up to thirty percent (30%) of any amounts owed by Licensor to Licensee hereunder, for purposes of remitting such amounts to the United States Treasury in compliance with IRC Section 1441; provided, however, Licensor shall not withhold any amounts in the event either (i) Licensee provides to Licensor prior to the Home Games a written certification, in a form acceptable

to Licensor in its sole discretion, that there are no “non-resident aliens” (as defined under the IRC) performing at the Home Games, and Licensor has no reasonable basis to believe otherwise, or (ii) such athletes or other team staff members have, prior to the Home Games, entered into a Central Withholding Agreement (“CWA”) with the IRS and withholding agent, and Licensor has been provided with a copy of the CWA prior to the Home Games.

- E. In the event that any minor or foreign national is scheduled to appear in a Game which is the subject of this Agreement, Licensee shall, in advance of such Game, obtain all necessary employment certificates and other permits and authorizations as may be required by any governmental authority.
- F. Licensee recognizes that the Home Games are subject to the provisions of Title III of the Americans with Disabilities Act, 42 U.S.C. 12181 - 12189, (the “ADA”). Licensee represents that it has viewed or otherwise apprised itself of the access into the Coliseum, together with the common areas inside, and accepts such access, common areas, and other conditions of the Coliseum as adequate for Licensee’s responsibilities under the ADA. Licensee shall be responsible for ensuring that the Coliseum complies and continues to comply in all respects with the ADA, including accessibility, usability, and configuration, insofar as Licensee modifies, rearranges or sets up in the Coliseum in order to accommodate Licensee’s usage. Licensee shall be responsible for any violations of the ADA that arise from Licensee’s reconfiguration of the seating areas or modification of other portions of the Coliseum in order to accommodate Licensee’s usage. Licensee shall be responsible for providing auxiliary aids and services that are ancillary to its usage and for ensuring that the policies, practices, and procedures it applies in connection with a Home Game are in compliance with the ADA.
- G. Licensee shall not breach any agreements with third parties including its vendors.
- H. Licensee will not violate any League rules, bylaws, regulations, or membership agreements, whether or not the League enforces such violations.

16. INSURANCE.

- A. Licensee shall obtain, at its own cost and expense, Commercial General Liability Insurance in the name of Licensee which shall insure all operations of Licensee contemplated by this Agreement and the contractual assumption of liability reflected by this Agreement, including but not limited to the following: . premises operations, products/completed operations, personal and advertising injury, contractual liability, independent contractors, broad form property damage, and personal injury. Such insurance shall be written with a limit of at least \$1,000,000 per occurrence/\$1,000,000 aggregate and an Excess Umbrella Policy with limits of \$5,000,000 that follows form with the primary coverage, for bodily injury and property damage liability, personal injury liability and coverage for all acts and/or omissions of any employees, agents, players, performers, contractors or sub-

contractors retained by Licensee. Such insurance shall be endorsed to be primary to and not contributory with any coverage of Operator or the City of Bloomington, which may be applicable to the claim. Licensee shall also cause the required policy of insurance to be endorsed to include Operator, the City, and their officers, directors, agents and employees as additional insureds with respect to the operations and obligations contemplated by this Agreement.

- B. Licensee shall also maintain, at its own cost and expense, Workers' Compensation Insurance pursuant to the requirements of Illinois law, covering its players, performers, other employees, and any contractors or subcontractors of Licensee who do not provide certificates of insurance evidencing workers' compensation coverage of their employees, whose services are contemplated by this Agreement.
- D. Licensee shall also maintain, at its own cost and expense, Automobile Liability Insurance with a combined single limit of \$1,000,000 if utilizing automobiles, vans, trucks, or other motor vehicles in or around the Coliseum.
- E. All insurance policies maintained by Licensee pursuant to this Agreement shall be written with companies licensed to conduct business in the State of Illinois and having at least an A rating in the most recent A.M. Best's Manual.
- F. CERTIFICATES OR BINDERS EVIDENCING INSURANCE REQUIRED PURSUANT TO THIS PARAGRAPH SHALL BE PROVIDED TO LICENSOR NOT LESS THAN THREE (3) DAYS PRIOR TO LICENSEE COMMENCING ANY OPERATIONS OR ACTIVITIES PURSUANT TO THIS AGREEMENT. The policies shall also provide, and the certificates shall so note, that the coverages may not be canceled or that a major change in coverage may not be implemented without at least thirty (30) days' prior written notice given to Licensor. If the Licensor initially provides binders, it shall provide certificates evidencing the required coverage within thirty (30) days thereafter.
- G. LICENSOR SHALL HAVE THE ABSOLUTE RIGHT TO TERMINATE THIS AGREEMENT UPON WRITTEN NOTICE TO LICENSEE IF LICENSEE DOES NOT DELIVER TO LICENSOR THE CERTIFICATE OR CERTIFICATES OF INSURANCE REQUIRED HEREUNDER. IN THE EVENT OF SUCH TERMINATION BY LICENSOR, THERE SHALL BE NO FURTHER LIABILITY OF ANY KIND OR NATURE WHATSOEVER BY LICENSOR TO LICENSEE, AND LICENSOR SHALL RETAIN THE RIGHT TO PROCEED WITH A LEGAL ACTION AGAINST LICENSEE TO RECOVER ANY AND ALL DAMAGES AND/OR LOSS OF PROFITS SUSTAINED BY LICENSOR BY REASON OF LICENSEE'S DEFAULT HEREUNDER INCLUDING THE LIQUIDATED DAMAGES PROVIDED FOR IN ARTICLE 13.

- H. In the event that Licensee fails to procure and present the aforesaid insurance, Licensor shall have the right, but not the obligation, to do so on Licensee's behalf and at Licensee's expense and shall be entitled to reimbursement for the costs thereof as part of the License Fee due and payable hereunder.

17. INDEMNITY.

- A. Licensee hereby agrees to indemnify, defend, save and hold harmless Operator, the City of Bloomington, and their aldermen, trustees, directors, officers, employees, representatives, and agents, and any of Operator's successors or assigns, from and against any and all claims, suits, actions, losses, injuries, damages, liabilities, costs and expenses, including, without limitation, reasonable attorney's fees and expenses and costs of investigation (whether or not litigation occurs) incurred in connection therewith, occasioned with, arising or alleged to arise from, wholly or in part, (i) any breach of this Agreement by Licensee, or (ii) the exercise by Licensee of the privileges herein granted or the provision by Operator of materials, equipment or services in connection therewith or (iii) the negligent acts or omissions, or violation of any applicable law, rule, regulation or order, of or by Licensee or any of its agents, owners, officers, directors, members, managers, representatives, contractors, exhibitors, employees, servants, players, guests, or invitees, participants or athletes appearing in the Games (including support personnel in connection with the presentation of the Games), persons assisting Licensee (whether on a paid or voluntary basis) or any person admitted to the Coliseum by Licensee, during the Term or any other time while the Coliseum (or any part thereof) is used by or are under the control of Licensee, excepting that Licensee's obligation to indemnify, defend, save and hold harmless Operator shall not extend to any claims for damages or expenses which arise from Operator's gross negligence or willful misconduct. The provisions of this paragraph shall survive any expiration or termination of this Agreement.
- B. Licensor, Operator and the City of Bloomington hereby agrees to indemnify, defend, save and hold harmless Licensee and any of Licensee's successors or assigns, from and against any and all claims, suits, actions, losses, injuries, damages, liability, costs and expenses, including, without limitation, reasonable attorney's fees and expenses and cost of investigation (whether or not litigation occurs) incurred in connection therewith, occasioned with, arising or alleged to arise from, wholly or in part, (i) any breach of this Agreement by Licensor, Operator, or the City of Bloomington or (ii) the negligent acts or omissions, or violation of any applicable law, rule, regulation or order, of or by Licensor, Operator or City of Bloomington or any of its agents, owners, officers, directors, members, manages, representatives, contractors, exhibitors, employees, servants, guests, or invitees, or any personnel provided in connection with the presentation of the games, persons assisting Licensor, Operator or City of Bloomington (whether on a paid or voluntary basis) or any person admitted to the Coliseum by Licensor, Operator or City of Bloomington during the Term or any other time while the Coliseum (or any part thereof) is uses by or are under the control of

Licensor or Operator, excepting that the Licensor's or Operator's obligation to indemnify, defend, save and hold harmless Licensee shall not extend to any claims for damages or expenses which arise from Licensee's gross negligence or willful misconduct. The provisions of this paragraph survive any expiration or termination of this Agreement.

I. DEFAULT. A party shall be in default under this Agreement if:

- A. Such party shall default in the performance or fulfillment of any covenant, term, requirement or condition contained herein on its part to be performed or fulfilled and such party shall fail to cure such default within twenty (20) days for any monetary default or thirty (30) days for any non-monetary default, after such party has been served with written notice of such default or thereafter without the written consent of the Operator, fails to diligently prosecute such cure of a non-monetary default within a reasonable time;
- B. Failure to pay the License Fee, reimbursable expenses or liquidated damages or any part thereof when due shall be a monetary default;
- C. Such party makes a general assignment for the benefit of creditors, takes the benefit of any insolvency act or files a voluntary petition in bankruptcy;
- D. An involuntary petition in bankruptcy is filed against such party or a receiver or trustee is appointed for such party's property and such filing or appointment is not dismissed within ten (10) days;
- E. Licensee fails to maintain its Membership during the Term.
- F. Licensee fails to perform any term, condition or obligation of it under this Agreement.
- G. Licensor or Operator fails to perform any term, condition or obligation of it under this Agreement.

J. REMEDIES ON DEFAULT.

- A. In the event of a default under this Agreement, the non-defaulting party shall notify the defaulting party in writing of such default and the defaulting party shall be liable for all reasonable losses and damages incurred as a result of the default including incidental and consequential damages and lost profits, or the liquidated damages specified in Section 14 herein, if applicable. If the defaulting party shall not cure said default within twenty (20) days of written notice for a monetary breach and thirty (30) days of written notice for a non-monetary breach, the non-defaulting party, at its option, shall have the non-exclusive right to (i) cancel this Agreement without further notice thereof to Licensee, (ii) sue Licensee for legal or equitable relief, and/or (iii) pursue any other remedy allowed hereunder or

under applicable law; provided, however, in the event the Licensor may suffer irreparable harm as a result of the Licensee's breach, then Licensor shall not be required to give written notice to Licensee, or to wait any period of time before pursuing any remedies hereunder or under applicable law.

- B. In addition to the remedies provided elsewhere herein, in the event of a default or breach by Licensee, Licensor shall recover from Licensee its costs of collection and litigation, including reasonable attorney's fees and expenses and costs of investigation (whether or not litigation occurs). Similarly, in addition to the remedies provided elsewhere herein, in the event of a default or breach by Licensor, Licensee shall recover from Licensor its costs of collection and litigation, including reasonable attorney's fees and expenses and costs of investigation (whether or not litigation occurs).
- C. Any default or breach by Licensee under this Agreement consisting of a failure to make payment when due shall incur interest at the rate of one percent (1%) per month from the date payment was due and until paid, compounded monthly.

K. LOSS OF USE OF COLISEUM AND FORCE MAJEURE.

- A. In the event any Coliseum building structure or improvement is damaged by fire, earthquake, acts of God, the elements or other casualty covered by the insurance maintained by Licensor, and if such damage is covered by such insurance and the insurance proceeds are adequate to repair, replace and restore such damage, and such insurance proceeds are made available to Licensor for such repair, replacement or restoration, Licensor shall be obligated to repair, replace and restore the damage in a good and workmanlike manner in accordance with all applicable laws, rules and regulations if such restoration would be practical considering the then remaining balance of the Term. In the event Licensor shall fail to restore the damage so that the Coliseum shall be suitable for playing Hockey Games within nine (9) months after commencement of such restoration work, other than by reason of Force Majeure, Licensee may terminate this License by giving written notice to that effect to Licensor before such restoration is completed within thirty (30) days after said nine (9) month period. In the event Licensee terminates this Agreement under the aforesaid provisions, Licensee shall be relieved of all obligations arising or required to be performed by Licensee on and after the date of the damage. All sums to be credited to Licensee shall be paid and the Term shall be deemed to have ended as of the date of the damage. If this Agreement is not terminated, all the rents and other sums otherwise payable for the period of non-use by Licensor or Licensee to the other shall abate during the period of non-use by Licensee, and Licensee shall have the right during such period of non-use to play its games elsewhere either within or outside of the City of Bloomington, Illinois.
- B. In the event any Coliseum building, structure or improvement is damaged by the casualties referred to in above, and the proceeds of insurance maintained by the

Licensor are inadequate to pay the restoration costs, Licensor shall deliver to Licensee written notice, within eight (8) months after such damage, indicating whether Licensor proposes to make the required repairs, replacements and restorations, at Licensor's expense. If the notice delivered by Licensor to Licensee indicates that Licensor does not propose to make the repair, replacement or restoration, or if the Licensor fails to deliver to Licensee any notice of intent hereunder, or if Licensor shall fail to restore the damage so that the Coliseum shall be suitable for playing Hockey Games within nine (9) months after commencement of such restoration work, other than by reason of Force Majeure, Licensee may terminate this Agreement by giving written notice to Licensor to that effect prior to completion of such restoration within thirty (30) days after either receiving notice of Licensor's intent no to restore, or the expiration of said eight (8) month period without having received any notice from Licensor, or after such nine (9) month period as the case may be. In the event of such termination, Licensee shall be relieved of all obligations arising or required to be performed by Licensee after the date of the occurrence of the damage and this Agreement shall be deemed to have ended as of the date of such damage; provided, however, that Licensor and Licensee, as the case may be, shall pay forthwith to the other any amounts outstanding which arose before the date or occurrence of the damage under this Agreement.

- C. If any event occurs whereby Licensor's performance hereunder is materially hampered, whether before or during the Term, as a result (wholly or in part) of any cause not entirely within Licensor's control and which it could not by reasonable diligence have avoided, such as destruction or damage to the Coliseum or unfitness of the Coliseum for occupancy as a result of fire or other Act of God, riot, labor strike, work stoppage, refusal to work, lock-out, slow-down, picketing, boycott, or any other concerted activities, whether engaged in by employees or non-employees of Licensor, national or local emergency, terrorist act, calamity or other cause not entirely within Licensor's control (each a "Licensor Force Majeure"), Licensor's performance under this Agreement shall be suspended for the period of the Licensor Force Majeure, and Licensor shall return to Licensee any advance payment made by Licensor for the affected period without any further liability or obligation on the part of Licensor which arises out of such suspension.
- D. If any event occurs whereby Licensee's performance hereunder is materially hampered, whether before or during the Term, as a result (wholly or in part) of any cause not entirely within Licensee's control and which it could not by reasonable diligence have avoided (each a "Licensee Force Majeure"), then, without limiting Licensor's rights as a result of the occurrence of the Licensee Force Majeure, Licensor shall have the option, without liability, to suspend the engagement for the Home Game for the duration of such Licensee Force Majeure, by giving Licensee written notice thereof

- E. Upon removal or cessation of the Licensor Force Majeure or Licensee Force Majeure, as applicable, the parties' respective rights and obligations hereunder shall be reinstated for any and all subsequent sessions of the Home Game remaining in the Term.

L. MISCELLANEOUS.

- A. This Agreement shall be subordinate to the Management Agreement.
- B. The parties recognize the City of Bloomington as a party or a third-party beneficiary of this Agreement.
- C. The Licensor reserves and shall always have the right at all times to enter the Coliseum Premises (including, without limitation thereto, any Licensee Exclusive Use Areas) at reasonable times and upon reasonable prior notice to Licensee (except that no notice shall be required in the event of emergency condition) for the purpose of viewing and ascertaining the condition of the same, or to protect its interest in the Coliseum and the Coliseum Premises or to inspect the operations conducted thereon. In the event that such entry or inspection by the Licensor discloses that the Coliseum Premises are not in a safe or satisfactory condition and, if the maintenance of such area is Licensee's responsibility under this Agreement, the Licensor shall have the right to cause Licensee to correct (at Licensee's cost) any unsafe or unsatisfactory condition created by the Licensee or by the Licensee's occupancy of the Coliseum Premises or by any other team playing in any Home Game with the Licensee in the Coliseum. Licensee shall have the right to inspect the Coliseum Premises at reasonable times and from time to time (and on an emergency basis, where appropriate) and to cause Licensor to correct any unsafe condition if such unsafe condition is such unsafe condition is the responsibility of Licensor to correct.
- D. This Agreement reflects the entire agreement between the parties respecting the subject matter hereof and supersedes any and all prior agreements, Letters of Intent, understandings or commitments, written or oral, between the parties hereto. This Agreement may only be modified or amended by a subsequent written agreement signed by both parties hereto. No changes, alterations, additions or deletions to the printed contents of this Agreement shall be effective without the signature or initials of each party to the Agreement at the location of each change, alteration, addition, or deletion.
- E. Notices by Licensor and Licensee to each other shall be deemed duly given if (i) delivered personally with a signed receipt evidencing such deliver, (ii) transmitted by telecopier with confirmation of transmission, (iii) mailed by certified mail, return receipt requested, postage prepaid, or (iv) delivered by duly recognized air courier service to the following addresses:

Licensee: Hockey Sensations, L.L.C.
C/O Gary DelBuono
5 Nash Street
Westborough, MA 01581

City: City of Bloomington
Attn: City Manager
109 East Olive Street
Bloomington, IL 61701

Operator: Central Illinois Arena Management, Inc.
Attn: John Butler
101 S. Madison
Bloomington, IL 61701

With a Copy to: Mr. William A. Mueller, Jr.
Mueller & Reece, LLC
202 N. Center St, Ste 1
Bloomington, IL 61701

Any notice or notices given by (i) hand delivery shall be delivered upon receipt, (ii) overnight express mail service shall be deemed delivered one business day after being sent, and (iii) U.S. Mail shall be deemed delivered three (3) days after mailing.

- F. Licensee shall not transfer or assign any of its rights or obligation under this Agreement nor shall there be any Change in Ownership of Licensee without the advance written consent of City and Operator.
- G. This Agreement is entered into in the State of Illinois, County of McLean, and, in the event of any controversy or litigation whatsoever, shall be subject to the sole venue and jurisdiction in the Circuit Court of the Eleventh Judicial Circuit, McLean County, Illinois and governed by and construed in accordance with the laws of the State of Illinois, without regard to its principles of conflicts of laws.
- H. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall constitute one and the same instrument.
- I. Licensor shall have the right to eject from the Coliseum, without any liability therefore to Licensee, persons engaging in objectionable behavior, even if they are paying ticket holders or other invitees of Licensee and/or Licensor.
- J. Licensee shall look solely to Licensor for performance and for payment and satisfaction of any obligation or claim arising out of or in connection with this Agreement, and Licensee hereby covenants that it shall not assert any claim against or look to the United States Cellular Corporation or Pepsi or any of their

officers, directors, employees, or representatives for satisfaction of any such obligation or claim.

- K. The relationship between Licensor and Licensee is that of independent contractors and not agents or employees. Under no circumstances shall this license be considered a contract of partnership or joint venture. Neither party shall be liable for any of the debts, accounts, obligations or other liabilities of the other party, its agents or employees, and neither party shall have any authority to obligate or bind the other party in any manner except as may be expressly provided herein.
- L. Licensor shall not be liable in any way for any acts and/or omissions of any third party, including, without limitation, any ticket agency used by Licensor in connection with the sale of tickets for any Home Game.
- M. No waiver shall be effective unless in writing and executed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver in respect of any subsequent breach or default, whether similar or dissimilar in nature, unless expressly so stated in writing.
- N. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- O. No provision of this Agreement shall be construed against or interpreted to the disadvantage of a party by any court, arbitrator, mediator or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision. If any words or phrases in the Agreement shall have been stricken or otherwise eliminated, whether or not any words or phrases have been added, this Agreement shall be construed as if the words so stricken or eliminated were never included in the Agreement and no implication or reference shall be drawn from the fact that said words or phrases were so stricken or eliminated. No term or condition of this Agreement shall amend, alter or modify any term or condition of the Development and Management Agreement dated October 5, 2005.
- P. Notwithstanding anything to the contrary in this Agreement or otherwise, any improvement, maintenance, repair, replacement, equipment or other thing resulting from or by reason of any Future League Requirements shall be at the sole cost and expense of Licensee, even though Licensor might otherwise be obligated therefore under the provisions of this Agreement. Such cost shall be advanced by Licensee to Licensor prior to Licensor performing any such maintenance, repair or, replacement or providing any such equipment.
- Q. The undersigned manager/member of Licensee represents and warrants to Licensor that it has the full right, power and authority to execute and enter into

and perform this Agreement and that all formalities and consents required under its Operating Agreement have been performed and received.

IN WITNESS WHEREOF, intended to be legally bound, this Agreement is executed as a sealed instrument by Licensor, Operator and Licensee, and the parties have caused this Agreement to be executed as of the day and year first above written.

HOCKEY SENSATIONS, L.L.C.

CITY OF BLOOMINGTON

By: Gary DelBuono
Its: Member

By: Stephen F. Stockton
Its: Mayor

CENTRAL ILLINOIS ARENA
MANAGEMENT, INC.

By: John Y. Butler
Its: President

Mayor Stockton introduced this item. He noted that this item was discussed at the Works Session held earlier this evening.

David Hales, City Manager, addressed the Council. He explained that this was a three (3) party agreement between the City, Central Illinois Arena Management (CIAM) and Hockey Sensations, LLC. CIAM began management of the US Cellular Coliseum five (5) years ago. Costs of operation had dropped. Management was stronger and more successful. John Butler, CIAM'S, President had stated previously that anchor tenants were critical. Twenty percent (20%) of revenue comes from having a professional hockey and indoor football team. The City was fortunate to previously have Prairie Thunder, a double A professional hockey team. Prairie Thunder did not exercise their option to renew the hockey license agreement. CIAM was responsible for providing a professional hockey team to play in the Coliseum. Working with Central Hockey League (CHL) they made contact with Hockey Sensations, LLC. Hockey Sensations' were looking for an opportunity to operate a minor league professional hockey team. It was critical that new ownership be operational to meet deadlines of the upcoming season. A CHL owners' meeting was scheduled for June 10, 2011. Schedules would be set at that time. This would be a two (2) year agreement with an option for a one (1) year extension. A letter of credit was added to the agreement. The new owners would be required to be members of the CHL. He cited attendance incentives within the agreement. Marketing of the team would assist with the teams' financial stability and success. He recognized John Butler, CIAM'S President, Barb Rogers, CIAM'S General Manager, their William Mueller attorney, and Rick Kozuback, Global Entertainment Corp, President and CEO. Gary DelBuono and Sandra Hunnewell, Hockey Sensations, LLC, were unable to attend tonight's meeting due to a previous engagement. The new ownership brings financial resources to the hockey

team. A public announcement of the team name, general manager, and coach would be provided at a later date.

Mayor Stockton stated his belief that hockey revenue was needed at the Coliseum. There would not have been a current operating profit had it not been for hockey. Prairie Thunder had assisted with those gains. He hated to see the name go away. This agreement moved the hockey team into a solid league with seventeen (17) teams throughout a wider area. Many things have been learned about the economics of hockey and how to protect the City. In the Work Session it was stated that there was an outstanding debt owed to the City by Prairie Thunder hockey for use of the Pepsi Ice Center. The greatest risk is at some point the City would not have a hockey team. The new owners had looked for three (3) years in twenty (20) different cities.

Mr. Hales stated the projection for Fiscal Year 2010 – 2011 had the Coliseum with an operating profit. This was due to CIAM reducing operating costs. He reminded Council that this was a very competitive and tough industry to turn a profit. He believed they had been more aggressive in marketing events and concerts. He reminded Council that all of this was done as the country faced a recession. Mr. Kozuback had mentioned that there were more arena's then hockey teams. The risk could be the reversal of what CIAM had built without a professional hockey team. The new owners planned to increase staff to be more aggressive in marketing and increasing attendance. He anticipated an increase in the net operating profit. Mr. Hales and Mr. Kozuback had stated their belief that the Coliseum was one of the finest in the CHL. Hockey Sensations' goal was to have a winning team, champions in professional hockey team. They have made a long term commitment the City and to the CHL.

Alderman Fazzini stated his belief of the possible risks 1.) the new owners would not reside in the City and 2.) Hockey Sensations' finances. The financial information had been reviewed. Mr. Kozuback had researched the financial information just as a bank when making a loan. He believed the new owners were financially qualified. He stated his appreciation for the research conducted. The CHL had been in existence since 1995. The CHL had a track record of identifying, investigating and choosing good owners. Each partner had one (1) son interested in hockey, playing on a hockey team or becoming hockey owners. He believed that in the future the next generation would be hands on. He believed the risks he stated were minimal.

Mayor Stockton believed that there were always risks. It was better then not having a hockey team.

Motion by Alderman Fazzini, seconded by Alderman McDade that the Hockey License Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids for Gaelic Park Construction

RECOMMENDATION: That staff be authorized to negotiate with Stark Excavating, Inc., the lowest responsible bidder, for construction of Gaelic Park to value engineer the project to bring it in under budget.

BACKGROUND: Since 1999, when the Gaelic Place Subdivision was annexed into the City, Gaelic Park, an 11.5 acre park, has been in planning stages. Per City Code, approximately 1.75 acres of land was donated by the developer and the City purchased an additional 3.1 acres for a future City park. In 2004, an additional subdivision, Gaelic Place West was annexed and the developer donated 2.8 acres and the City purchased an additional 4 acres to create a neighborhood park.

On March 12, 2007, Council approved applying for a \$400,000 Open Space Land Acquisition and Development (OSLAD) Grant from the Illinois Department of Natural Resources (IDNR). The City was subsequently awarded this reimbursable grant with an original expiration date of December 31, 2010. The City later successfully applied for a two (2) year extension creating a new expiration date of December 31, 2012

On January 25, 2010, Council approved hiring Planning Resources, Inc. (PRI) to finalize the design plans, and prepare the construction and bidding documents for the completion of Gaelic Park. As a result of many public meetings, the plans have been finalized.

On May 17, 2011 at 11:00 a.m., bids were publicly opened and read for the construction of Gaelic Park. Seven (7) firms obtained bid documents and two (2) bids were received.

The bids received were as follows:

FIRM	LOCATION	BID PRICE
Stark Excavating, Inc.	Bloomington, IL	\$1,065,627.50*
Rowe Construction	Bloomington, IL	\$1,141,865.09

*Low and recommended bid

We respectfully request that the Council allow staff to meet and negotiate with the low bidder, Stark Excavating, Inc., in order to make changes to the project to bring the price in under the

\$1,000,000 that is approved in the FY 2012 budget. Staff will negotiate with Stark and return to Council on June 13, 2011 to request contract approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the bid was placed in The Pantagraph on April 27, 2011 and two (2) bids were received on May 17, 2011. The City Purchasing Agent, IDNR and Gaelic Park neighbors

FINANCIAL IMPACT: \$1,000,000 is available in the FY 2012 budget, account X40100-70520. After the project reaches substantial completion, the \$400,000 grant will be received bringing the net budgeted cost of the project to \$600,000.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

John R. Kennedy, Director
Parks, Recreation & Cultural Arts

Timothy L. Ervin
Director of Finance

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

Mayor Stockton introduced this item. Construction of Gaelic Park would fulfill a twelve (12) year promise to the neighborhood.

John Kennedy, Director Parks, Recreation & Cultural Arts, addressed the Council. Two (2) bids had been received. Both were in excess of budget. Stark Excavating the lowest bidder was \$6,500 over budget. According to the purchasing policy any discussion with potential vendors can only be completed after approval from Council. Value engineering the project could bring it under the \$1 million budget. The savings ideas would not impact maintenance, integrity of the project or the original plan or designs.

Mayor Stockton questioned the impact on the state grant. Mr. Kennedy stated there would be none.

Alderman Schmidt questioned change orders. David Hales, City Manager, addressed the Council. He stated that negotiations would work to obtain a contract amount below \$1 million. That would allow a contingency factor.

Alderman Sage stated he would vote no on this item. He cited his concerns: 1.) Enterprise Funds appear to be in debt, and 2.) question of priorities. Mike Ireland, Township Assessor, had stated that the Equalized Access Value of homes would at best be flat. The City might have to consider raising property taxes.

Alderman Purcell stated his belief that change orders arise from not enough time spent on architectural/engineering work. The more thorough work in the beginning meant no change orders would be required. Mr. Kennedy responded that the challenge was four (4) different firms were involved. Caution needed to be given. Alderman Purcell stated in the future he would view change orders as a result of not planning.

Alderman Fazzini stated he would be comfortable with an amount plus or minus \$50,000 below the \$1 million.

Alderman Fruin stated his appreciation to the many firms involved in the project.

Alderman Stearns stated she would vote no on this item. She cited concern with the prioritization of parks instead of infrastructure. She also anticipated a tax increase to keep up with pensions and other financial obligations.

Alderman Anderson stated he had previously voted yes to assist with the passing of the budget ordinance but would vote no tonight.

Motion by Alderman Fruin, seconded by Alderman Fazzini that staff be authorized to negotiate with Stark Excavating, Inc. the lowest responsible bidder, for construction of Gaelic Park to value engineer the project to bring it in under budget.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Mwilambwe, Schmidt, McDade, Fazzini and Fruin.

Nays: Aldermen Stearns, Anderson, Sage and Purcell.

Motion carried.

MAYOR'S DISCUSSION: Mayor Stockton stated that there were a number of projects on tonight's agenda which required a lot of research, negotiations, and some required years of discussion. He stated his appreciation to staff and the people involved.

CITY MANAGER'S DISCUSSION: None.

ALDERMEN'S DISCUSSION: Alderman Anderson expressed his appreciation to the Police Department. There was an incident with a solicitor at his home involving his daughter. The response time was three (3) minutes. He expressed his appreciation to George Boyle, Asst. Corporation Counsel, for assisting with a south side garage demolition.

Alderman Sage stated his enjoyment with the Employee Newsletter. He recognized Scott Sprouls, Director of Information Services, fourteen (14) years of employment. He also recognized Alderman Fruin's retirement from State Farm Insurance after thirty-seven (37) years. He believed this was a milestone.

Alderman Stearns questioned tripping hazards on sidewalks. David Hales, City Manager, addressed the Council. He informed them that Jim Karch, Public Works Director, was developing a Sidewalk Master Plan. Complaints were taken as they come in. There was about \$50,000 allocated to make repairs. She requested a timeline.

Alderman Fruin also expressed concern about sidewalks. He specifically cited the northwest corner of Hershey and GE Rd. He believed there were life safety issues for seniors in the area. Future budgets should include repair of existing and/or construction of new sidewalks.

Alderman McDade acknowledged Illinois Wesleyan University intern who attended tonight's meeting. She expressed appreciation to Alderman Sage for attending the Economic Development Council meeting. They were in the process of making modifications to the five (5) year plan. She offered to provide updates. She questioned additional Union contracts in the future. David Hales, City Manager, addressed the Council. He anticipated Local 49, Firefighters contract would appear before the Council soon. The results from the Telecommunicators' mediation would be forth coming. There were other contracts in various phases.

Alderman Purcell commented that a vote was not taken prior to his 2005 and 2009 swearing in ceremony. He believed the swearing in ceremony acknowledged both United States and the Constitution of the State of Illinois. According to the City ordinance term of office commenced on May 1st and the oath should be taken at that time. He cited concerned that all Council members' integrity would be securitized after election. He believed this was a precedent being set. The City's Corporation Counsel had stated that there were no reason to not to seat Alderman Stearns. He was still confused as to why the Council retained outside counsel. He hoped this matter would soon end. Mayor Stockton stated that he anticipated an opinion prior to the next council meeting.

Alderman Fazzini expressed appreciation for the time directors' spent with him. He believed the visits had assisted him greatly.

Alderman Fruin cited current news regarding redistricting of the state and County level. He believed this was an opportunity to be proactive. The City had a long standing ward system. Other communities have at large or hybrid systems. He suggested taking public comment. David Hales, City Manager, addressed the Council. Staff was currently working on clarifying the results of the census precinct by precinct and then by wards. Mayor Stockton questioned if the information would be used to redraw ward lines. Todd Greenburg, Corporation Counsel, responded affirmatively. The City needed to wait for the Board of Elections Commission to draw the precinct boundaries. The precincts were the building blocks of the wards. Wards were required to be contiguous and equal in population.

Motion by Alderman Purcell, seconded by Alderman Anderson, that the meeting be adjourned. Time: 9:08 p.m.

Motion carried.

**Renee Gooderham
Chief Deputy Clerk**