

**CITY OF BLOOMINGTON
COUNCIL MEETING AGENDA
109 E. OLIVE
MONDAY, NOVEMBER 26, 2012, 7:00 P.M.**

- 1. Call to order**
- 2. Pledge of Allegiance to the Flag**
- 3. Remain Standing for a Moment of Silent Prayer**
- 4. Roll Call of Attendance**
- 5. Recognition/Appointments**
 - A. Police Officers Oath of Office: Scott Lake and Bradley Massey**
- 6. “Consent Agenda”**
 - A. Council Proceedings of November 13, 2012, Special Session Minutes of August 27 and November 13, 2012, Executive Session Minutes of August 27 and November 13, 2012, and Work Session Minutes of September 24, 2012. (Recommend that the reading of the minutes of the previous Council Proceedings of November 13, 2012, the Special Session Minutes of August 27 and November 13, 2012, the Executive Session Minutes of August 27 and November 13, 2012, and the Work Session Minutes of September 24, 2012 be dispensed with and the minutes approved as printed.)**
 - B. Bills and Payroll. (Recommend that the Bills and Payroll be allowed and the orders drawn on the Treasurer for the various amounts as funds are available.)**
 - C. Locker Room Restoration for the US Cellular Coliseum. (Recommend that the bid for locker room restoration be awarded to Anderson Building Services, Inc., in the amount of \$32,300, and the Purchasing Agent be authorized to issue a Purchase Order for same.)**

- D. **Purchase of Desktop and Notebook Computers.** (Recommend that the purchase of one hundred thirty (130) Hewlett Packard Pro 6300 Small Form Factor personal computers and fifteen (15) Hewlett Packard Probook 6570b Notebook personal computers, using the formal Western States Contracting Alliance contract for a total of \$88,335 be approved, and the Purchasing Agent be authorized to issue a Purchase Order for same.)
- E. **Analysis of Proposals for Retrofitting Sewer Televising Vehicle S-40.** (Recommend that the proposal for the retrofitting of Sewer Televising Vehicle S-40 be awarded to Coe Equipment, Inc., in the amount of \$83,359, and the Mayor and City Clerk be authorized to execute the necessary documents.)

7. “Regular Agenda”

- A. **Memorandum of Understanding with Miller Park Zoological Society.** (Recommend that approval of the Memorandum of Understanding (MOU) between the Miller Park Zoo and the Miller Park Zoological Society (MPZS) be approved and that the Mayor and City Clerk be authorized to execute the necessary documents.) *(20 minutes)*
- B. **Application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week.** (The Liquor Commission recommends to the City Council that an RAS liquor license for LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., be created, contingent upon compliance with all applicable health and safety codes with the following conditions: 1.) all outstanding food and beverage taxes be paid to the City prior to the Council’s November 26, 2012 meeting; 2.) no alcohol sales permitted after 12:00 a.m. i.e. midnight; and 3.) kitchen shall remain open until 11:00 p.m.) *Request for a Restaurant Liquor License (20 minutes)*
- C. **Ordinance Imposing a Moratorium until April 30, 2013 on the Creation of Licenses to sell Alcoholic Liquor for Consumption on the Premises within the Central Business District.** (Recommend that the ordinance be passed.) *(20 minutes)*

8. City Manager’s Discussion

9. Mayor’s Discussion

10. City Aldermen’s Discussion

11. Adjournment

12. Notes

FOR COUNCIL: November 26, 2012

SUBJECT: Council Proceedings of November 13, 2012, Special Session Minutes of August 27 and November 13, 2012, Executive Session Minutes of August 27 and November 13, 2012, and Work Session Minutes of September 24, 2012

RECOMMENDATION/MOTION: That the reading of the minutes of the previous Council Proceedings of November 13, 2012, the Special Session Minutes of August 27 and November 13, 2012, the Executive Session Minutes of August 27 and November 13, 2012, and the Work Session Minutes of September 24, 2012 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of November 13, 2012, the Special Session Minutes of August 27 and November 13, 2012, the Executive Session Minutes of August 27 and November 13, 2012, and the Work Session Minutes of September 24, 2012 have been reviewed and certified as correct and complete by the City Clerk.

In compliance with the Open Meetings Act, Council Proceedings must be approved within thirty (30) days after the meeting or at the Council’s second subsequent regular meeting whichever is later.

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: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

FOR COUNCIL: November 26, 2012

SUBJECT: Bills and Payroll

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

BACKGROUND: The list of bills and payrolls will be posted on the City’s website on Thursday, November 22, 2012 by posting via the City’s web site.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Total disbursements information will be provided via addendum.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Patti-Lynn Silva
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK’S OFFICE)

Attachment: Attachment 1. Bills and Payroll on file in the Clerk’s office. Also available at www.cityblm.org

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

FOR COUNCIL: November 26, 2012

SUBJECT: Locker Room Restoration for the US Cellular Coliseum

RECOMMENDATION/MOTION: That the bid for locker room restoration be awarded to Anderson Building Services, Inc. in the amount of \$32,300, and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: Over the last couple of years, CIAM discovered the need for additional locker room space. With the addition of Professional Basketball and Junior Hockey to an already established Professional Hockey and Indoor Football, another locker room is needed to give more space to our sports teams. The Pepsi Ice Center utilizes the available ice time in the US Cellular Coliseum, totally approximately 60 - 90 plus hours a month, in which locker room facilities are required to utilize for their teams and participants. An average weekend day consists of sports teams overlapping in locker rooms without a minute to spare in between for a 12 hour period or more. In some circumstances, there are currently 25 hockey players crammed into one locker room space that would usually hold 15 people comfortably to dress. Each week, it is imperative to have an hourly locker room schedule for each locker room space making sure to accommodate everyone's needs, and there is no room for error. This proves to very difficult when games run long due to overtime, injuries arise, etc.

In addition to sporting events, all locker rooms (besides the one main home team locker room) become backstage dressing rooms, green rooms, and production office space for touring shows. The high caliber tours that we have been fortunate to play in our facility are accustomed to having more space backstage then we can currently provide. The additional locker room space would be utilized by touring shows to make their experiences more enjoyable in our facility and allure them to return for a future show.

What the project involves is removing full length mirrors, installing wire shelving and painting the room. We will also be installing a door frame to enter the shower and rest room area of the existing home team locker room, by doing this some plumbing will need to be removed to create the opening. We will be installing a double door at the end of the dressing room hallway to secure that area for teams as well as our shows. We will be installing garage type flooring in the hallway and shower area to help maintain the cleanliness of that area.

The City's Purchasing Agent released Bids on September 21, 2012 with a deadline of October 12, 2012. Because of questions on the project and Addendum questions answered the deadline was pushed back to October 23, 2012. If the purchase is approved, CIAM anticipates the project to be completed by January of 2013.

Bids were received in the City Clerk’s Office. Three Bids were received and were opened on October 23, 2012 at 2:00 PM Central Standard Time (CST).

Company	Amount of Bid	Location
Tarter	\$38,800	Bloomington, IL
*Anderson Building Services	\$32,300	Normal IL

**After reviewing the Bids, Staff determined that Anderson Building Services was the lowest and met all of the criteria of the bid specifications. There is a one year manufactures warranty.*

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Advertise in the Pantagraph and City of Bloomington website.

FINANCIAL IMPACT: The FY13 Budget appropriated \$35,000 for the locker room restoration line item 57107110-72520. The low bid submitted \$32,300 was \$2,700 or 7.7% below the appropriation amount.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

John Butler
President of Central Illinois Arena Management

Barbara J. Adkins
Deputy City Manager

Financial review by:

Recommended by:

Patti-Lynn Silva
Finance Director

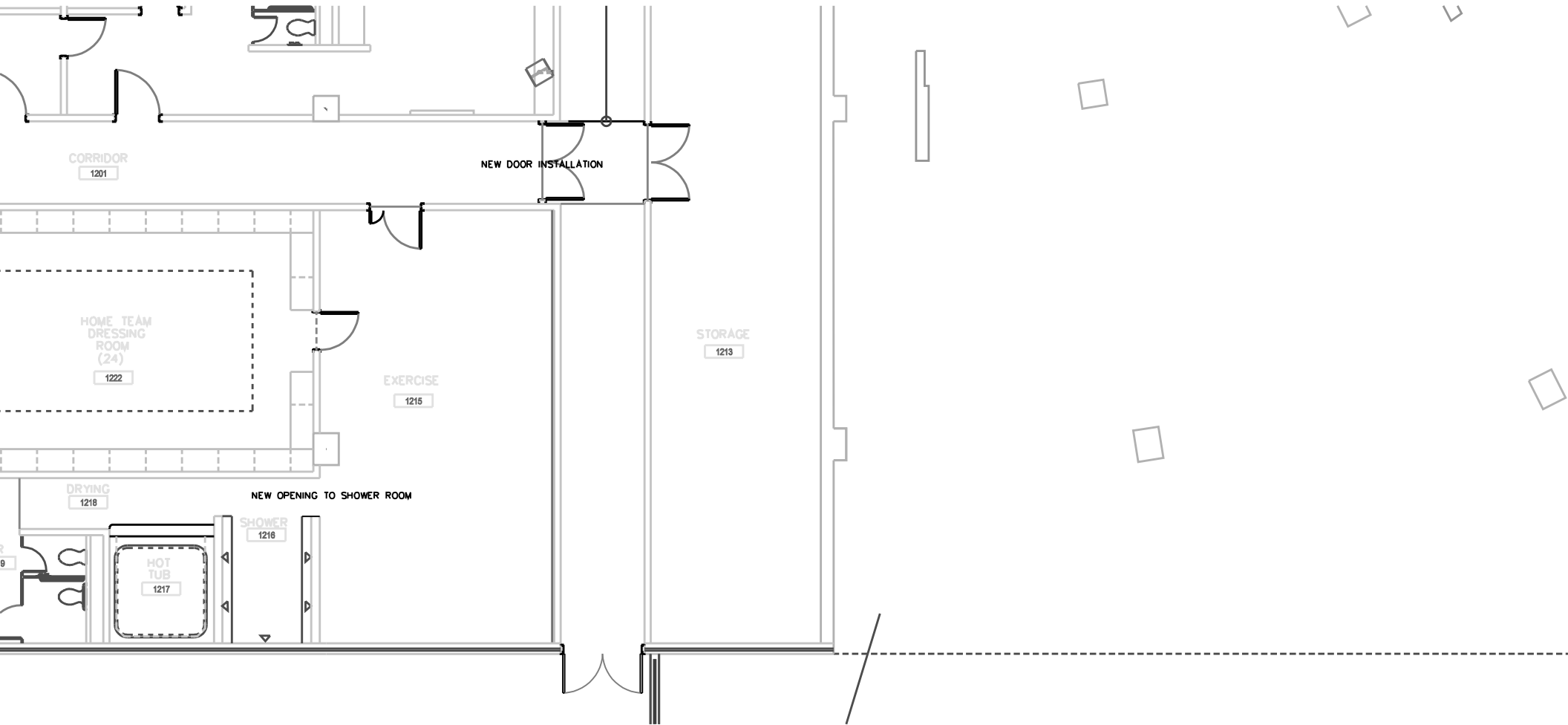
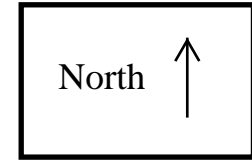
David A. Hales
City Manager

Attachments: Attachment 1. Floor Plan

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

USCC Locker Rooms - Floor Plan



FOR COUNCIL: November 26, 2012

SUBJECT: Purchase of Desktop and Notebook Computers

RECOMMENDATION/MOTION: That the purchase of one hundred thirty (130) Hewlett Packard Pro 6300 Small Form Factor personal computers and fifteen (15) Hewlett Packard Probook 6570b Notebook personal computers, using the formal Western States Contracting Alliance contract for a total of \$88,335 be approved, and the Purchasing Agent be authorized to issue a purchase order for same.

BACKGROUND: Staff is requesting Council approval to replace aging desktop and laptop computers. The computers to be replaced are a combination of six (6) and seven (7) years old. They are under-performing, experiencing increasing hardware repair issues and are affecting staff efficiency. Industry standard replacement cycle for these types of computers is typically four (4) to five (5) years. The replacement quantities being requested represent roughly 25% of the City's active desktop personal computers and 25% of the standard business notebook computers. A non-standard laptop would be the Panasonic Toughbook notebook computers used in Police and Fire vehicles, and a few Public Works vehicles. These computers are replaced separately from the business notebooks.

Staff is requesting Council approval to purchase these computers off of the Hewlett Packard Western States Contract Alliance contract, IL – MHEC (WSCA/NASPO) Contract (MHEC-090109.02), which is a previously competitively bid contract.

Further detail about the specifications and pricing of these computers can be found in the table below and the attached quote.

Qty	Description	Unit Price	Extended Price
130	HP Pro 6300 Small Form Factor PC	\$570.00	\$74,100.00
15	HP Probook 6570b Notebook PC	\$949.00	\$14,235.00
		Total	\$88,335.00

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not Applicable.

FINANCIAL IMPACT: Funds for the purchase of these personal computers were appropriated in the FY 2013 budget line item 10011610-71010.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Scott Sprouls
Director of Information Services

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Recommended by:

David A. Hales
City Manager

Attachments: Attachment 1. HP Price Quotation

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			



Public Sector Sales

October 25, 2012

CITY OF BLOOMINGTON
2450 N KNOXVILLE
PEORIA IL 61604-0000

RE : HP Public Sector Quote - 8117632-2

Dear Scott Sprouls,

Thank you for your recent interest in Hewlett-Packard Public Sector Sales. Award-winning Hewlett-Packard products are designed to deliver high-performance technology, powerful networking and legendary Hewlett-Packard quality - all at a value that your budget demands. From handheld PCs to Servers, Hewlett-Packard provides a single resource for complete solutions that meet all your computing needs. You can rely on Hewlett-Packard for the performance, uptime, and efficiency you need to keep your agency running smoothly and hassle-free. Every Hewlett-Packard product is designed and tested to provide industry-standard compatibility and investment protection. And, with special maintenance services, easy ordering and flexible financing, Hewlett-Packard makes buying the right solution for your organization easier and more convenient than ever.

Attached is the price quotation you requested. When submitting a purchase order directly to Hewlett-Packard, please be certain to include the requested information on the Ordering Information page attached to this quotation. Including the necessary information will ensure the accurate and timely processing of your order through Hewlett-Packard Public Sector. You may order online at http://welcome.hp.com/country/us/eng/solutions/pub_sector.html or fax in your purchase order at 800-825-2329.

- Please reference this contract: IL - MHEC (WSCA/NASPO) Contract (MHEC-090109.02) terms and conditions.
- The terms and conditions of the IL - MHEC (WSCA/NASPO) Contract (MHEC-090109.02) will apply to any order placed as a result of this inquiry; no other terms or conditions shall apply.
- Third party items that may be included in this quote are covered under the terms of the manufacturer warranty, not the HP warranty.
- This quotation may contain open market products which are sold in accordance with HP's Standard Terms and Conditions.

If you should have questions regarding this quotation or need any other assistance, please contact your Public Sector sales representative.

Sincerely,

Austin Wenn

Inside Sales Representative



Ordering Information

It's never been easier to place your direct orders with Hewlett-Packard. Now you can have fast, accurate service with special options designed to personalize, process and expedite your shipments with higher levels of accuracy. Ordering Hewlett-Packard products is as simple as picking up the phone, using the fax machine, or logging onto the Hewlett-Packard Public Sector website at http://welcome.hp.com/country/us/eng/solutions/pub_sector.html

Online ordering

With the Hewlett-Packard Online Store, you can create quotes with real-time pricing; place an order using a credit card or purchase order, keep up-to-date on the latest product promotions and pricing available on your contract, inquire about order status and view product/price information - all from your desktop PC. Visit http://welcome.hp.com/country/us/eng/solutions/pub_sector.html

Faxing Option

Faxing your order is convenient, too. Simply fill out your request on the customer purchase order and send to 1-800-825-2329. Your order will be promptly handled, and you can call a Customer Service Representative to confirm your order.

Personalized Telesales

To provide more personal service to you, our telephone sales and order administration representatives are assigned by territory. This means you can reach a dedicated government, education, or medical sales team every time you call - giving you added value by letting you grow personal relationships with representatives who know your product as well as your special terms and delivery requirements. To request a quote, check product availability, and other related questions, call your Telesales Representative.

Order Accuracy

To ensure the accurate and timely processing of your order, please verify that your purchase order includes the following information:

- o **Bill-to address,**
- o **Ship-to address,**
- o **Purchase order number,**
- o **Part number, description, and price,**
- o **Contract # and name**
- o **Reseller of choice**
- o **Contact name, phone number, and email address,**
- o **Special delivery requirements**
- o **Requested delivery date**
- o **Signature of authorized purchaser**
- o **Please note that Hewlett Packard must be listed as the vendor.**
- o **Sample/Editable PDF Purchase Order forms are available at these links -**
 - o **Standard PO (STL / K12 / Hi Ed / Fed) - http://gem.compaq.com/gemstore/sites/downloads/SLED_PO_Template.pdf**
 - o **Federal Form 1449 - http://gem.compaq.com/gemstore/sites/downloads/FED_PO_Template_Form_1449.pdf**

Tax-Exempt Certificate Requirements

All tax-exempt accounts should have a tax-exempt certificate on file with Hewlett-Packard to avoid having sales tax added to their invoice. This certificate needs to be provided only once. If you are ordering for the first time, please include with your order or account application.

Free Configuration Services (excludes non-configure to order IPG product)

When you purchase Hewlett-Packard products through Public Sector, you become eligible for configuration of Hewlett-Packard hardware options and upgrades at NO extra cost. To request this free service, clearly state on your purchase order which options and upgrades you would like installed and list each configuration separately. Once an order is placed, in-stock items require 2-4 business days for installation.

HP Credit

Hewlett-Packard's financing programs can help your agency purchase or lease HP solutions. To inquire more about a customized financial solution proposal call your Telesales Representative.

Order Tracking and Status

All orders are entered within 24 hours of receipt and are scheduled to ship on a first in first out basis. Orders are shipped within seven days of receipt provided all items are in stock and all necessary information has been properly included on your purchase order. (Remember that ship complete orders can be delayed if a particular item is not currently in stock.) To inquire about the status of your order, you can either log on to http://welcome.hp.com/country/us/eng/solutions/pub_sector.html or call your corresponding Customer Service Representative.

Returned Merchandise

A return material authorization number (RMA) is required for all returns to be processed. Returns may be requested within 30 days of shipment. Please call your Public Sector Customer Service Representative in order to have an RMA assigned. Please have a copy of the packing slip available when you call.

Customer Relationship and Sales For Public Sector Sales

Fax: 800-825-2329

K-12 Education: 800-888-3224

Higher Ed: 877-480-4433

State & Local: 888-202-4682



PRICE QUOTATION

Quote Number: 8117632-2

Quote Date : October 25, 2012
Revised Date : November 13, 2012
Expires: November 24, 2012
Provided by: Austin Wenn

Scott Sprouls
CITY OF BLOOMINGTON

Contract: IL - MHEC (WSCA/NASPO) (MHEC-090109.02)

Product availability and product discontinuation is subject to change without notice. The prices in this quotation are valid for 30 days from quote date above. Please include the quote number and contract from this quote on the corresponding purchase order. HP PROPRIETARY INFORMATION FOR CUSTOMER USE ONLY. DO NOT SHARE.

Item	Part No.	Description	Qty.	Unit Price	Extended
Group: A					
1.		QV985AV - HP Compaq Pro 6300 Small Form Factor Desktop PC	130	\$570.00	\$74,100.00
	QV985AV	Product - HP Compaq Pro 6300 Small Form Factor Desktop PC			
	A3J42AV#ABA	Operating systems - Windows® 7 Professional 64bit Chipset - Intel® Q75 Express Chipset			
	QV990AV	Chassis configuration - HP Compaq Elite 6300 SFF Standard Chassis			
	QX610AV	Processor - Intel Core i5-3470 Processor (3.20 GHz, 6 MB Cache) Intel HD Graphics 2500			
	QX567AV	Memory - 4GB DDR3-1600 DIMM (1x4GB) RAM			
	QX522AV	Hard drives - 500GB 7200 RPM 3.5 1st Hard Drive 2nd hard drive - No Item Selected			
	QX553AV	Optical drive - SuperMulti DVDRW Optical Drive Graphics - No Item Selected			
		Integrated Network - Intel® 82579LM Gigabit Network Connection			
	B2L86AV#ABA	Keyboard - HP USB Standard Keyboard			
	VL506AV	Mouse - HP USB Optical BLK Mouse			
		Application software - Microsoft Office Starter 2010 Included			
	XL522AV	Packaging - Single Unit (SFF) Packaging			
	QX508AV#ABA	Warranty - 3/3/3 SFF Warranty			
	QX558AV#ABA	Country kit - HP Compaq Elite SFF Country Kit (Includes a Quick Setup & Getting Started manual in English and a country-specific power cord) (Only available with Single-Unit Packaging)			
SUB TOTAL :					\$74,100.00

Group: B					
2.		Configurable - HP Probook 6570b Notebook PC (ENERGY STAR) UMA Graphics A1L13AV	15	\$769.00	\$11,535.00
	A1L13AV	Product - HP ProBook 6570b Notebook PC, with Mobile Intel® HM76 chipset, and Intel® HD Graphics			
	A5S71AV#ABA	Operating system - Windows® 7 Professional 64			
	VM939AV	OS Label - Genuine Windows 7 Logo			

Note: For detailed warranty information, please link to "URL" for more information www.hp.com/go/specificwarrantyinfo. Sales taxes added where applicable. Freight is FOB Destination.



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Quote Date : October 25, 2012
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Expires: November 24, 2012
Provided by: **Austin Wenn**

Scott Sprouls
CITY OF BLOOMINGTON

Contract: IL - MHEC (WSCA/NASPO) (MHEC-090109.02)

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Item	Part No.	Description	Qty.	Unit Price	Extended
	B4F58AV	Processor - Intel® Core™ i5-3210M Processor, 2.50 GHz, 1600 MHz, 3 MB L3 Cache			
	A7V89AV	Processor label - Intel Core i5 Label			
		Chipset - Mobile Intel® HM76 Chipset			
	FG972AV	Intel® vPro Technology - no vPro Technology support			
	XU979AV	ENERGY STAR® label - Estar Label - If any (MSOS) is selected, then MISC eStar label (XU979AV) must be selected			
	A5E84AV	Integrated camera - Integrated HD Webcam			
	A5E73AV	Display - 15.6-inch diagonal LED-backlit HD anti-glare (1366 x 768) with Webcam			
		Video/graphics - Intel® HD Graphics 4000 (Core i3/i5/i7) or Intel® HD Graphics 3000 (Core i3-2370M)			
	A1M65AV	Memory - 4 GB 1600 MHz DDR3 SDRAM (1D)			
	A1M72AV	Internal Storage - 500 GB 7200 rpm SATA hard drive			
	A1M78AV	Upgrade Bay - DVD±RW SuperMulti DL Drive			
	A6G90AV#ABA	Keyboard - TouchPad Keyboard			
	A1M86AV	Wireless LAN - 802.11abgn 2x2			
	RQ006AV	Bluetooth - No Wireless Bluetooth device			
	LE333AV	HP Mobile Broadband - No HP Mobile Broadband			
	A5E80AV	Modem - No Modem			
	A5E83AV	Security - Integrated Fingerprint Reader			
	A6G87AV#ABA	Adapter - 65W Hardware Kit			
	A1M81AV	Battery - 6-cell (55 WHr) Lithium-Ion battery			
	A8Z40AV#ABA	Warranty - 3/3/0 Warranty			
		Note: - Additional accessories added from categories below will ship and invoice separately.			
3.	A7E32AA#ABA	HP 90W Dock Station [INFO]	15	\$110.00	\$1,650.00
4.	U7868E	HP 4 year Pickup Return Notebook Only Service (Open Market Item)	15	\$70.00	\$1,050.00
SUB TOTAL :					\$14,235.00

TOTAL PRICE : \$88,335.00

GET MORE FOR YOUR MONEY

Note: For detailed warranty information, please link to "URL" for more information www.hp.com/go/specificwarrantyinfo. Sales taxes added where applicable. Freight is FOB Destination.



PRICE QUOTATION

Page 3 of 3

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Scott Sprouls
CITY OF BLOOMINGTON

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Item	Part No.	Description	Qty.	Unit Price	Extended
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Make the most of your budget and protect against technology obsolescence. Lease these HP products with a purchase price of \$88,335.00 for 36 months for as little as \$2,742.80 per month. At the end of the lease, send the equipment back to HP Financial Services and upgrade to new technology or purchase the equipment at its fair market value.*

GET MORE WITH HP FINANCIAL SERVICES

For more information, call Hewlett-Packard Financial Services Company at 1-888-277-5942 and talk to a financial services representative who specializes in supporting government and education entities.

* The monthly payment amount is for a lease commencing on or before 11/24/2012 with a term of 36 months and a fair market value purchase option at the end of the lease term. This and other leasing and financing options are available through Hewlett-Packard Financial Service Company (HPFSC) or one of its affiliates to qualified education and state and local customers in the U.S. and subject to credit approval and execution of standard HPFSC documentation. Fees and other restrictions may apply. This is not a commitment to lease. Rates and payments are subject to change at any time without notice. Leasing and financing options for Federal governmental agencies (subject to a \$50,000 minimum) are available from Hewlett-Packard Company.

Comments:

Note: For detailed warranty information, please link to "URL" for more information www.hp.com/go/specificwarrantyinfo.
Sales taxes added where applicable. Freight is FOB Destination.

FOR COUNCIL: November 26, 2012

SUBJECT: Analysis of Proposals for Retrofitting Sewer Televising Vehicle S-40

RECOMMENDATION/MOTION: That the proposal for the retrofitting of Sewer Televising Vehicle S-40 be awarded to Coe Equipment, Inc. in the amount of \$83,359 and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: This vehicle is used by the Public Works Department Streets and Sewers Division to televise storm, sanitary and combined sewer lines as a means of detecting issues with these sewers. Sewer Televising Vehicle S-40 contains electronic equipment which was originally installed when the vehicle was purchased new in 2005. This vehicle is mechanically sound and in good working order. However, the sewer televising components have been experiencing severe operational problems which have prevented this vehicle from being used for the past 18 months.

Requests for proposals for the equipment were received on October 5, 2012, at 10:00 A.M. The overall scope included:

1. Replacement of all interior sewer televising equipment;
2. Training for personnel responsible for operating this equipment;

The results of the request for proposals returned are:

Vendor	Net Price
Coe Equipment of Rochester, IL	\$83,359
E J Equipment of Manteno, IL	\$84,500

Staff, including management and classified personnel, analyzed the proposal and found it to be in order. Staff's original estimate for this equipment was \$99,000. Staff respectfully requests that the Council accept the proposal in the amount of \$83,359 from Coe Equipment for the retrofitting of sewer televising vehicle S-40, including the replacement of all interior sewer televising related equipment, training for personnel responsible for operating this equipment.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the request for proposals was placed in the Pantagraph on October 5, 2012 and also placed on the City's website. Three (3) requests for proposals were emailed to vendors to send in their request for proposal packets. A pre-proposal meeting was held on October 16, 2012. City staff and one (1) vendor were in attendance. Two (2) vendors submitted a proposal.

FINANCIAL IMPACT: The FY 2013 Budget appropriated \$100,000 in line item 51101100-72190. Staff's recommendation is to award the bid to Coe Equipment, Inc in the amount of \$83,359, which is below budget by \$16,641 or 16.6%. Although the fund had a negative unrestricted net asset balance over the past few fiscal years, staff projections indicate this deficit has trended in a positive direction. The total cost of the annual software renewal fees and customer service agreements associated with this system for the next five (5) years were included with the retrofit of S39 in FY 2012.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Jim Karch
Director of Public Works

Barb Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion: _____

Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

FOR COUNCIL: November 26, 2012

SUBJECT: Memorandum of Understanding with Miller Park Zoological Society

RECOMMENDATION/MOTION: That approval of the Memorandum of Understanding (MOU) between the Miller Park Zoo and the Miller Park Zoological Society (MPZS) be approved and that the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The Miller Park Zoological Society is an independent nonprofit 501(c) (3) organization that has a long history of supporting the operations, education and conservation efforts for the Miller Park Zoo. The Zoo and MPZS has operated together for more than 25 years without an official, signed contract or MOU. Best practices suggest that an MOU be in place to assist in the facilitation of this partnership. The lack of an approved MOU between the Zoo and MPZS was identified as a major concern during the latest accreditation process by the Association of Zoos and Aquariums (AZA). It was one of the factors that led to a one-year accreditation approval instead of the normal five-year approval. Approval of an MOU will greatly enhance the Zoo's probability of earning the five-year accreditation during next year's review.

As part of the recently approved Miller Park Zoo Master Plan process, which was funded almost entirely by the MPZS, a business and strategic plan was developed by the consultants at Schultz & Williams. The consultants provided substantial guidance and assistance with the drafting of this final recommended MOU for the Zoo and MPZS.

The current arrangement between the two entities has been the MPZS collects revenues from membership sales, merchandise sales through the MPZS-owned Zootique gift shop located on Zoo premises, fundraising efforts through special events (such as the annual ZooDo and 5K walk/race, etc.) and donation solicitations. In return, the Zoo provided free admission to MPZS Membership holders, assistance with membership database maintenance, full-time Zoo employee to manage the Zootique, access to the Zoo grounds for special events and animal handling for MPZS events.

In support, the MPZS has paid an operational support payment annually from funds raised through their efforts each year. Over the course of time this amount has increased to the amount of \$115,000 that has been paid annually each of the last four years. This amount has become an extremely high percentage of the annual funds MPZS has been raising through the Zootique net profits, membership sales and special event net proceeds. In fact, in some years the MPZS has drawn down reserve funds to make their annual support payment.

The recommended MOU attempts to provide a formula for use in determining the annual support payment to assist in budgeting and allow for increases in successful years while providing a minimum amount of support to the Zoo.

The MOU also recommends the City purchase the Zootique inventory, at a value to be determined and approved by both parties. This will allow the volunteer-based MPZS to focus on larger fundraising goals and allow the Zoo more oversight to the purchasing and profitability of the Zootique. In essence, the Zootique has been managed by a Zoo employee utilizing MPZS funds with minimal oversight from the MPZS as their volunteer-based board was not in a position to provide consistent management and Zoo management staff was not able to make management decisions on funds outside of the Zoo's control. With existing retail knowledge and experience available within the Department, Staff believes there are opportunities to increase the net profits of the Zootique through best practices management.

This MOU is being recommended by the full MPZS Board along with the consultant from Schultz & Williams.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Miller Park Zoological Society, Schultz & Williams Consultants, Finance Department and Legal Department.

FINANCIAL IMPACT: The MOU stipulates MPZS would submit to the Zoo a guaranteed \$50,000 annual support payment (split into 2 - \$25,000 payments) plus \$7.00 per membership sold (excluding memberships above \$100.00). The Zootique has earned net profits, confirmed through audited reports, averaging nearly \$65,000 annually over the past several years. Staff believes these stipulations in the MOU will provide a minimum level of support that has been provided in the past (\$115,000), while also providing opportunity to the Zoo to grow revenues through Zootique management and allow the MPZS to focus on larger fundraising projects. Had this formula been in place during FY2012, and assuming all else remained the same, the Zoo would have received approximately \$121,000 in revenue instead of the \$115,000.

The cost to purchase the Zootique inventory will be determined and agreed upon with MPZS and, if needed, will be budgeted in the Zoo's FY2014 Operating Budget.

Respectfully submitted for Council consideration.

Prepared by:

Legal review by:

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

Rosalee Dodson
Assistant Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Attachments: Attachment 1. Memorandum of Understanding
 Attachment 2. Zoo Master Plan – portion of presentation
 Attachment 3. FY2011 Audit

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the "MOU") made this _____ day of _____, 2012 (the "Effective Date"), by and between the CITY OF BLOOMINGTON, a municipal corporation (the "CITY"), and the MILLER PARK ZOOLOGICAL SOCIETY, an Illinois 501(c)(3) nonprofit organization (the "SOCIETY").

WHEREAS, the CITY owns and operates Miller Park Zoo (the "ZOO"), a division of the Parks, Recreation, and Cultural Arts Department, for conservation, education, recreation, and scientific study. The CITY provides for the operating, capital improvement and revenue authority and budgets of the ZOO through the CITY General Operating Budget, Capital Improvement Budget and other special budgets. As such, the CITY shall maintain all operating authority of the ZOO;

WHEREAS, the SOCIETY is an independent nonprofit 501(c)(3) organization governed by a Board of directors (the "BOARD") whose purpose is to promote and support the ZOO and its programs in conservation, education and recreation, and to provide private sector support, both financial and otherwise, for the ZOO's development, operation and capital improvements. The SOCIETY is responsible for services to its membership and maintains independent authority for the acquisition and disposition of its funds. The SOCIETY is not responsible for the day to day operation or budget of the ZOO, and works solely in a support capacity as determined by its BOARD. BOARD members shall be considered volunteers of the ZOO, subject to all rights and responsibilities associated with volunteer status, excepting the application process and fees generally associated with becoming a ZOO volunteer; and

WHEREAS, the CITY and the SOCIETY desire to enter into this MOU to establish, define, and coordinate a mutually beneficial relationship to insure the above purposes.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

I. AUTHORITY OF THE ZOO SUPERINTENDENT

The Zoo Superintendent (the "SUPERINTENDENT") and/or Director of Parks, Recreation, and Cultural Arts (the "DIRECTOR") shall liaise between the ZOO and the SOCIETY. The SUPERINTENDENT, by SOCIETY by-laws, serves as an ex-officio member of the BOARD. Ex-officio members are members of the BOARD but do not have voting privileges, and are not required to hold SOCIETY membership. The SUPERINTENDENT, as an ex-officio member of the Society, will assist in the oversight of all ZOO employees utilized for SOCIETY business as

outlined in this MOU. The SUPERINTENDENT may have the authority, as granted by the SOCIETY, to sign SOCIETY checks. A SOCIETY officer must make up the second signature to provide additional checks and balances.

It is understood and mutually agreed that, except as may be provided in this MOU, on all matters affecting the ZOO, the CITY Council shall determine the ultimate course of any action. The SUPERINTENDENT is responsible for running and managing the ZOO, and shall be the arbiter of disputes which may arise between CITY staff at the ZOO and the SOCIETY, provided, however, that the authority to address contractual disputes between the CITY and SOCIETY shall belong to the CITY Council and the SOCIETY.

II. GATE ADMISSION AND MEMBERSHIP

The CITY grants free gate admission to the ZOO to members of the SOCIETY and reserves the right to require all members of the SOCIETY to present photo identification with their membership card before gaining admission to the ZOO facilities. The CITY agrees to continue to grant SOCIETY members a discount on all educational programs offered through the ZOO. The SOCIETY, in cooperation with the ZOO, will develop and manage an appropriate ZOO membership program. The Membership Program shall balance the need to broaden the support membership base with optimizing revenue for the SOCIETY. The Membership Program, including membership categories, admission criteria, and benefits as established by the SOCIETY, shall be set forth in a separate document reviewed and approved by the DIRECTOR, SUPERINTENDENT and the BOARD, and shall be subject to review upon request of the DIRECTOR, SUPERINTENDENT or the BOARD, but not more frequently than once annually.

The SOCIETY shall maintain all records related to memberships, financial, demographic and other, and will provide the SUPERINTENDENT with an updated list of members on a monthly basis. The CITY agrees to allow CITY staff to promote, sell and process SOCIETY memberships, in a manner consistent with SOCIETY and ZOO's missions, branding, policies and procedures. The SUPERINTENDENT will assist in the oversight of ZOO staff promoting and selling SOCIETY memberships.

The SOCIETY shall remit to the CITY a minimum payment of \$50,000.00 split into two payments (April and October). The SOCIETY shall also remit the amount of \$7.00 per membership sold (excluding memberships above \$100.00) as of October 1st. This amount shall be added to the October payment. 100% of all upper level membership revenue (memberships above \$100) go to the SOCIETY.

III. SOCIETY USE OF ZOO GROUNDS AND FACILITIES

The CITY has the exclusive right and obligation to operate and maintain all aspects of the ZOO in accordance with the policies and directives established by the Bloomington City Council and Bloomington City Manager. The CITY shall at all times comply with accreditation standards as published by the Association of Zoos and Aquariums (AZA) and incorporate those guidelines into the daily operations of the ZOO.

During the term of this MOU, the CITY will grant use of ZOO grounds and facilities to the SOCIETY, as outlined below:

A) INVITATIONAL EVENTS

During the term of this MOU, the SOCIETY may be permitted reasonable use of the ZOO grounds and facilities after normal public hours, for the benefit or support of SOCIETY activities (hereinafter referred to as an "INVITATIONAL EVENT"). During such INVITATIONAL EVENTS, the ZOO will be closed to the general public, normal entry fees will be suspended, and a special entry fee for attendees will be in place. The SUPERINTENDENT will work with the SOCIETY to provide adequate staffing of the event, including Zookeepers, volunteers, educational personnel, and gift shop personnel, as necessary. Net profit from any INVITATIONAL EVENT shall be retained by the SOCIETY with records maintained as outlined in Article VI. These funds may be utilized as outlined in Article V, but shall not be subject to the provisions of Article II.

Approval of the SOCIETY's use of the ZOO grounds, activities, date and times must be obtained from the SUPERINTENDENT and/or DIRECTOR at least 30 days in advance of any event. The SOCIETY shall be responsible for all costs of any such events, except ZOO employee wage, salary costs and typical operational costs.

B) COMMUNITY OUTREACH EVENTS

During the term of this MOU, the SOCIETY may also be permitted reasonable use of the ZOO grounds and facilities during or after normal public hours, for the purpose of community outreach events designed to educate the general public on the ZOO and SOCIETY and their respective missions, provide incentive for the general public to attend the ZOO, and increase public awareness of the ZOO and SOCIETY. The SUPERINTENDENT will work with the SOCIETY to provide adequate staffing of the event, including zookeepers, volunteers, educational personnel, and gift shop personnel, as necessary. For any SOCIETY sponsored events conducted during normal public hours, the ZOO will remain open to the public and

admission proceeds shall be collected by ZOO staff in the same manner as during normal operation of the ZOO.

Approval of the SOCIETY's use of the ZOO grounds, activities, date and times must be obtained from the SUPERINTENDENT and/or DIRECTOR at least 30 days in advance of any event. The SOCIETY shall be responsible for all costs of any such events, except ZOO employee wage, salary costs and typical operational costs.

C) GIFT SHOP

The CITY and the SOCIETY agree that the operation of the gift shop ("the "ZOOTIQUE") and its entire inventory will be sold and transferred to the CITY on a mutually agreed upon date and price, to be determined. The CITY agrees to continue to give SOCIETY members the benefit of at least a 10% discount for purchases SOCIETY members make at the ZOOTIQUE. The CITY agrees that if the SOCIETY wants to sell items out of the ZOOTIQUE, the SUPERINTENDENT agrees to work with the SOCIETY to sell and market merchandise supplied by the SOCIETY. The SUPERINTENDENT has the discretion as to whether to purchase items from the SOCIETY and if items are purchased, the CITY will buy the items from the SOCIETY at a mutually agreed upon price and any items that are unable to be sold, the SOCIETY will buy back from the CITY at the same price the CITY paid for them.

D) SOCIETY EMPLOYEE(S)

During the term of this MOU, the SOCIETY may house their employee(s) at the ZOO. The CITY will provide the SOCIETY with a desk and/or office as space permits, Internet and phone access, access to printer, fax, copy and other office machines as long as the needs of ZOO Staff are met first, and, subject to the continuing approval of the DIRECTOR and/or SUPERINTENDENT, keys to ZOO facilities. The CITY shall provide support as deemed necessary by the SUPERINTENDENT and SOCIETY, as long as the accommodations are agreed upon and appropriate. In the event the CITY determines that space no longer permits, the SOCIETY will be given 90 days notice of that determination by the CITY and the SOCIETY reserves the right to adjust funding to the CITY in order to accommodate those additional costs of housing the SOCIETY employee accordingly.

E) SOCIETY MEETINGS

During the term of this MOU, the SOCIETY may hold its monthly meetings at the ZOO. The SUPERINTENDENT will act as an Ex Officio Member of the BOARD and will be present at the meetings, as available.

F) SPONSORSHIPS

The ZOO hereby grants the SOCIETY, for the terms of this agreement, the ability to offer exhibit sponsorships. The sponsorship must be approved by the SUPERINTENDENT and/or DIRECTOR and the SOCIETY. The money raised from the SOCIETY's efforts will be kept by the SOCIETY, except as otherwise stated in this MOU.

As the fundraising arm of the zoo, the SOCIETY's primary role is fundraising for operating and capital support; all funds generated through fundraising, sale of memberships and other activities are to be used to support the ZOO and further its mission. The SUPERINTENDENT serves in a key role of the fundraising team of the SOCIETY's board. The SOCIETY and the SUPERINTENDENT are to work jointly in fundraising efforts for the ZOO.

G) CARE AND USE OF CITY PROPERTY BY THE SOCIETY

The SOCIETY agrees that it will be responsible for the proper custody and care of any CITY owned property furnished to the SOCIETY for any use outlined within the provisions of this MOU, and will reimburse the CITY for any loss or damage incurred while it's under the direction of the SOCIETY.

IV. CONSIDERATIONS

In consideration for free gate admission for members, and the right to use ZOO grounds and facilities, the SOCIETY agrees as follows:

- A) The SOCIETY shall use revenues acquired for the betterment of the ZOO and consistent with this MOU.
- B) The SOCIETY shall coordinate all SOCIETY activities that directly support, involve, or impact the ZOO staff and programs with the DIRECTOR and/or SUPERINTENDENT. The SUPERINTENDENT shall be authorized to use ZOO staff and resources in support of such activities consistent with ZOO operational needs.
- C) The SOCIETY shall assist the CITY in financing capital improvements.
- D) The SOCIETY shall reasonably assist the ZOO in its conservation efforts, education programs, and related promotions.
- E) The SOCIETY shall account for all funds solicited and collected for specific ZOO projects per approved nonprofit accounting procedures.

F) The SOCIETY and its employee(s) shall coordinate and obtain approval of the DIRECTOR and/or SUPERINTENDENT prior to any promotions involving the ZOO and use of the ZOO and/or CITY logos.

G) The SOCIETY shall carry liability insurance, which shall cover all of its employees, volunteers, and SOCIETY activities or events.

H) The SOCIETY shall not utilize the ZOO or its events for religious or political purposes. This shall exclude events related to the conservation and preservation of biodiversity, in accordance with the ZOO purpose and mission.

I) The SOCIETY shall perform any and all other duties and responsibilities as mutually agreed upon by the DIRECTOR, SUPERINTENDENT, CITY Manager, and/or CITY Council and the SOCIETY in writing during the term of this MOU.

V. FINANCIAL ASSISTANCE

The financial assistance provided to the ZOO by the SOCIETY under this MOU shall be derived from monies acquired for ZOO projects from the sale of SOCIETY memberships, goods and services, SOCIETY sponsored events, fundraising activities, bequests, donations, and grants from public and private entities.

In addition to the third paragraph of Section II. GATE ADMISSION AND MEMBERSHIP, the financial assistance acquired by the SOCIETY for a specific ZOO development activity, campaign or project shall be maintained, managed and designated by the SOCIETY for the specific activity, campaign or project. Restricted funds raised by the SOCIETY from grants made by public and private entities and not used for their designated purpose shall be handled in accordance with the terms of the respective grant agreements. Undesignated financial assistance acquired for the ZOO by the SOCIETY shall be maintained, managed and designated by the SOCIETY in a similar manner as stated above. Acceptance of donations designated for a specific purpose must be in accordance with the SOCIETY's Mission and the ZOO Mission and Master Plan and approved by the DIRECTOR and/or SUPERINTENDENT and SOCIETY. This MOU shall not restrict the SOCIETY from raising funds to support SOCIETY activities. All solicitation of funds shall identify the purpose. The SOCIETY and CITY will explore alternative options for capital funding.

VI. FINANCIAL RECORDS

The SOCIETY will be solely responsible for the payment of any and all federal, state, and local taxes or charges imposed by law and/or regulation upon the SOCIETY as an employer or as a not-

for-profit corporation. The CITY will not be liable or responsible in any manner for any such taxes or charges.

The SOCIETY shall maintain its books and records in accordance with generally accepted accounting principles. The SOCIETY shall have its books and records audited by an independent certified public accountant, with a frequency determined by SOCIETY policy and federal and state law. Upon the completion of an audit, a copy of the audited financial statement shall be delivered to the CITY no later than one hundred and twenty (120) days after the end of the SOCIETY'S fiscal year.

The CITY is hereby authorized to access the books and records of the SOCIETY during normal business hours, upon reasonable notice to the SOCIETY, when such data as may be needed to determine the SOCIETY'S compliance with the terms of this MOU. The CITY shall not exercise this right more than one time in a given fiscal year. At all times, the identity of the donors to the SOCIETY who desire to remain anonymous shall be protected.

VII. HOLD HARMLESS

The CITY will hold the SOCIETY and its officers, agents and employees harmless from all suits, claims or liabilities of any nature, including attorneys' fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from the activities or omissions of the CITY, its agents or its employees, or on account of any unpaid wages or other remuneration due for services; and, if suit in respect to the above be filed, the CITY will appear and defend the SOCIETY at its own costs and expense; and if judgment be rendered or settlement made requiring payment of damages by the SOCIETY, which damages were caused by the activities or omissions of the CITY, its agent or its employees, the CITY will indemnify the SOCIETY.

The CITY will not be held liable or responsible for any claim, demand, loss or liability arising out of the negligence of the SOCIETY, except as outlined above, or when the SOCIETY is acting at the direction of, as agent of, or on behalf of the CITY.

In return, SOCIETY will hold the CITY and its agents and employees harmless from all suits, claims or liabilities of any nature, including attorneys' fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from the activities or omissions of the SOCIETY, its agents or its employees, or on account of any unpaid wages or other remuneration due for services; and, if suit in respect to the above be filed, the SOCIETY will appear and defend the CITY at its own costs and expense; and if judgment be rendered or settlement made requiring payment of damages by the CITY, which damages were caused by

the activities or omissions of SOCIETY, its agent or its employees, SOCIETY will indemnify the CITY.

The SOCIETY will not be held liable or responsible for any claim, demand, loss or liability arising out of the negligence of the CITY, except as outlined above, or when the CITY is acting at the direction of, as agent of, or on behalf of the SOCIETY.

VIII. ASSIGNABILITY

Neither party shall assign or transfer any interest in this MOU, whether by assignment or novation, without the prior written consent of the other party.

IX. TERM

The term of this MOU shall be for a period of one (1) year from the Effective Date, unless otherwise terminated by either party as provided herein. This MOU will remain in effect and automatically renew on an annual basis thereafter, with the parties allowed to make modifications, as desired. Further modification or amendment to this MOU must also be done through written instrument signed by both parties.

X. TERMINATION

This MOU shall automatically terminate, without further action, upon the dissolution of the ZOO or the SOCIETY, or when either ceases to exist for the above mentioned purposes. Additionally, this Agreement can be terminated by either party, with or without cause, upon a one hundred and twenty (120) day written notice to the other party.

XI. COMPLIANCE WITH LAWS

The SOCIETY will abide by all city, county, state and federal laws governing charitable organizations.

The CITY will abide by all city, county, state and federal laws governing municipalities, government agencies, parks, and zoos.

XII. NON-DISCRIMINATION

Neither party shall discriminate against any person or group of persons on account of sex, marital status, race, color, religion, sexual orientation, national origin, ancestry, or physical or mental disability in the renting, use, occupancy, or enjoyment of the ZOO. Nor shall either party, or any person claiming under or through the parties, establish or permit any such

practice or practices of discrimination with reference to the selection, location, number, use or occupancy of the ZOO.

XIII. ILLEGALITY

If any provisions of this MOU are found by any court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this MOU shall remain in full force and effect, and in lieu of each provision which is found to be illegal, invalid or unenforceable, there will be added as part of this MOU a similar provision that is legal, valid and enforceable.

XIV. ENTIRETY

This MOU is intended to capture the spirit of cooperation and collaboration between the CITY and SOCIETY. There may be existing agreements, written or oral, that are not expressly covered in this MOU. These may be added to the MOU through written instrument signed by both parties. Further modification or amendment to this MOU must also be done through written instrument signed by both parties.

XV. LAW GOVERNING MOU

This MOU is entered into in the City of Bloomington, County of McLean, State of Illinois and shall be governed by the laws of the State of Illinois and venue shall be proper in McLean County, Illinois.

In WITNESS WHEREOF, the parties hereto have caused this MOU to be executed as of the Effective Date first written above.

Adopted this _____ day of _____, 2012.

CITY OF BLOOMINGTON

David Hales, CITY Manager

John Kennedy, DIRECTOR of Parks, Recreation, and Cultural Arts

Jay Tetzloff, Miller Park ZOO SUPERINTENDENT

MILLER PARK ZOOLOGICAL SOCIETY

Traci Zeller, President

Stacey Lynch, Vice President

City / Zoo Society Structure Observations:

- City is effectively managing the gift shop with revenues and expenses running through the Society
- The annual payment of \$115,000 from the Society to the City relative to the Society's income is a 'good deal' for the City, with almost all net income being invested back in the Zoo (paid back to the City)
- There is an opportunity and need to grow unrestricted giving – both individual and corporate
- Heavy dependence on events for fundraising; it's been effective, but are fundraising efforts maximizing ROI

Opportunities:

- Integrate the Zoo with park activities
 - Market the Zoo with other park activities; playground, mini-golf, water area
 - Explore combined ticketing for the Zoo and the mini-golf
 - Heavily promote the Zoo's gift and food service operations to all park guests
- Promote Zoo's conservation and educational messages & programs
 - Improve the Zoo's graphics and interpretatives to better communicate the Zoo's mission-driven messages
 - Develop the Zoo's case-for-support linking the new master plan, the Zoo's importance to the community, and its mission driven programs
- Increase visibility of the Zoo's leadership in the community
 - Zoo Superintendent should be spending an increasing amount of time externally; the Zoo Society Board should continue to get out into the community to act as ambassadors in promoting the Zoo

Opportunities:

Contributed Revenue

- Clearly identify fundraising and development roles for Society staff; Board Leadership, and Zoo Staff
- Add Development and support staff as needed and as resources become available
- Develop communications plan to coordinate messaging and management to cultivate prospective donors
- Hone Zoo's case-for-support, highlighting key reasons why to give to the Zoo
- Create consistent, professional donor materials and tools, beginning with master plan materials
- Establish a donor management and tracking system
- Conduct fundraising training for Board and staff
- Begin a program of prospect research identifying potential donors starting with your member list
- Utilize annual Zoo fundraising gala event to cultivate key donors

Zoo & Zoo Society Recommendations

A significant amount of time during the planning process was focused on understanding and identifying opportunities to enhance the relationship between the Zoo and the Zoo Society. This included looking at areas that included structure, operating models, roles, and financial performance.

In the following slides, a number of recommendations have been outlined which will improve the likelihood of a successful implementation of the Master Plan. By building a strong foundation between the two organizations, capital fundraising efforts will be strengthened and the Zoo's long-term vision can be realized.

However, it will be critical that there is a strong partnership between the two organizations; a partnership that is reflective of open and coordinated communications, leveraging each partners assets, and working towards a common and unified vision.

Detailed recommendations on a new MOU between the Zoo and the Zoo Society have been provided to Zoo leadership.

Linking Goals with the Society Roles:

- Primary - Increase level of support (operating and capital) to the Zoo (FUNDRAISING)
 - Secondary - Position the Zoo as a vital asset in the community (AWARENESS & ADVOCACY)
 - Secondary - Strengthen conservation initiatives and support (FUNDRAISING FOR MISSION)

Objectives:

- Grow membership base and membership revenues
- Increase unrestricted fundraising efforts
- Fundraise for first capital improvement project: ~\$400,000

} *All interrelated and
build off each other*

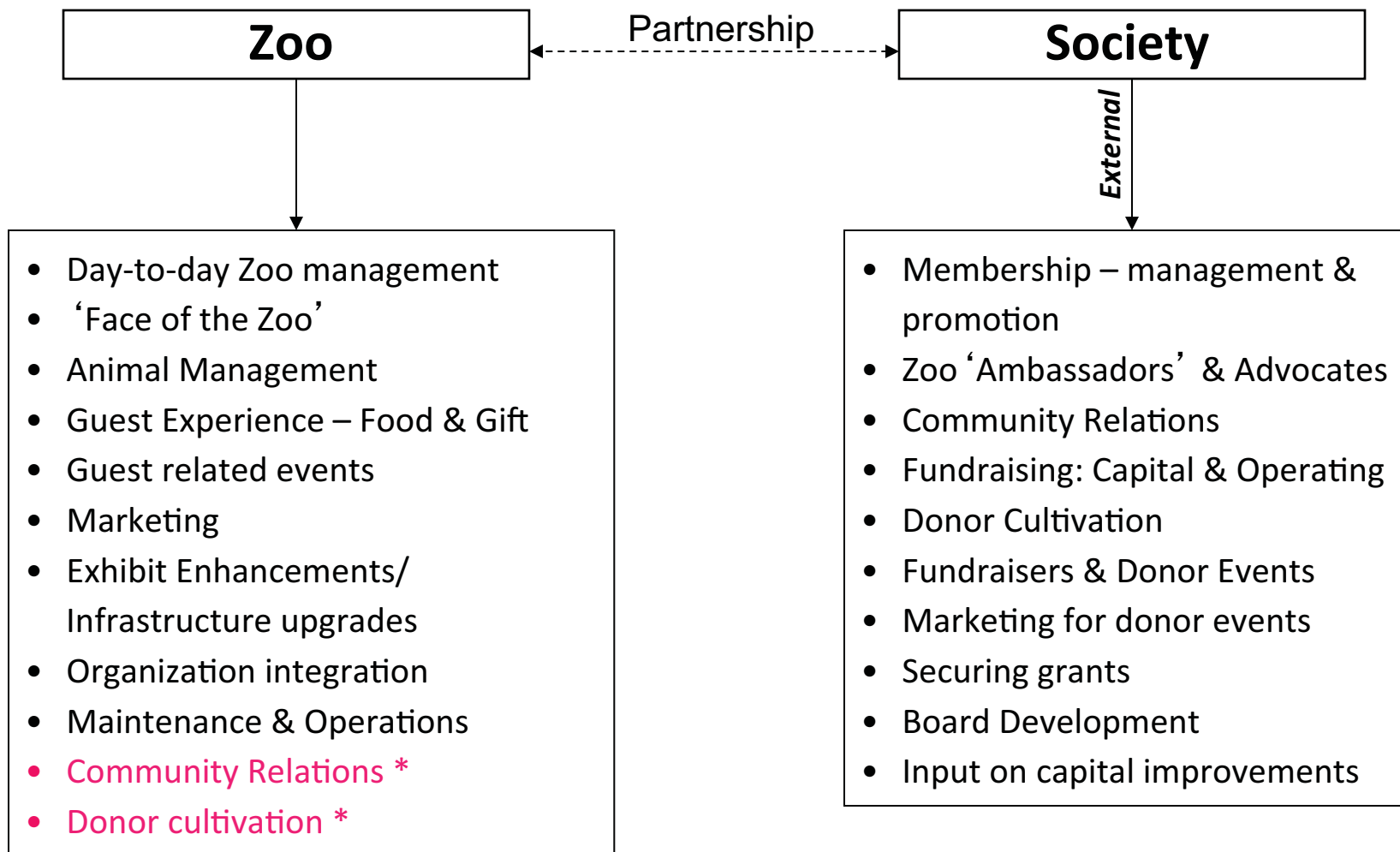
Accomplished Through:

- Investing in the product (exhibits & experience will drive increased attendance and membership) – *Zoo & Society*
- Marketing and promotional strategy (membership acquisition) – *Zoo & Society*
- Enhanced Development staffing - *Society*
- Board development & training - *Society*

Structure - Assumptions:

- Society Revenue – (Macro Level)
 - Fundraisers - \$50,000
 - Membership - \$70,000
 - Gift - \$57,000
- City needs to maintain or grow the influx of external funds of \$115,000 (from some source) to support annual operating expenses of the Zoo
- Zoo Superintendent will be the ‘leader’ of the Zoo and provide all management and direction of Zoo activities and operations

Primary Roles



* *Shared responsibility with Society*

Fundraising Team

Zoo Superintendent
(Face)

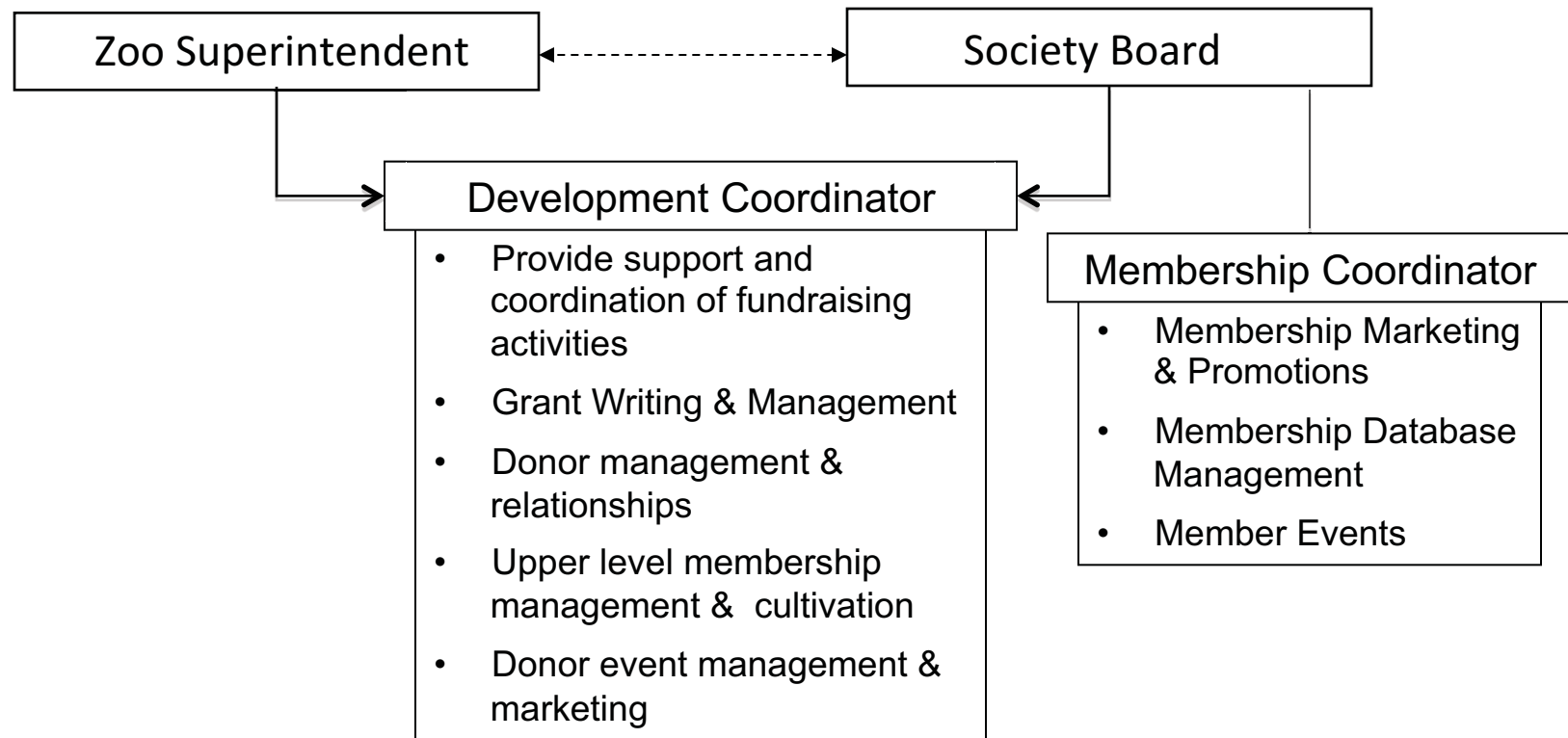
Society Board
(\$, Cultivation & Connections)

Development Support
(Back-office Coordination)

Organizational Model - DRAFT

- Develop fundraising team of: Board; Superintendent; and Coordinator
- Position Zoo Superintendent as 'Chief Fundraiser' with strong support and mentoring of the Board
- Contributed funds directed back to Society
- Development Coordinator would be funded by Society but Zoo Superintendent would have management and oversight of this position
- Zoo Superintendent would provide accountability back to Board regarding fundraising activities
- Focus would shift from events to individual and corporate giving
- Fundraising training will be required for Zoo leadership

Organizational Model - DRAFT



Implications

- City should take over full management of gift shop; centralizing control of guest service operations
- The funding from the Society to the City needs to be adjusted in light of gift shop shift
- Society will need additional resources to invest in fundraising activities
- Society should shift focus of fundraising to individual and corporate giving and away from event based support
- Increased efforts need to be placed on growing membership base and cultivating upper level members
- Interaction, Management & Coordination of fundraising ‘team’ will be critical for success
- Fundraising training will be required for Board and fundraising ‘team’
- An assessment is needed of current fundraising and development capacity; staffing, tools; resources

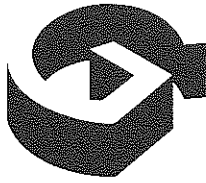
FINANCIAL STATEMENTS AND AUDITORS' REPORT

MILLER PARK ZOOLOGICAL SOCIETY

April 30, 2011 and 2010

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GUTHOFF MEHALL ALLEN & COMPANY, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Board of Directors
Miller Park Zoological Society

We have audited the accompanying statements of assets, liabilities, and net assets (cash basis) of Miller Park Zoological Society (a nonprofit organization) as of April 30, 2011 and 2010, and the related statements of revenue and expenses (cash basis) and cash flows for the years then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in note A2, these financial statements were prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net assets of Miller Park Zoological Society as of April 30, 2011 and 2010, its revenue and expenses and its cash flows for the years then ended, on the basis of accounting described in note A2.

Our audits were conducted for the purpose of forming an opinion on the financial statements referred to in the first paragraph taken as a whole. The accompanying information on page 12 is presented for purposes of additional analysis and is not a required part of the above financial statements. Such information has been subjected to the auditing procedures applied in the audit of the financial statements referred to above; and, in our opinion, the information is fairly stated in all material respects in relation to the financial statements taken as a whole.

Guthoff Mehall Allen & Company, P.C.

Bloomington, Illinois
October 20, 2011

Miller Park Zoological Society

STATEMENTS OF ASSETS, LIABILITIES, AND NET ASSETS
(Prepared on a cash basis)
April 30,

	2011	2010
ASSETS		
Current Assets		
Cash	\$ 466,180	\$ 431,290
Certificate of deposit	32,824	32,660
Inventory	33,653	28,400
Total current assets	532,657	492,350
Equipment - net of accumulated depreciaton of \$1,374 at 2011 and 2010	-	-
Total assets	\$ 532,657	\$ 492,350
LIABILITIES AND NET ASSETS		
Current Liabilities		
Sales tax payable	\$ -	\$ 974
Total current liabilities	-	974
Net Assets		
Unrestricted		
Board designated	58,489	58,489
Undesignated, available for general activities	264,685	269,220
Total unrestricted net assets	323,174	327,709
Temporarily restricted (note C)	209,483	163,667
Total net assets	532,657	491,376
Total liabilities and net assets	\$ 532,657	\$ 492,350

The accompanying notes are an integral part of these statements.

Miller Park Zoological Society

STATEMENTS OF REVENUE AND EXPENSES
(Prepared on a cash basis)
Years ended April 30,

	2011			2010		
	Unrestricted	Temporarily Restricted	Total	Unrestricted	Temporarily Restricted	Total
SUPPORT AND REVENUE						
Contributions and bequests	\$ 14,831	\$ 6,093	\$ 20,924	\$ 9,717	\$ 8,001	\$ 17,718
Membership dues	69,639	-	69,639	72,014	-	72,014
Gift shop sales - net (note E)	52,298	-	52,298	53,104	-	53,104
Investment income	2,681	-	2,681	4,504	-	4,504
Auxiliary activities	25,932	48,873	74,805	33,715	55,899	89,614
	165,381	54,966	220,347	173,054	63,900	236,954
	9,150	(9,150)	-	22,232	(22,232)	-
NET ASSETS RELEASED FROM RESTRICTIONS						
Satisfaction of expenditure requirements	174,531	45,816	220,347	195,286	41,668	236,954
EXPENDITURES						
Program services	900	-	900	13,325	-	13,325
Animal collections and exhibits	218	-	218	-	-	-
Education	115,000	-	115,000	115,000	-	115,000
Operational support of zoo (note B)	116,118	-	116,118	128,325	-	128,325
Supporting services	35,940	-	35,940	46,814	-	46,814
General administration	27,008	-	27,008	14,294	-	14,294
Fundraising	62,948	-	62,948	61,108	-	61,108
Total support services	179,066	-	179,066	189,433	-	189,433
Total expenditures	(4,535)	45,816	41,281	5,966	41,668	47,634
Increase (decrease) in net assets	327,709	163,667	491,376	321,743	121,999	443,742
NET ASSETS, beginning of year	\$ 323,174	\$ 209,483	\$ 532,657	\$ 327,709	\$ 163,667	\$ 491,376

The accompanying notes are an integral part of these statements.

Miller Park Zoological Society

STATEMENTS OF CASH FLOWS

(Prepared on a cash basis)

Years ended April 30,

	2011	2010
OPERATING ACTIVITIES		
Changes in net assets	\$ 41,281	\$ 47,634
Adjustments to reconcile changes in net assets to net cash provided by operating activities		
Contributions restricted for Education	-	(15)
Contributions restricted for Conservation	(449)	-
Contributions restricted for zoo renovations	(48,873)	(62,211)
Contributions restricted for animal exhibits	(5,644)	(1,404)
Increase in inventories	(5,253)	380
Decrease in sales tax payable	(974)	337
	(19,912)	(15,549)
Net cash (used for) provided by operating activities		
FINANCING ACTIVITIES		
Proceeds from contributions restricted for		
Education	-	15
Conservation	449	270
Zoo renovations	48,873	62,211
Animal exhibits	5,644	1,404
	54,966	63,900
Net cash provided by financing activities		
INVESTING ACTIVITIES		
Reinvested interest income in certificate of deposit	(164)	(640)
	(164)	(640)
Net cash (used for) investing activities		
Increase in cash	34,890	47,711
Cash at beginning of year	431,290	383,579
Cash at end of year	\$ 466,180	\$ 431,290

The accompanying notes are an integral part of these statements.

Miller Park Zoological Society

NOTES TO FINANCIAL STATEMENTS
April 30, 2011 and 2010

NOTE A – SUMMARY OF ACCOUNTING POLICIES

A summary of the significant accounting policies consistently applied in the preparation of the accompanying financial statements follows.

1. Organization

The Miller Park Zoological Society is an Illinois not-for-profit organization, which was incorporated in 1975. The purpose of the Society is to provide support and funding for capital improvements, conservation programs, and development of the Miller Park Zoo for the benefit of the citizens of central Illinois.

The Society charges membership dues and conducts fundraising events throughout the year to raise funds to support the Miller Park Zoo. The Society also operates the Zootique, a gift shop located near the entrance to the Zoo. Proceeds are used to support the Zoo.

2. Basis of Accounting

The Society has chosen to maintain its accounting records on the cash basis; consequently, certain revenue and the related assets are recognized when received rather than when earned and certain expenses are recognized when paid rather than when the obligation is incurred. Therefore, interest receivable, accounts payable, and other accrued items are not reflected in the Society's financial statements.

Only assets representing a right to receive cash arising from a previous payment of cash are recorded as assets of the fund. In the same manner, only liabilities resulting from previous cash transactions are recorded as liabilities of the fund.

3. Basis of Presentation

Financial statement presentation follows the recommendations of the Financial Accounting Standards Board in its Accounting Standards Codification (ASC) for Financial Statements of Not-for-Profit Organizations. Under ASC 958, the Organization is required to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.

4. Revenue Recognition

Contributions received are recorded as unrestricted, temporarily restricted, or permanently restricted support, depending on the existence and/or nature of any donor restrictions.

All donor-restricted contributions are reported as an increase in temporarily or permanently restricted net assets, depending on the nature of the restriction. When a restriction expires (that is, when a stipulated time restriction ends or purpose restriction is accomplished), temporarily restricted net assets are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions.

Miller Park Zoological Society

NOTES TO FINANCIAL STATEMENTS – CONTINUED
April 30, 2011 and 2010

NOTE A – SUMMARY OF ACCOUNTING POLICIES – CONTINUED

5. Inventory

Inventory consists of merchandise purchased for sale at the Zootique gift shop and is reported at the lower of cost or market.

6. Functional Allocation of Expenses

The costs of operations have been summarized on a functional basis in the statements of activity.

7. Donated Materials

Donated materials are reflected as contributions at their estimated value at date of gift when possible. Many donations have been made to the Society for which there is no objective measurement or valuation, and therefore are not reflected in the accompanying financial statements.

8. Contributed Services

A number of unpaid volunteers have made significant contributions of their time to develop the Society's programs, principally in fundraising and educational programs. The value of this contributed time is not reflected in the accompanying financial statements since it is not susceptible to objective measurement or valuation.

9. Income Tax Status

The Society is exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code. However, income from any activities not directly related to the Society's tax-exempt purpose is subject to taxation as unrelated business income. The Society qualifies for the charitable contribution deduction under Section 170{b}(1)(A).

The Society is required to evaluate its tax positions and recognize a liability for any positions that would not be considered "more likely than not" to be upheld under a tax authority examination. If such issues exist, the Society's policy will be to recognize any tax liability so recorded including applicable interest and penalties, as a component of income tax expense. Management is not aware of any violation of its tax status exempt from income taxes, or any exposure to unrelated business income tax or other tax liabilities.

The Society's federal income tax and informational returns filed remain subject to examination by the Internal Revenue Service and the Illinois state taxing authorities. Forms 990 filed by the Society are no longer subject to examination for years ended April 30, 2007 and prior.

10. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Miller Park Zoological Society

NOTES TO FINANCIAL STATEMENTS – CONTINUED
April 30, 2011 and 2010

NOTE A – SUMMARY OF ACCOUNTING POLICIES – CONTINUED

11. Cash and Cash Equivalents

For purposes of the statements of cash flows, the Society considers all highly liquid investments available for current use, with an initial maturity of three months or less to be cash equivalents.

12. Equipment

Equipment is carried at cost. Depreciation is provided using the straight-line method over the estimated useful lives of the assets.

13. Subsequent Events

In preparing the financial statements, the Society has evaluated events and transactions for potential recognition or disclosure thru October 20, 2011, the date the financial statements were issued.

NOTE B – SUPPORT OF ZOO OPERATIONS

The Society does not pay rent or utilities for its space. Wages and payroll taxes for Zootique employees are paid for by the City of Bloomington. Annually, the Society pays an agreed upon amount to the City for the operational support of the Zoo.

The Society remitted \$115,000 for fiscal year 2011 and \$115,000 for fiscal year 2010 to the City of Bloomington for operational support.

NOTE C – FAIR VALUE MEASUREMENTS

Fair value measurements are categorized into one of three levels based on the lowest level of significant input used: Level 1 (unadjusted quoted prices in active markets); Level 2 (observable market inputs available at the measurements date, other than quoted prices included in Level 1); and Level 3 (unobservable inputs that cannot be corroborated by observable market data). Fair value of assets measured on a recurring basis at April 30, 2011 and 2010, using quoted prices in active markets for similar assets (Level 2) is as follows:

	<u>Fair Value</u>	<u>Quoted Prices in Active Markets For Similar Assets (Level 2)</u>	<u>Total</u>
<u>April 30, 2010</u>			
Certificates of Deposit	\$ 32,660	\$ 32,660	\$ 32,660
<u>April 30, 2011</u>			
Certificates of Deposit	\$ 32,824	\$ 32,824	\$ 32,824

Miller Park Zoological Society

NOTES TO FINANCIAL STATEMENTS – CONTINUED
April 30, 2011 and 2010

NOTE C – TEMPORARILY RESTRICTED NET ASSETS

Temporarily restricted net assets are restricted for use for the Zoo exhibit and building renovation, butterfly and miscellaneous conservation, and general education. The balance of restricted net assets was \$209,483 and \$163,667 on April 30, 2011 and 2010, respectively.

NOTE D – UNCOLLATERALIZED CASH DEPOSITS

At April 30, 2011 and 2010 the carrying amounts of the Society's cash deposits were \$466,180 and \$431,290, respectively. The bank's balances were \$581,523 and \$550,042, respectively. At April 30, 2011 and April 30, 2010 all bank balances were covered by Federal Depository Insurance or collateral.

NOTE E – GIFT SHOP SALES

Zootique gift shop sales are reported net of cost of goods sold. For fiscal year 2011, sales totaled \$101,146 and cost of goods sold was \$48,848. For fiscal year 2010, sales totaled \$112,749 and cost of goods sold was \$59,645.

NOTE F – BOARD DESIGNATED NET ASSETS

During fiscal year 2007, the Board designated net assets equal to the net income raised from the 2004, 2005 and 2006 Galas, a total of \$58,489, for construction and renovation of the Animal building.

SUPPLEMENTAL INFORMATION

Miller Park Zoological Society

SCHEDULE OF FUNCTIONAL EXPENSES
For the Year Ended April 30, 2011

	Program Services				Supporting Services			2011 Total	2010 Total
	Exhibits	Education	Operations	Subtotal	General	Fundraising	Subtotal		
Fundraising									
Gala	\$ -	\$ -	-	\$ -	\$ -	\$ 8,032	\$ 8,032	\$ 8,874	
Glowsticks	-	-	-	-	-	-	-	314	
Member's Night	-	-	-	-	-	158	158	130	
5K Race	-	-	-	-	-	2,511	2,511	4,683	
Reindeer ornament expense	-	-	-	-	-	622	622	293	
Accounting	-	-	-	-	11,908	-	11,908	7,140	
Advertising	-	-	-	-	-	-	-	-	
Licenses and permits	-	-	-	-	25	-	25	-	
Zootique supplies	-	-	-	-	231	-	231	1,054	
Society supplies	-	-	-	-	265	-	265	492	
Operational support	218	900	115,000	116,118	-	-	116,118	128,325	
Postage - Society	-	-	-	-	848	-	848	2,144	
Insurance	-	-	-	-	1,174	-	1,174	581	
Wages and expenses	-	-	-	-	15,685	15,685	31,370	29,604	
Training and Education	-	-	-	-	576	-	576	-	
Bank card fees	-	-	-	-	4,829	-	4,829	3,380	
Miscellaneous	-	-	-	-	399	-	399	2,419	
Total expenses	\$ 218	\$ 900	\$ 115,000	\$ 116,118	\$ 35,940	\$ 27,008	\$ 62,948	\$ 179,066	
								\$ 189,433	

See accountants' report.

FOR COUNCIL: November 26, 2012

SUBJECT: Application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week

RECOMMENDATION/MOTION: The Liquor Commission recommends to the City Council that an RAS liquor license for LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., be created, contingent upon compliance with all applicable health and safety codes with the following conditions: 1.) all outstanding food and beverage taxes be paid to the City prior to the Council's November 26, 2012 meeting; 2.) no alcohol sales permitted after 12:00 a.m. i.e. midnight; and 3.) kitchen shall remain open until 11:00 p.m.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., requesting 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. Present at the hearing were Liquor Commissioners Stephen Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert; City Clerk, and Michael Gardner and Jonathan Pfendler, owners/operators and Applicant representatives.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and requested that the Applicant address the Commission. He noted that this application involved a change of ownership and license classification. Laugh Comedy Club was currently held by LSRE, Inc. It operated under a TA, (Tavern, All types of alcohol), liquor license. He added that there had been discussion regarding a moratorium on Downtown liquor licenses by the Council. This issue would need to be resolved. He did not believe that the Council's direction had been clear.

George Boyle, Asst. Corporation Counsel, addressed the Commission. Liquor licenses were nontransferable. This application would be for the creation of a new liquor license.

Commissioner Buchanan noted that three (3) Commissioners, (Commissioners Clapp, Tompkins and himself), had attended part of the Council's retreat on Friday, November 9, 2013. At first, he believed the discussion addressed tavern liquor licenses. He acknowledged that he was uncertain where the discussion ended.

Commissioner Stockton expressed his opinion that a majority of the Council wanted the moratorium extended beyond taverns. He questioned if grandfathering to address change of ownership and/or change of location would be allowed.

Commissioner Buchanan noted that Laugh had submitted their application on November 1, 2012. It appeared that there were a number of unknowns which might impact this application. Commissioner Stockton agreed that there were issues to be resolved by the Council.

Michael Gardner, owner/operator and Applicant representative, addressed the Commission. He noted that money had been spent to reach this point. He hoped that it would be possible to reach a decision regarding this application.

Commissioner Buchanan stated that the Commission would proceed with the hearing and send its recommendation on to the Council. Commissioner Stockton added that the application had been received prior to the Council's discussion regarding a moratorium. He believed that a Text Amendment to address same would appear on the Council's November 26, 2012 meeting.

Mr. Gardner noted his understanding that there would not be any additional taverns in the Downtown. Laugh Comedy Club provided entertainment. A comedy club can be viewed as a tourist attraction. It should help the community and not be a burden. Commissioner Stockton acknowledged that there had not been any issues at Laugh. Mr. Gardner had also inquired about the Club's reputation.

Commissioner Stockton noted that it appeared that Laugh was ready to continue operations under new ownership. The Commission would make a recommendation to the Council. The Council would take final action. The Commission's role was to raise issues and address same.

Commissioner Stockton noted Mr. Gardner and Mr. Pfendler's addresses. Mr. Gardner and Mr. Pfendler both currently resided in IN. Mr. Gardner informed the Commission of his involvement with comedy in Indianapolis, IN. He had performed at Laugh. Adam Weber, current owner/operator and license holder, had informed him of his plans to close the business due to outstanding debt. He noted Laugh's downtown location and building where it is located. He believed that a comedy club could be a staple to the City. Mr. Gardner had spent considerable time here acting as a consultant and management advisor to Mr. Weber.

The majority of comedy clubs allow individuals eighteen (18) years and older. No alcohol is served to minors. He noted that currently Laugh was not open on Sundays. His business model included a younger demographic on that day. He cited dinner and an afternoon show. He noted the local universities present and their theater departments. He cited his personal experience in Indianapolis. Sundays was the third busiest night. The goal was to provide entertainment. A comedy show is generally 110 minutes in length. The average guest consumes 2.4 drinks. A kitchen would be installed at a cost estimated at \$40,000. He did not have hard sales figures at this time. He had contacted other comedy clubs. He noted Morty's, Indianapolis, IN, which also offered a full kitchen with a limited menu. Alcohol sales represented forty-one percent (41%) of total sales.

Mr. Gardner noted that the City would not allow ticket sales to be included in the revenue projections. He estimated that nonalcoholic beverages and food sales would equal fifty-five percent (55%) of total sales. Alcohol sales would equal forty-five percent (45%). Dinner would be offered prior to a comedy show. He hoped to be full stop shop even with a simple menu. He

acknowledged that food would not be a profit center. Food sales would widen the customer demographics. A comedy club provided entertainment, i.e. an alternative to alcohol consumption. Food sales were necessary to qualify for an R license classification.

Mr. Gardner stated that Sunday and Wednesday evenings would be open mic night. This would cultivate local talent. He believed that there was a market for same in the City. Sunday afternoon would offer a matinee. Comedy clubs also marketed themselves as a place for family entertainment. He hoped these changes would allow Laugh to bring in better talent. He planned to retain Mr. Weber as the Operations Manager. In the future, there might be an ownership option.

Commissioner Buchanan noted that currently Laugh was not open on Sundays. Tracey Covert, City Clerk, informed the Commission that Laugh did not apply for a Sunday license. Mr. Gardner stated his intention to keep a comedy club in the City. There were ways to address underage patrons. His plan was to identify those aged twenty-one (21) or over. He added that additional security personnel would be needed. He planned to have two (2) present. He acknowledged that it would be a challenge.

Commissioner Stockton requested additional information regarding family comedy and open mic nights. Mr. Gardner's plans included a daytime matinee which would offer live theater. He planned to work with the local colleges and universities. Open mic would be hosted during the evening. The early show would be at 6:00 p.m. The late shows would be at 8:00 and 10:00 p.m.

Commissioner Stockton noted that food sales would not be a profit center. Mr. Gardner stated that food would be provided. He was not a chef. Commissioner Stockton questioned if food sales were being included as a way to justify underage patrons. Mr. Gardner noted that currently patrons often arrived late. They have questioned if Laugh offered food for sale. He noted the working relationship with Mr. Weber. Laugh had been contacted by the McLean County Health Department. There had not been a transfer of ownership. He added that successful comedy clubs also offered food for sale.

Commissioner Stockton questioned the impact of food sales fall short of projection. Mr. Gardner expressed his willingness to take the risk. He planned to meet the challenge of fifty-one percent (51%) of total sales from nonalcoholic items. Commissioner Stockton stated sales of tangible items which excluded ticket sales. Mr. Gardner questioned Laugh apparel sales. Commissioner Stockton affirmed that apparel sales would be tangible items. Mr. Gardner stated that he would make it work. There would be one to two, (1 - 2), shows per week without alcohol sales. Laugh also offered NA and AA, (Narcotics Anonymous and Alcoholics Anonymous), shows. The Sunday matinee would also be alcohol free.

Commissioner Stockton questioned the kitchen. Mr. Gardner had researched other comedy clubs. He cited Morty's as an example. The kitchen would be twenty feet by twenty-five feet, (20' x 25'). It would offer a deep fryer, grill, convention oven, microwave, etc. Mr. Gardner held a college degree in heating, ventilating and air conditioning, (HVAC). His family owned a HVAC business. His father had offered his assistance with the kitchen set up.

Commissioner Buchanan questioned refrigeration. Mr. Gardner added that he also held a certification for same.

Commissioner Clapp questioned the floor plan. Mr. Gardner noted that the floor plan had been provided by Mr. Weber. He planned to add ten (10) more tables. The facility could comfortably hold 220 - 250 people. The current set up held 200. The additional capacity would allow Laugh to book bigger acts. Laugh currently had tables and chairs in storage. He restated that currently he served as Laugh's as acting manager and consultant. He may also need to become the Operating Manager until one could be hired. He hoped to locate someone in the Chicago metro area. He made his living as a stand up comic.

Mr. Gardner informed the Commission that Laugh had a new web site which offered online ticket sales. He restated that the entertainment was first followed by food and drink.

Commissioner Clapp questioned if there would be a minimum order, (items/drinks). Mr. Gardner responded affirmatively. There would be a two (2) item minimum. The required items did not have to be alcohol. The minimum order policy addressed profitability.

Commissioner Buchanan addressed the floor plan. Mr. Gardner reviewed the floor plan. The stage had been moved. There currently was empty space which was used for storage. This area would be converted into an office and green room.

Commissioner Petersen questioned the Applicant's planned investment. Mr. Gardner stated \$35,000 - \$45,000. Commissioner Petersen addressed the Applicant's financial statements. Mr. Pfendler appeared to have a stronger financial. He noted that there was a business line of credit. Jonathan Pfendler, owner/operator and Applicant representative, addressed the Commission. His family owed a commercial plumbing business.

Commissioner Petersen noted that nineteen (19) year olds would be allowed entry to any comedy show. Food would also be served until 10:00 p.m. Mr. Gardner restated that the kitchen would be open. Commissioner Petersen questioned if alcohol would be served during the 10:00 p.m. show. Mr. Gardner responded affirmatively. Commissioner Petersen noted that there were two (2) entrances to the bar. Mr. Gardner noted that there would only be one (1) entrance to the bar area. Individuals under twenty-one (21) years of age would not be allowed in this area.

Commissioner Stockton compared Laugh to a bowling alley. No one under twenty-one, (21), years is allowed in the tavern portion of the business. Mr. Gardner noted that in IN a separation is required. He added that there was a wall. No one under twenty-one, (21), would be allowed in the bar area.

Commissioner Petersen restated that the kitchen would remain open. Laugh had requested an R liquor license. Commissioner Stockton added that the Commission could place restrictions/conditions upon the license.

Commissioner Petersen addressed the 10:00 p.m. show. Mr. Gardner believed that under the current City Code individuals under twenty-one, (21), could be present. He offered to follow any conditions imposed by the Commission.

Adam Weber, current owner/operator and license holder, addressed the Commission. He stated that the kitchen would be open from a show's start to finish which was when the business closed.

Commissioner Stockton cited the Commission's general policy that if an establishment became a tavern late at night, then an age restrictions would be applied. Mr. Gardner restated that Laugh's goal was to provide entertainment. When the show was over, comedy clubs encouraged patrons to leave.

Commissioner Stockton cited the proposed "Q", Qualified, liquor license which would have allowed underage patrons with an earlier closing hour.

Mr. Gardner noted that currently Thursday night was college night. These shows were well attended.

Commissioner Petersen noted the business hours: 7:00 p.m. until midnight, Wednesday through Sunday. Mr. Gardner questioned if Laugh would need permission to open earlier. Laugh was not ready to offer matinee shows at this time. A theater production can take weeks/months to produce due to rehearsals.

Commissioner Petersen noted access to Laugh via the alley. Mr. Gardner noted that this door was not open during business hours. It was used for deliveries. Commissioner Petersen noted that there would be one (1) entrance to the business and one (1) entrance to the bar. Mr. Gardner responded affirmatively.

Mr. Boyle cited Laugh's unpaid food and beverages taxes. Mr. Gardner noted that Mr. Weber had completed the City's forms. He expressed his willingness to pay same and planned to do so tomorrow. Commissioner Stockton cited another possible contingency: no liquor license until the taxes were paid. Mr. Weber stated his intention to close Laugh by November 30, 2012. Mr. Gardner expressed his hope for a smooth transition.

Commissioner Tompkins questioned if the Applicants were familiar with the City's Alcoholic Beverage code. He also questioned if Laugh had the support of the Downtown Business Association, (DBA), the Downtown and Alderman Schmidt. He questioned if Mr. Gardner resided in the City. Mr. Gardner had read the City Code. He believed that Laugh had Downtown support. He had not spoken with the DBA or Alderman Schmidt. He planned to reside in the City while acting as the Operating Manager.

Commissioner Petersen noted that the building had been a vaudevillian theater. Laugh had a good sound system. He noted the potential for another vacant building. Mr. Gardner informed the Commission that other locations had been considered. Laugh would partner with Bao Tchong, landlord. They hoped to enhance the building's facade. A first floor tenant was needed to allow for the second and third floors to be converted into apartments. The building's first

floor was perfect for entertainment. He believed that if Laugh closed, the building would remain vacant. He restated the intention to team with the landlord by making consistent rent payments.

Clay Wheeler, Asst. Police Chief, addressed the Commission. The Applicants had presented a good plan which included food sales. The goal was to have alcohol sales below fifty percent, (50%). He understood what Mr. Gardner and Mr. Pfendler wanted to do. They will have to live up to same.

Mr. Weber addressed the Commission. He had bankrolled someone else's dream. Mr. Gardner and Mr. Pfendler planned to keep him on at Laugh. They believed that Laugh would be successful and be something that he would take pride in.

Commissioner Tompkins recommended that this application proceed on to the Council. Mr. Gardner did not view this application as a new license. He added his belief that if Laugh closed, the building would remain vacant.

Commissioner Stockton opened the hearing to public input. He noted that the Commission needed to hear public feedback.

Tricia Stiller, 106 W. Monroe, addressed the Commission. As the DBA's Executive Director, she had not met the Applicants. She was a fan of live comedy. She has patronized Laugh Comedy Club. It was in a good location. She also had supported Mr. Weber. She believed that Laugh would be successful. The Downtown was in transition and the future seemed uncertain. She hoped to open a dialogue with the City and work together.

Commissioner Stockton questioned if the DBA had any issues with Laugh. He noted that it was a specific venue. An individual came for the comedy show. When it was over, patrons leave. He could not recall a single incident.

Commissioner Petersen understood the call for a moratorium in the Downtown. In this instance, there was a tavern license at this location. It would be changed to an R license. Ms. Stiller noted that food offerings brought a more favorable response. The Downtown was opposed to alcohol only establishments. The installation of a kitchen would be viewed as a positive. Both Downtown residents and businesses had expressed a preference for restaurants over taverns.

Commissioner Petersen questioned if the Council would be willing to approve this application. Ms. Stiller expressed her opinion that the Council wanted a better handle on night life in the Downtown before the addition of more liquor licenses. She acknowledged that there was a liquor license at this location. There appeared to be little concern regarding this application.

Commissioner Stockton expressed his appreciation to Ms. Stiller for her comments.

Asst. Chief Wheeler questioned if Laugh would be available for private parties. Mr. Gardner expressed an interest in corporate events. Laugh was a comedy club and private rentals were not a part of the business plan.

Commissioner Stockton did not view corporate events as problematic. He cited sorority/fraternity parties and out of town promoters as problematic. Mr. Gardner responded negatively. Asst. Chief Wheeler noted that Laugh would produce the comedy shows.

Mr. Gardner noted his good faith. He pledged that the LLC would make timely payments. The second show should start no later than 10:15 p.m. This means the show should be over by 11:45 p.m. He estimated that ninety percent (90%) of the patrons would be gone by midnight.

Mr. Boyle recommended that the sale of alcohol be prohibited after midnight. Commissioner Stockton read Laugh's current conditions: 1.) that the closing hour on Monday through Thursday shall be midnight and on Saturday and Sunday shall be 1:00 a.m.; 2.) that last call shall be thirty (30) minutes prior to closing time or one (1) hour after show ends which ever is later; 3.) a cover charge (ticket) will always be applied for admission with a minimum charge of \$10; and 4.) that patrons who arrive after the comedy act starts shall be charged half the face value of the ticket price with a minimum charge of \$5. He stressed that the Applicant had affirmed that Laugh would be a comedy club.

Commissioner Buchanan cited his personal experience monitoring the Laugh Comedy Club. At closing, he had seen a limited number of patrons head north on Main St. He noted the concerns raised regarding taverns. He did not believe that Laugh contributed to Downtown issues.

Mr. Gardner restated that Laugh would be a comedy club. Patrons left the facility when the show was over. The average comedy act lasted ninety (90) minutes. The kitchen would close forty-five (45) minutes into the last show. There would be a last call for food sales. Food would be available during all shows. Commissioner Tompkins discouraged the Commission from micromanaging food sales.

Commissioner Stockton expressed the Council's interest in an inviting business atmosphere within the Downtown. Appropriate businesses would be needed to create this atmosphere. He noted the responsibility of the Downtown's residents and businesses. He recommended that the Commission place conditions upon Laugh even with an R liquor license. He noted that kitchens have been allowed an earlier closing time. Mr. Boyle recommended that a time be set. He cited 10:30 or 11:00 p.m. as examples. Commissioner Stockton recommended that the kitchen remain open until 11:00 p.m.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp that the application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., requesting a RAS liquor license be approved with the following conditions: 1.) all outstanding food and beverage taxes be paid to the City prior to the Council's November 26, 2012 meeting; 2.) no alcohol sales permitted after 12:00 a.m. i.e. midnight; and 3.) kitchen shall remain open until 11:00 p.m.

Motion carried, (viva voce).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph on November 5, 2012 in accordance with City Code. In accordance

with City Code, approximately seven (7) courtesy copies of the Public Notice were mailed on November 6, 2012. In addition, the Agenda for the November 14, 2012 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: This would be a new liquor license. Annual fee for an RAS liquor license is \$2,210. LSRE, Inc. currently holds a TA liquor license at this location with an annual fee of \$1,760.

Respectfully,

Stephen F. Stockton
 Chairman of Liquor Commission

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

FOR COUNCIL: November 26, 2012

SUBJECT: Ordinance Imposing a Moratorium until May 13, 2013 on the Creation of Licenses to sell Alcoholic Liquor for Consumption on the Premises within the Central Business District

RECOMMENDATION/MOTION: That the Ordinance be passed.

BACKGROUND: At the City Council retreat held earlier this month, there was general agreement to impose a moratorium on the creation of new liquor licenses within the downtown area for a period of six months.

Three versions of an ordinance are placed before you tonight:

Version One would prohibit the creation of any new licenses to sell alcoholic liquor for consumption on the premises within the B-3 Central Business District (as defined by the City Zoning Code and as delineated on the official Zoning Map of the City) until May 13, 2013, the first City Council meeting for aldermen elected in the April 2013 municipal elections. The moratorium is effective upon passage and approval of this ordinance.

Version Two would prohibit the creation of any new tavern licenses (“TA” licenses permit the selling of all types of liquor, “TB” licenses permit the selling of beer and wine only) within the B-3 Central Business District until May 13, 2013. It does not prohibit the creation of new restaurant liquor licenses.

Version Three would prohibit the creation of any new licenses to sell alcoholic liquor for consumption on the premises within the B-3 Central Business District until May 13, 2013, but makes an exception for applications for liquor licenses which had been filed as of November 9, 2013 (the date the Council announced that it was considering a moratorium) or for existing licenses which are seeking a change in ownership approval or a change in premises approval.

None of the versions prohibit the regular renewal process for liquor licenses which have previously been created by Council action and were in effect on November 26, 2012. The ordinance states that nothing in the ordinance shall be construed as prohibiting the continuance of the moratorium by future City Council action.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The City Council

FINANCIAL IMPACT: None

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Attachments: Attachment 1. Ordinance Version One
Attachment 2. Ordinance Version Two
Attachment 3. Ordinance Version Three
Attachment 4. Map of B-3 Central Business District

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Anderson				Alderman Purcell			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman McDade				Alderman Stearns			
Alderman Mwilambwe							
				Mayor Stockton			

[Version One]

ORDINANCE NUMBER 2012-____

**AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR
LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT**

**BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF BLOOMINGTON, ILLINOIS**

Section One: Effective November 26, 2012, no licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B-3 Central Business District as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on May 13, 2013. Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012. Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code shall remain in full force and effect.

Section Three: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

Section Four This ordinance is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this ____ day of November, 2012

APPROVED this ____ day of November, 2012.

APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

[Version Two]

ORDINANCE NUMBER 2012-_____

**AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR
LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT**

**BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF BLOOMINGTON, ILLINOIS**

Section One: Effective November 26, 2012, no "TA" or "TB" licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B-3 Central Business District as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on April 30, 2013. Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012. Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code shall remain in full force and effect.

Section Three: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

Section Four This ordinance is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this ____ day of November, 2012

APPROVED this ____ day of November, 2012.

APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

[Version Three]

ORDINANCE NUMBER 2012-_____

**AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR
LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT**

**BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF BLOOMINGTON, ILLINOIS**

Section One: Effective November 26, 2012, no licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B-3 Central Business District as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on May 13, 2013.

Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor for consumption on the premises within the B-3 Central Business District if an application to create such a license had been filed with the City Clerk on or before November 9, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor if an application to create a license is filed by reason of the fact that an applicant is seeking approval of a change of ownership of a license to sell alcoholic liquor for consumption on the premises within the B-3 Central Business District and the license for which a change of ownership is sought had already been created by previous City Council action and was in effect on November 26, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor if an application to create a license is filed after that date by reason of the fact that an applicant is seeking approval of a change in premises of a license to sell alcoholic liquor for consumption on the premises within the B-3 Central Business District and the license for which a change of premises is sought had already been created by previous City Council action and was in effect on November 26, 2012.

Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code shall remain in full force and effect.

Section Three: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

Section Four This ordinance is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this ____ day of November, 2012

APPROVED this ____ day of November, 2012.

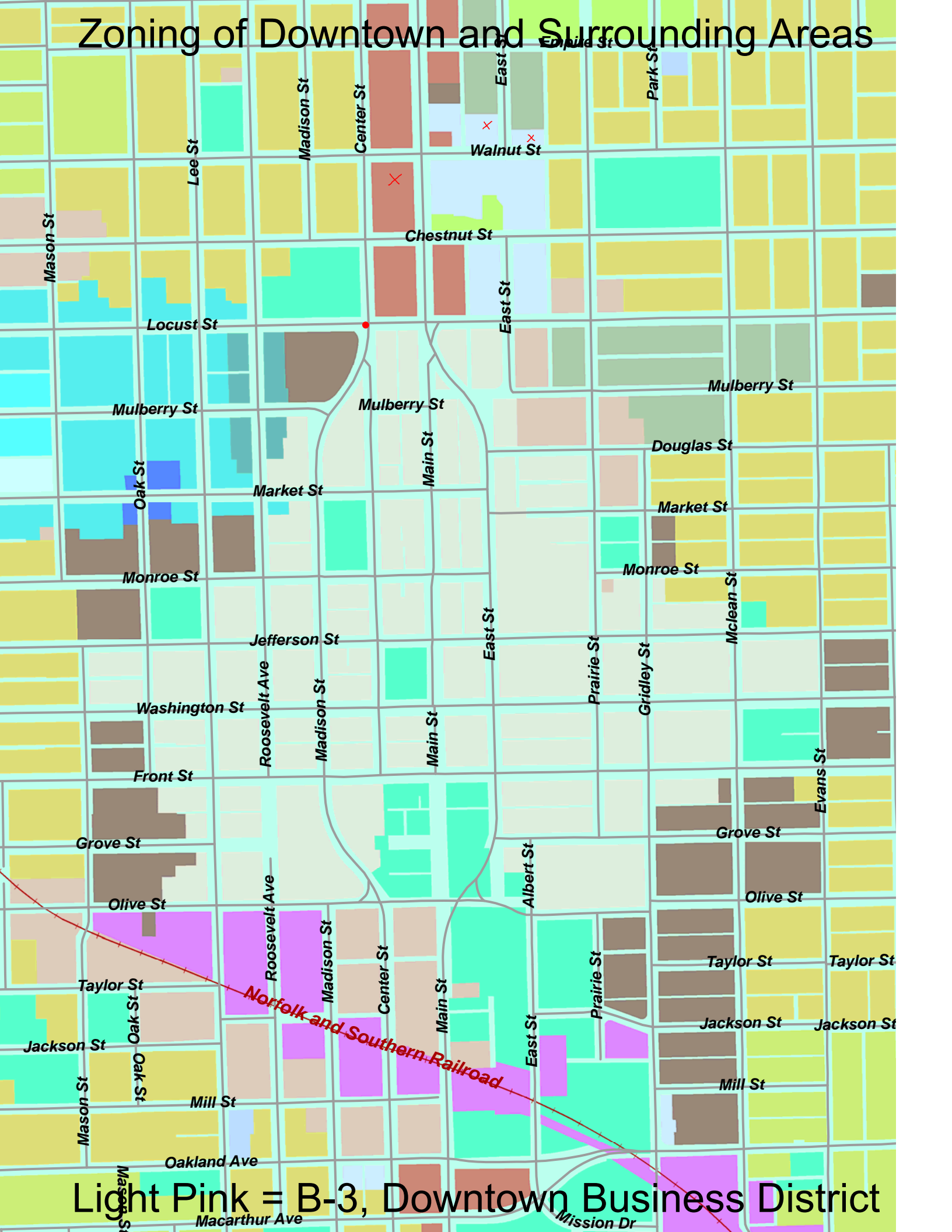
APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

Zoning of Downtown and Surrounding Areas



Light Pink = B-3, Downtown Business District