



CITY OF
BLOOMINGTON
COUNCIL MEETING
OCTOBER 22, 2018



COMPONENTS OF THE COUNCIL AGENDA

RECOGNITION AND PROCLAMATION

Recognize individuals, groups, or institutions publically, as well as those receiving a proclamation, declaring a day, event, or person.

PUBLIC COMMENTS

Each regular City Council meeting shall have a public comment period not to exceed 30 minutes. Every speaker is entitled to speak for up to 3 minutes. To be considered for public comment, complete a public comment card at least 5 minutes prior to the start of the meeting. The Mayor will randomly draw from the cards submitted. Public comment is a time to give comment. It is not a question and answer period and the City Council does not respond to public comments. Speakers who engage in threatening or disorderly behavior will have their time ceased.

CONSENT AGENDA

All items under the Consent Agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member, City Manager or Corporation Counsel so requests, in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda, which typically begins with Item No. 8.

The City's Boards and Commissions hold Public Hearings prior to some Council items appearing on the Council's Meeting Agenda. Persons who wish to address the Council should provide new information which is pertinent to the issue before them.

PUBLIC HEARING

Items that require receiving public testimony will be placed on the agenda and noticed as a Public Hearing. Individuals have an opportunity to provide public testimony on those items that impact the community and/or residence.

REGULAR AGENDA

All items that provide the Council an opportunity to receive a presentation ask questions of City Staff, deliberate and seek additional information prior to making a decision.

MAYOR AND ALDERMAN

Mayor, At-Large - Tari Renner

City Aldermen

Ward 1 – Jamie Mathy
Ward 2 – Dave Sage
Ward 3 – Mboka Mwilambwe
Ward 4 – Amelia Buragas
Ward 5 – Joni Painter
Ward 6 – Karen Schmidt
Ward 7 – Scott Black
Ward 8 – Diana Hauman
Ward 9 – Kim Bray

City Manager - Tim Gleason

CITY LOGO DESIGN RATIONALE

The **CHEVRON** Represents:
Service, Rank, and Authority
Growth and Diversity
A Friendly and Safe Community
A Positive, Upward Movement and
Commitment to Excellence!

MISSION, VISION, AND VALUE STATEMENT

MISSION

To lead, serve and uplift the
City of Bloomington

VISION

A Jewel of the Midwest Cities

VALUES

Service-Centered,
Results-Driven,
Inclusive

STRATEGIC PLAN GOALS

-  Financially Sound City Providing Quality Basic Services
-  Upgrade City Infrastructure and Facilities
-  Grow the Local Economy
-  Strong Neighborhoods
-  Great Place – Livable, Sustainable City
-  Prosperous Downtown Bloomington



**CITY COUNCIL MEETING AGENDA
CITY HALL COUNCIL CHAMBERS
109 EAST OLIVE STREET, BLOOMINGTON, IL 61701
MONDAY, OCTOBER 22, 2018, 6:00 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**
- 5. Recognition/Appointments**
 - A. Proclamation declaring October 29, 2018 "Crossroads Handcrafts of the World 30th Anniversary".
 - B. Presentation of the City of Bloomington Police Department Police Officer Commission Certificate to Michael DeReu, who has completed probation.
- 6. Public Comment**
- 7. "Consent Agenda"**
 - A. Consideration of approving the Minutes of the October 8, 2018 Regular City Council Meeting, and October 1, 2018 Special Session Meeting. *(Recommend the reading of minutes be dispensed and approved as printed.)*
 - B. Consideration of approving Bills, Payroll, Procurement Card Purchases, and Electronic Transfers in the amount of \$7,650,752.44. *(Recommend the Bills, Payroll, Procurement Card Purchases, and Electronic Transfers be allowed in the amount of \$7,650,752.44 and orders drawn on the Treasurer for the various amounts as funds are available.)*
 - C. Consideration of AUTOMATED MERCHANT SERVICES INC. Processing Agreement Bid Waiver. *(Recommend that the Resolution Authorizing Waiving the Technical Bidding Requirements and Approving an Agreement with AUTOMATED MERCHANT SERVICES INC., for payment processing and technical payment and reporting integration with the City's Tyler MUNIS enterprise resource planning (ERP) system be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*

D. Consideration of a Resolution Waiving the Formal Bidding Process allowing the Parks, Recreation, and Cultural Arts Department to participate in an Early Order Program with Helena Chemical (the distributor) for procurement of Syngenta, BASF, Bayer, Nufarm Chemicals (the manufacturers) Golf Course Chemicals from a single source, as requested by the Parks, Recreation, and Cultural Arts Department. *(Recommend the Resolution Waiving the Formal Bidding Process to allow the Parks, Recreation and Cultural Arts Department to participate in the Syngenta, BASF, Bayer and Nufarm Chemicals "Early Order Discount Program" for Golf Turf Grass Management for the 2019 Golf Season be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*

E. Consideration of:

- (a) An Ordinance amending the FY 2019 Budget to allocate \$28,000 to the Motor Fuel Tax-MFT Architectural & Engineering for Capital (20300300-70051) account;
- (b) An MFT Resolution, and
- (c) A Preliminary Engineering Services Agreement with Farnsworth Group, Inc., for Engineering Survey Data Collection related to Jersey Avenue Bridge Rehabilitation (RFQ 2015-26), in the amount of \$28,000, as requested by the Public Works Department.

(Recommend that: (a) the Ordinance Amending the Budget Ordinance for the Fiscal Year Ending April 30, 2019 Budget in the Amount of \$28,000, be approved and the Mayor and City Clerk be authorized to execute the ordinance; and (b) the MFT Resolution be approved and the Mayor and City Clerk be authorized to execute the Resolution; and (b) the Preliminary Engineering Services Agreement with Farnsworth Group, Inc., for Engineering Survey Data Collection related to Jersey Avenue Bridge Rehabilitation in the amount of \$28,000, be approved, and the City Manager be authorized to execute the agreement and other related necessary documents.)

F. Consideration of an Ordinance providing for the Vacation of a 50 foot portion of the No-Access Line adjacent to Empire Street and a Final Plat of Resubdivision of Lot 6, Lot 17, and Outlot 18 in Empire Business Park Ninth Addition, so the property owned by Biaggi's Ristorante Italiano can have an Empire Street address, as requested by the Public Works Department. *(Recommend the Ordinance providing for the Vacation of a fifty (50) foot portion of the No-Access Line adjacent to Empire Street and the Final Plat of Resubdivision of Lot 6, Lot 17, and Outlot 18 in Empire Business Park Ninth Addition, so the property owned by Biaggi's Ristorante Italiano can have an Empire Street address, be approved, and the Mayor and City Clerk be authorized to executed the necessary documents.)*

- G. Consideration of an Ordinance approving a Special Use Permit to allow an “Educational/Training Facility”, a nonconforming use in the R-1B Medium Density Single Family Residential District, for property located at 1311 W Olive St., as requested by the Community Development Department. *(Recommend the Ordinance approving a Special Use Permit to allow an “Educational/Training Facility”, a nonconforming use in the R-1B Medium Density Single Family Residential District, for property located at 1311 W Olive St. be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)*
- H. Consideration and action on an ordinance amending the City Code to clarify the various department names of the City and specifically that the Water Department will become a division of the City’s Public Works Department, as requested by the City Administration. *(Recommend the Ordinance Amending the City Code Provisions on the Various Department Names and Providing that the Water Department Shall be a Division of the Department of Public Works, be approved and the Mayor and City Clerk authorized to execute the ordinance.)*
- I. Consideration of an Ordinance amending the City’s Schedule of Fees and amending various Chapters within the City Code regarding fees, as requested by the City Manager. *(Recommend the Ordinance amending the Schedule of Fees for the City of Bloomington and amending the City Code be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*
- J. Consideration of approving an application of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse Restaurant requesting a Class RAS (Restaurant, All Types of Alcohol, Sunday Sales) liquor license to be located at 1637 E. Empire Street which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week, as requested by the City Clerk’s Office. *(Recommend the application of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse Restaurant requesting a Class RAS (Restaurant, All Types of Alcohol, Sunday Sales) liquor license to be located at 1637 E. Empire Street which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week be approved, contingent upon the corporation being approved to do business in the State of Illinois and compliance with all health and safety codes.)*
- K. Consideration of an Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a Wedding Reception at Davis Lodge at Lake Bloomington on November 17, 2018, as provided by the request from Ian Galloway and Jennifer Chedister to allow moderate consumption of beer and wine, as

requested by the City Clerk's Office. *(Recommend the Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a Wedding Reception at Davis Lodge at Lake Bloomington on November 17, 2018 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*

8. "Regular Agenda"

- A. Consideration and action on an Ordinance Addressing the Payment of Accrued Sick Leave for Grandfathered Employees to Limit Artificial Pension Increases. *(Recommend the Ordinance Addressing the Payment of Accrued Sick Leave for Grandfathered Employees to Limit Artificial Pension Increases, be approved and the Mayor and City Clerk authorized to execute the Ordinance.) (Presentation by Tim Gleason City Manager, 5 minutes. Council discussion 10 minutes.)*
- B. Consideration of a Resolution of Financial Commitment and Administration to apply for the Cycle 2019 Safe Routes to School grant, as requested by the Public Works Department. *(Recommend the Resolution of Financial Commitment and Administration to apply for the Cycle 2019 Safe Routes to School grant be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.) (Brief overview by Tim Gleason, City Manager. Presentation by Jim Karch, Public Works Director 5 minutes, and brief remarks by Dr. Barry Reilly, Bloomington Public Schools District 87 School District, 3 minutes. Council discussion 5 minutes)*
- C. Consideration of (a) an Ordinance amending the Fiscal Year 2019 Budget to allocate funds to the Solid Waste Fund and (b) the Purchase of one (1) year of Routeware Premium solid waste route optimization software with hardware and software support, going live on December 10, 2018, from Routeware, Inc. of Portland, Oregon, using HGACBuy (exp. 2/28/19), in the amount of \$103,358, as requested by the Public Works Department. *(Recommend the (a) Ordinance amending the Fiscal Year 2019 Budget to allocate funds to the Solid Waste Fund and (b) Purchase of one (1) year of Routeware Premium solid waste route optimization software with hardware and software support, going live on December 10, 2018, from Routeware, Inc. of Portland, OR, using HGACBuy, in the amount of \$103,358, be approved, (c) the Mayor and City Clerk be authorized to execute the necessary documents, and (d) the Procurement Manager be authorized to issue a Purchase Order.) (Brief overview by Tim Gleason. Presentation by Jim Karch, Public Works Director 5 minutes. Council discussion 5 minutes.)*
- D. Consideration of a Contract with Stark Excavating, Inc. for construction of Miller Park Zoo additional parking and concessions (Bid #2019-15) in

the amount of \$1,058,924, as requested by the Parks, Recreation, and Cultural Arts Department. *(Recommend The Contract with Stark Excavating, Inc., in the amount of \$1,058,924, for construction services provided for the Miller Park Zoo additional parking and concessions be approved, and the City Manager and City Clerk be authorized to execute the contract.) (Brief Overview by Tim Gleason, City Manager. Presentation by Jay Tetzloff, Director of Parks, Recreation, and Cultural Arts, 10 minutes, City Council discussion, 10 minutes.)*

9. City Manager's Discussion

A. Finance Director's Report

10. Mayor's Discussion

11. City Aldermen's Discussion

12. Executive Session - *Cite Section*

13. Adjournment

14. Notes



Council Date: October 22, 2018

COUNCIL AGENDA ITEM NO. 5

Recognition/Appointments

- A. Proclamation declaring October 29, 2018 "Crossroads Handcrafts of the World 30th Anniversary."
- B. Presentation of the City of Bloomington Police Department Police Officer Commission Certificate to Michael DeReu, who has completed probation.

City of Bloomington



Police Department

Police Officer's Commission

*By authority of the Board of Fire and Police Commissioners
of the City of Bloomington,
in the County of McLean, and State of Illinois,
We do hereby certify that*

Michael A. DeRen

*Having been duly sworn
was appointed and commissioned a*

Police Officer

On

*the twenty sixth of September, two thousand and sixteen.
As Evidence thereof, we set our hand and seal*

Tari Renner

Tari Renner
Mayor

Clay E. Wheeler

Clay E. Wheeler
Chief of Police

Dean Messinger

Dean Messinger
Chairman



Cherry Lawson

Cherry Lawson
City Clerk

PROCLAMATION

Crossroads Handcrafts of the World 30th Anniversary

WHEREAS, *Crossroads Handcrafts of the World*, will be commemorating its 30th anniversary on October 29, 2018; and,

WHEREAS, *Crossroads Handcrafts of the World* has been able to serve both our local and global community for 30 years, displaying exemplary dedication to empowering disadvantaged farmers and artisans, and educating the community about the issues of poverty and social injustice; and

WHEREAS, *Crossroads Handcrafts of the World* continues to benefit from the guidance of its original founders, Charline Watts and Marilyn Townley, and original store manager Carol Schrantz.

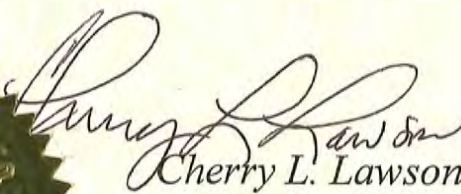
THEREFORE I, Tari Renner, Mayor of the City of Bloomington, Illinois do hereby proclaim October 29, 2018, as,

“Crossroads Handcrafts of the World Day”

I encourage residents to recognize the impact of Crossroads Handcrafts of the World in our city, and thank those who serve to create a ripple of change across the globe.



Tari Renner
Mayor



Cherry L. Lawson
City Clerk

CONSENT AGENDA



CONSENT AGENDA ITEM NO: 7A

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: City Clerk's Office

SUBJECT: Consideration of approving the Minutes of the October 8, 2018 Regular City Council Meetings, and October 1, 2018 Special Session Meeting Minutes

RECOMMENDATION/MOTION: The reading of minutes be dispensed and approved as printed.

STRATEGIC PLAN LINK: Goal 1. Financially sound City providing quality basic services.

STRATEGIC PLAN SIGNIFICANCE: Objective 1d. City services delivered in the most cost-effective, efficient manner.

BACKGROUND: The minutes of the meetings provided 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: N/A

FINANCIAL IMPACT: N/A

Respectfully submitted for Council consideration.

Prepared by: Cherry L. Lawson, C.M.C., City Clerk

Recommended by:

A handwritten signature in black ink, appearing to read "Tim Gleason", written over a horizontal line.

Tim Gleason
City Manager

Attachments:

- October 8, 2018 Regular City Council Meeting Minutes
- October 1, 2018 Special Session Meeting Minutes

**SUMMARY MINUTES OF THE MEETING
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS MONDAY, OCTOBER 8, 2018, 6:00 P.M.**

The Council convened in Regular Session in the Council Chambers, City Hall Building, at 6:00 p.m., Monday, October 8, 2018.

Mayor Renner directed the City Clerk to call the roll and the following members of Council answered present:

Aldermen: Jamie Mathy, David Sage, Mboka Mwilambwe (Arrived 6:04 p.m.), Amelia Buragas, Scott Black, Joni Painter, Diana Hauman, Kim Bray, Karen Schmidt (Absent), and Mayor Tari Renner.

Staff Present: Tim Gleason, City Manager; Steve Rasmussen, Assistant City Manager; Jeffrey Jurgens, Corporation Counsel; Cherry Lawson, City Clerk; Bob Yehl, Water Director; Bob Mahrt, Community Development Director; Scott Rathbun, Finance Director; Brian Mohr, Fire Chief; Melissa Hon, Assistant to the City Manager; Scott Sprouls, Information Services Director; and other City staff were also present.

Recognition/Appointments

- A. Proclamation declaring the 175th Anniversary of the Wayman African Methodist Church.
- B. Presentation of the winners of the 2018 Beautification Awards, as presented by the Beautification Committee:
 - (a) Residential Winners:
 - (i) Ronald and Mary Anderson
 - (ii) Jane Jones
 - (iii) Josefina Ramirez
 - (b) Commercial Winners:
 - (i) Withers Park, Superintendent of Parks (Robert Moews)
 - (ii) BJH/BHS, Superintendent (Barry Reilly)
 - (iii) Ewing Cultural Center (Toni Tucker)

Public Comment

Mayor Renner opened the meeting to receive public comment, and the following individuals provided comments to the Council:

Kevin Huetten	Tim Strader	Jane Whitwood
Peter Brandt	Sue Feldkamp	Dale Whitwood
John Brandt	Gary Lambert	David Golwtza
Scott Stimeling	Joe Hancy	

“Consent Agenda”

*Items listed on the Consent Agenda are approved with one motion, and is provided in **BOLD**, and items that Council pull from the Consent Agenda for discussion are listed with a notation **Pulled from the Consent Agenda**.*

Motion by Alderman Painter and seconded by Alderman Bray that the Consent Agenda be approved, with the exception of Item 7I.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Sage, Black, and Bray.

Nays: None.

Motion carried.

The following was presented:

Item 7A. Consideration of approving the Minutes of the September 24, 2018 Regular City Council Meeting. *(Recommend the reading of minutes be dispensed and approved as printed.)*

The following was presented:

Item 7B. Consideration of approving Bills, Payroll, and Electronic Transfers in the amount of \$4,807,114.55. *(Recommend the Bills, Payroll, and Electronic Transfers be allowed in the amount of \$4,807,114.55, and orders drawn on the Treasurer for the various amounts as funds are available.)*

The following was presented:

Item 7C. Consideration of a Supportive Housing Program/Continuum of Care Planning Grant Agreement (Project IL1602L5T121700), in the amount of \$43,217, to the U.S. Department of Housing and Urban Development, as requested by the Community Development Department – Office of Grants Administration. *(Recommend the Supportive Housing Program/Continuum of Care Planning Grant Agreement (Project IL1602L5T121700), in the amount of \$43,217, to the U.S. Department of Housing and Urban Development (HUD) be approved, and the City Manager*

and City Clerk be authorized to execute the necessary documents.)

The following was presented:

Item 7D. Consideration of an Annual Maintenance Agreement with Sentinel Technologies Inc., Springfield, IL, for City-wide Network and VoIP Telephone Infrastructure, in the amount of \$78,425, as requested by the Information Services Department. *(Recommend the Annual Maintenance Agreement with Sentinel Technologies Inc., Springfield, IL, for Hardware/Software Maintenance, Troubleshooting, Configuration Assistance and Remote Monitoring of Network and VoIP (Voiceover Internet Protocol) Infrastructure, in the amount of \$78,425, for the final year of the existing five year agreement, be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)*

The following was presented:

Item 7E. Consideration of (1) an Ordinance amending the Fiscal Year 2019 Budget, in the amount of \$39,947, and (2) the Purchase of Jellyvision (via the ALEX tool)), as a limited source, to provide services to better educate employees regarding their 2019 Benefit Plans, due to a critical need for expertise in this area, as requested by the Human Resources Department. *(Recommend (1) the Ordinance amending the Fiscal Year 2019 Budget, in the amount of \$39,947, be approved, and the Mayor and City Clerk be authorized to execute the Ordinance; and (2) the Purchase of the Jellyvision Product/Service (via the ALEX tool), as a limited source, to provide services to better educate employees regarding their 2019 Benefit be approved, and the Procurement Manager be authorized to issue a Purchase Order.)*

ORDINANCE NO. 2018 – 83

AN ORDINANCE AMENDING THE BUDGET ORDINANCE FOR THE FISCAL YEAR ENDING APRIL 30, 2019

The following was presented:

Item 7F. Consideration of an Ordinance approving the Dedication of a Water Main Easement located at Lot 2 of Empire Business Park 1st Addition and the Easement Agreement between Advocate Health and Hospital Corporation d/b/a Advocate BroMenn Medical Center and the City of Bloomington, so the developer can install a Public Water Main for Empire Business Park 9th Addition, as requested by the Public Works and Water Departments. *(Recommend the Ordinance approving the Dedication of a Water Main Easement located at Lot 2 of Empire Business Park 1st Addition and the Easement Agreement between Advocate Health And Hospital Corporation d/b/a Advocate BroMenn Medical Center and the City of Bloomington be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*

ORDINANCE NO. 2018 – 84

AN ORDINANCE APPROVING AND ACCEPTING THE DEDICATION OF A WATER MAIN EASEMENT

LOCATED AT LOT 2 OF EMPIRE BUSINESS PARK FIRST ADDITION AND APPROVING THE EASEMENT AGREEMENT BETWEEN ADVOCATE HEALTH AND HOSPITAL CORPORATION, D/B/A ADVOCATE BROMENN MEDICAL CENTER AND THE CITY OF BLOOMINGTON

The following was presented:

Item 7G. Consideration of an Ordinance amending the Fiscal Year 2019 Budget, in the amount of \$232,218, to adjust the Community Development Block Grant (CDBG) Fund, as requested by the Community Development Department – Office of Grants Administration. *(Recommend the Ordinance amending the Fiscal Year 2019 Budget, in the amount of \$232,218, to adjust the Community Development Block Grant (CDBG) Fund be approved, and the Mayor and City Clerk be authorized to execute any necessary documents.)*

ORDINANCE NO. 2018 – 85

AN ORDINANCE AMENDING THE BUDGET ORDINANCE
FOR THE FISCAL YEAR ENDING APRIL 30, 2019

The following was presented:

Item 7H. Consideration of an Ordinance approving a Final Plat of LeGrand Subdivision, so the petitioner can divide the property for sale, as requested by the Public Works Department. *(Recommend the Ordinance approving the Final Plat of LeGrand Subdivision be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)*

ORDINANCE NO. 2018 – 86

AN ORDINANCE PROVIDING FOR THE
APPROVAL OF THE FINAL PLAT OF LEGRAND SUBDIVISION

The following was presented:

Item 7I. Consideration of the application of Game Time Gym II, Inc., d/b/a Game Time Gym II located at 404 Olympia Drive, requesting an EBS (Entertainment/Recreational Sports, Beer and Wine, Sunday sales) liquor license which would allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week, as requested by the City Clerk's Office. *(Recommend the application of Game Time Gym II, Inc., d/b/a Game Time Gym II, located at 404 Olympia Drive, requesting an EBS (Entertainment/Recreational Sports, Beer and Wine, Sunday sales) liquor license which would allow the sale of beer and wine only by the glass for the consumption on the premises seven (7) days a week be approved, with the condition that persons purchasing beer or wine be identified through use of a stamp, and upon compliance with all health and safety codes.)* **Pulled from the Consent Agenda**

Motion by Alderman Bray and seconded by Alderman Mathy to table this item until

such time Council can get additional information to understand the repercussions of granting this liquor license, and in particular, how does it apply to our philosophy of gaming in the community, for no later than 30 days.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Mwilambwe, and Bray.

Nays: Alderman Sage, Painter, Buragas, Hauman, and Black.

Motion Failed.

Motion by Alderman Hauman and seconded by Alderman Sage to approve the application of Game Time Gym II, Inc., d/b/a Game Time Gym II, located at 404 Olympia Drive, requesting an EBS (Entertainment/Recreational Sports, Beer and Wine, Sunday sales) liquor license which would allow the sale of beer and wine only by the glass for the consumption on the premises seven (7) days a week be approved, with the condition that persons purchasing beer or wine be identified through use of a stamp, and upon compliance with all health and safety codes.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Sage, and Black.

Nays: Alderman Bray.

Motion carried.

“Regular Agenda”

The following was presented:

Item 8A. Ratification of the Collective Bargaining Agreement between the International Association of Machinists, Aerospace Workers, Lodge 1000, and the City of Bloomington, as requested by the Human Resources, Public Works and Water Departments. *(Recommended the Collective Bargaining Agreement be ratified.) (Brief overview by Tim Gleason, City Manager. 3 minutes; Council discussion 3 minutes)*

Motion by Alderman Black and seconded by Alderman Bray that the Collective Bargaining Agreement be ratified.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Sage, Black, and Bray.

Nays: None.

Motion carried.

The following was presented:

Item 8B. Ratification of the Wage and Insurance Reopener with AFSCME Local 699, as requested by Human Resources, Public Works, and Park, Recreation and Cultural Arts Departments. *(Recommend the Wage and Insurance Reopener between AFSCME Local 699 and the City of Bloomington be ratified.) (Brief overview by Tim Gleason, City Manager 3 minutes; Council discussion 3 minutes)*

Motion by Alderman Painter and seconded by Alderman Hauman that the Wage and Insurance Reopener between AFSCME Local 699 and the City of Bloomington be ratified.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Sage, Black, and Bray.

Nays: None.

Motion carried.

The following was presented:

Item 8C. Consideration of an Ordinance amending Chapter 23 the City Code to implement a Comprehensive Dock Permitting Program and adopting Boat Dock Construction Standards, as requested by Administration and the Water Departments. *(Recommend the Ordinance amending Chapter 23 the City Code to implement a Dock Permitting Program and adopting Boat Dock Construction Standards at Lake Bloomington be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.) (Brief overview by Tim Gleason, City Manager. Presentation by Jeffrey Jurgens, Corporation Counsel 10 minutes; Council discussion 15 minutes.)*

ORDINANCE NO. 2018 – 87

AN ORDINANCE AMENDING CHAPTER 23 OF THE CITY CODE TO ESTABLISH AND CLARIFY
THE PROVISIONS ON BOAT DOCK PERMITS AND ADOPTING BOAT DOCK CONSTRUCTION
STANDARDS

Motion by Alderman Hauman and seconded by Alderman Mwilambwe that the Ordinance amending Chapter 23 the City Code to implement a Dock Permitting Program and adopting Boat Dock Construction Standards at Lake Bloomington be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Sage, Black, and Bray.

Nays: None.

Motion carried.

The following was presented:

Item 8D. Consideration of an Ordinance amending Chapter 11 of the Bloomington City Code to establish Business Registration Requirements, as requested by the Police, Fire, Finance, Information Services, and Community Development Departments and the City's Office of Economic Development. *(Recommend the Ordinance amending Chapter 11 of the Bloomington City Code to establish a Business Registration program be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.) (Brief Overview by Tim Gleason, City Manager. Presentation by Bob Mahrt, Community Development Director, and Scott Sprouls, Information Services Director 10 minutes, City Council discussion, 15 minutes.)*

ORDINANCE NO. 2018 – 88

AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY CODE TO ESTABLISH BUSINESS
REGISTRATION REQUIREMENTS

Motion by Alderman Hauman and seconded by Alderman Mwilambwe that the Ordinance amending Chapter 11 of the Bloomington City Code to establish a Business Registration program be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Painter, Mwilambwe, Buragas, Hauman, Sage, and Bray.

Nays: Aldermen Mathy and Black.

Motion carried.

The following was presented:

Item 8E. Consideration of an Ordinance adopting a Schedule of Fees for the City and amending various Chapters within the City Code regarding fees, as requested by the City Manager. *(Recommend the Ordinance adopting a Schedule of Fees for the City and amending the City Code be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.) (Brief Overview by Tim Gleason, City Manager. Presentation by Bob Mahrt, Community Development Director, and Scott Rathbun, Finance Director, 20 minutes, City Council discussion, 20 minutes.)*

ORDINANCE NO. 2018 – 89

AN ORDINANCE ADOPTING A SCHEDULE OF FEES FOR THE
CITY OF BLOOMINGTON AND AMENDING THE CITY CODE

Motion by Alderman Hauman and seconded by Alderman Bray that the Ordinance adopting a Schedule of Fees for the City and amending the City Code be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Black, and Bray.

Nays: Alderman Sage.

Motion carried.

City Manager's Discussion

Mr. Gleason stated announced the upcoming events that are occurring in the City, as well as a noting the Committee of the Whole Meeting on October 15 where Jay Tetzloff will provide an updated presentation on O'Neil Pool, and a Library presentation from Jeanne Hamilton related to the Farnsworth rendering. He would also be providing his three (3) month update to the Council.

Mayor's Discussion

Mayor Renner acknowledged during the October 9, 2018 Liquor Commission Meeting that Jack Bataoel had resigned. Former Liquor Commissioner Jim Jordan will replace him. He acknowledged the passing of local artist Harold Gregor.

City Aldermen's Discussion

Alderman Mwilambwe noted that Council has been receiving many emails from Lynn Cannon, Executive Director of the Arena of the upcoming shows at the arena.

Alderman Sage publicly thanked and acknowledged Jeff Jurgens, Corporation Counsel, Bob Yehl, Water Directors and other staff on the excellent work on the Boat Dock Ordinance.

Alderman Mathy echoed the comments of Alderman Sage. He noted that he would not be absent at the Committee of the Whole Meeting on Monday, October 15.

Alderman Hauman acknowledged the Firefighter Memorial on Saturday, October 13, 2015 at 11 a.m. She also acknowledged Breast Cancer Awareness Month.

Executive Session - *Cite Section*

Adjournment

Motion by Alderman Black seconded by Alderman Bray adjourning the meeting. Meeting adjourned at 8:34 p.m.

Motion carried. (Viva Voce)

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk

**SUMMARY MINUTES OF THE SPECIAL SESSION MEETING
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS MONDAY, OCTOBER 1, 2018, 6:00 P.M.**

The Council convened in a Special Session in the Council Chambers, City Hall Building, at 6:00 p.m., Monday, October 1, 2018.

Mayor Renner directed the City Clerk to call the roll and the following members of Council answered present:

Aldermen: Jamie Mathy, David Sage (absent), Mboka Mwilambwe, Amelia Buragas, Scott Black, Joni Painter, Diana Hauman, Kim Bray, Karen Schmidt, and Mayor Tari Renner.

Staff Present: Tim Gleason, City Manager; Steve Rasmussen, Assistant City Manager; George Boyle, Assistant Corporation Counsel; Cherry Lawson, City Clerk; Brian Mohr, Fire Chief; Melissa Hon, Assistant to the City Manager; Scott Sprouls, Information Services Director; and Nicole Albertson, Human Resource Director and other City staff were also present.

Public Comment

Mayor Renner opened the meeting to receive public comment. There were no comments from the public.

The following was presented:

- 4: Presentation and discussion by John Houseal, FAICP, Houseal Lavigne & Associates, regarding proposed zoning text and map amendments, as requested by the Community Development Department. *(Brief Overview by Tim Gleason, City Manager. Presentation by Bob Mahrt, Community Development Director and John Houseal, FAICP, Houseal Lavigne & Associates, 45 minutes; City Council discussion, 45 minutes.)*

Ms. Simpson provided brief comments stating Mr. John Houseal and Jackie Wells from Houseal Lavigne & Associates is an excellent planning firm from Chicago. They specialized in comprehensive plans, zoning ordinance updates, and they have worked on sign ordinances in other communities corridor planning. The City started this process in 2016, following the adoption of our award-winning Comprehensive Plan. In 2015, the City won both state and national recognition zoning is one of the many tools that has some teeth that can help communities implement their comprehensive plan and their long-term vision for the area. She listed some of the goals from the Comprehensive Plan to include:

- Provide efficient mechanisms for new and redevelopment. The purposes is to streamline the review processes to make our regulations clear for developers and for citizens and to help make it more comprehensible to the public.
- Improve parking conditions and encouraging local food production, as well as other sustainable practices.

City staff is seeking direction from Council to permit staff to move forward with a public hearing process and to initiate that. The second item on your agenda would be a resolution requesting authority to take these drafts public, receive comments, hold the public hearing and then bring them back to you for final action at a later date.

Mr. Houseal presented the unified development code, as it combines both the subdivision code and the zoning ordinance. They have worked over the last couple of years with Ms. Simpson and former Community Development Director Tom Dabareiner and we have gone through every section of the code. They have met several times with the Planning Commission to review, revise, re-read and discuss every section as we have developed it along the way. He presented an in-depth report on the proposed ordinance that can be located on the City's website at www.cityblm.org or by following this link to the Proposed Zoning Amendments <http://www.cityblm.org/government/departments/planning-zoning/proposed-zoning-amendments>.

5. Consideration of a Resolution authorizing the initiation of a comprehensive text amendment to the Bloomington Zoning Ordinance, Chapter 44 of the Bloomington City Code, and further authorizing the initiation of map amendments to the Official Zoning Map for properties in the City of Bloomington, as requested by the Community Development Department – Planning Division. *(Recommend the Resolution authorizing the initiation of a comprehensive text amendment to the Bloomington Zoning Ordinance, Chapter 44 of the Bloomington City Code, and further authorizing the initiation of map amendments to the Official Zoning Map for properties in the City of Bloomington and the Mayor and City Clerk be authorized to execute the necessary documents.)* *(Brief Overview by Tim Gleason, City Manager. Presentation by Bob Mahrt, Community Development Director, 10 minutes, City Council discussion, 10 minutes.)*

Ms. Simpson provided a brief overview of the resolution stating, the resolution authorizes City Staff to begin the public hearing process. The public hearing process allows the public to provide formal testimony to comment on the draft document. Staff is requesting Council to take action on the resolution so that the public hearing can be held on Wednesday, October 10 from 2:00 pm to 4:00 p.m. and from 4:00 pm to 6:00 pm in the City Council Chambers. The public hearing will be held as a public open house question and answer format.

Motion by Alderman Buragas and seconded by Alderman Hauman approving the Resolution authorizing the initiation of a comprehensive text amendment to the Bloomington Zoning Ordinance, Chapter 44 of the Bloomington City Code, and further authorizing the initiation of map amendments to the Official Zoning Map for properties in the City of Bloomington and the Mayor and City Clerk be authorized to execute the necessary documents.

Mayor Renner directed the Clerk to call the roll, which resulted in the following:

Ayes: Aldermen Mathy, Painter, Mwilambwe, Buragas, Hauman, Black, Bray, and Schmidt.

Nays: None.

Motion carried.

The following was presented:

Adjournment

Motion by Alderman Schmidt seconded by Alderman Black adjourning the meeting. Meeting adjourned at 8:21 p.m.

Motion carried. (Viva Voce)

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk



CONSENT AGENDA ITEM: 7B

FOR COUNCIL: October 22, 2018

SUBJECT: Consideration of approving Bills, Payroll, Electronic Transfers, and Procurement Card Purchases in the amount of \$7,650,752.44.

RECOMMENDATION/MOTION: The Bills, Payroll, Electronic Transfers, and the Procurement Card Purchases be allowed in the amount of \$7,650,752.44, and orders drawn on the Treasurer for the various amounts as funds are available.

STRATEGIC PLAN LINK: Goal 1. Financially sound City providing quality basic services.

STRATEGIC PLAN SIGNIFICANCE: Objective 1d. City services delivered in the most cost-effective, efficient manner.

FINANCIAL IMPACT: Total disbursements to be approved \$7,650,752.44 (Payroll total \$2,490,671.99, Accounts Payable total \$2,054,442.29, Electronic Transfers total \$2,995,710.74, and Procurement Card Purchases total \$109,927.42).

Respectfully submitted for Council consideration.

Prepared By: Frances Watts, Accounts Payable

Reviewed By: Scott Rathbun, Finance Director

Recommended By:

A handwritten signature in black ink, appearing to read "Tim Gleason", written over a horizontal line.

Tim Gleason
City Manager

Attachment:

- Bills, Payroll, Electronic Transfers, and Procurement Card Purchases on file in the Clerk's office. Also available at www.cityblm.org.
- Summary Sheet Bills, Payroll, Electronic Transfers, and Procurement Card Purchases

CITY OF BLOOMINGTON FINANCE REPORT					
Council of October 22, 2018					
PAYROLL					
Date	Gross Pay	Employer Contribution	Totals		
10/5/2018	\$ 231,587.63	\$ 79,241.14	\$ 310,828.77		
10/11/2018	\$ 1,496,105.70	\$ 385,848.44	\$ 1,881,954.14		
10/12/2018	\$ 220,915.98	\$ 76,973.10	\$ 297,889.08		
Off Cycle Adjustments					
		PAYROLL GRAND TOTAL	\$ 2,490,671.99		
ACCOUNTS PAYABLE (WIRES)				PCARDS	
Date	Bank	Total		Date Range	Total
10/22/2018	AP General	\$ 1,932,381.58		9/1/2018-9/30/2018	\$ 109,927.42
	AP JM Scott				
10/22/2018	AP Comm Devel	\$ 7,276.12		PCARD GRAND TOTAL	\$ 109,927.42
	AP IHDA				
10/22/2018	AP Library	\$ 54,503.36			
	AP MFT				
10/10/2018-10/15/2018	Out of Cycle	\$ 60,281.23			
10/3/2018-10/16/2018	AP Bank Transfers	\$ 2,995,710.74			
	AP GRAND TOTAL	\$ 5,050,153.03			
		TOTAL			\$ 7,650,752.44
			Respectfully,		
				F. Scott Rathbun	
				Finance Director	



CONSENT AGENDA ITEM NO. 7C

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Information Services and Finance

SUBJECT: Consideration of a bid waiver and approval of an agreement with Automated Merchant Services Inc., for payment processing and technical payment and reporting integration with the City's Tyler MUNIS enterprise resource planning (ERP) system, as requested by the Information Services Department and Finance Department

RECOMMENDATION/MOTION: That the Resolution Authorizing Waiving the Technical Bidding Requirements and Approving an Agreement with Automated Merchant Services Inc., be approved and the Mayor and City Clerk authorized to execute the Resolution.

STRATEGIC PLAN LINK: 1. Financially sound city providing quality basic services

STRATEGIC PLAN SIGNIFICANCE: 1. e. Partnering with others for the most cost-effective service delivery

BACKGROUND: The City uses the Tyler MUNIS enterprise resource planning (ERP) system. A web-based, fully integrated payment processing solution is desired in order that citizens and businesses can pay for City-based services online and their accounts updated. Staff conducted research into several payment solutions providers and found with Automated Merchant Services Inc is a provider that holds a preferred vendor status with Tyler MUNIS and is fully payment card industry compliant (PCI).

Additionally, time is of the essence related to a FY2019 City objective to implement an online Business Registration program, passed as part of the FY2019 Budget. This program will be the first phase of having a web-based, fully integrated (with MUNIS), City payment solution. With Automated Merchant Services Inc has indicated its ability to implement within a short timeframe and Staff feels the MUNIS preferred vendor status of with Automated Merchant Services Inc. is indicative of being able to realize this commitment.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: N/A

FINANCIAL IMPACT: Credit card fees of 3% were estimated in the Business Registration Program Council Memo presented on October 8, 2018. Automated Merchant Services Inc. fees will be less. Payment processing fees will net against

future revenues as received. There are no upfront costs associated with this Agreement.

COMMUNITY DEVELOPMENT IMPACT: N/A

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:
N/A

Respectfully submitted for Council consideration.

Prepared By: Scott Rathbun, Finance Director

Reviewed By: Scott Sprouls, Information Services Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized flourish at the end.

Tim Gleason
City Manager

Attachments:

- FIN-IS 1B Bid Waiver Resolution

RESOLUTION NO. 2018 - _____

**A RESOLUTION AUTHORIZING WAIVING THE TECHNICAL BIDDING
REQUIREMENTS AND APPROVING AN AGREEMENT WITH AUTOMATED
MERCHANT SERVICES INC.**

WHEREAS, THE City has determined with Automated Merchant Services Inc., a preferred partner of Tyler/Munis, the City's ERP system, is the most qualified provider of not only merchant services, but of technical payment integration with the City's ERP system; and

WHEREAS, the City has determined that the timely payment integration with its ERP system is of primary concern with the selection of a payment processor; and

WHEREAS, with Automated Merchant Services Inc. status as a preferred vendor of Tyler/Munis is indicative of its ability to provide that timely integration; and

WHEREAS, due to the preferred status of with Automated Merchant Services Inc and the timeliness issues, the City Council finds it in the best interests of the City to waive its formal bidding requirements.

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

That the recitals set forth above are incorporated herein and City Manager, or designated representatives, are authorized to execute an agreement with Automated Merchant Services Inc. for the payment services outlined here.

PASSED this ____ day of October 2018.

APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON

ATTEST:

Tari Renner, Mayor

Cherry L. Lawson, C.M.C., City Clerk

CITY OF
Bloomington ILLINOIS
CONSENT AGENDA ITEM NO. 7D

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Park, Recreation & Cultural Arts

SUBJECT: Consideration of a Resolution Waiving the Formal Bidding Process allowing the Parks, Recreation, and Cultural Arts Department to participate in an Early Order Program with Helena Chemical (the distributor) for procurement of Syngenta, BASF, Bayer, Nufarm Chemicals (the manufacturers) Golf Course Chemicals from a single source, as requested by the Parks, Recreation, and Cultural Arts Department.

RECOMMENDATION/MOTION: The Resolution Waiving the Formal Bidding Process to allow the Parks, Recreation and Cultural Arts Department to participate in the Syngenta, BASF, Bayer and Nufarm Chemicals “Early Order Discount Program” for Golf Turf Grass Management for the 2019 Golf Season be approved, and the Mayor and City Clerk be authorized to execute the resolution.

STRATEGIC PLAN LINK: Goal Five. Great place – Livable, Sustainable City

STRATEGIC PLAN SIGNIFICANCE: Objective 5.D. Appropriate leisure and recreational opportunities responding to the needs of the residents.

BACKGROUND: Our golf courses are considered to be some of the finest in downstate Illinois. In the most recent Golf Digest Magazine rankings, The Den at Fox Creek received a prestigious 4 ½ star rating (out of 5) which places it alongside only six other courses in the state of Illinois in the same fee category to receive the honor. Prairie Vista received a 4 star rating while Highland Park received a 3½ star rating. Golf Digest also voted Bloomington/Normal the fifth best city to live for golf in the country. The courses regularly hosts events from throughout the state, most notably, the Illinois High School State Finals (IHSA) held at The Den at Fox Creek and Prairie Vista in October of each year. In order to maintain our courses in a manner that is consistent with the expectations of our customers, we need to continue providing quality playing surfaces. One of the primary factors in providing quality playing surfaces is to keep the turf free from disease and insects, which if left untreated, have the potential to do significant damage. Damage to the playing surface/turf would result in a significant loss of rounds and revenue, while also requiring major dollars to reseed the infected areas. Best practices in the golf industry show the most efficient manner to treat turf diseases and insects is to do so in a preventative manner. By utilizing preventative chemical applications, we stay ahead of the diseases and suppress potential outbreaks before they occur.

Each year Syngenta, BASF, Bayer and Nufarm offer an early order program that allows the opportunity to lock in next year's prices at discounted rates. Syngenta and BASF are the two primary manufacturers of chemical and fertilizer products utilized in the management of turfgrass in the golf industry. Bayer and Nufarm products are also widely used in the industry with proven success. Through best practices, the golf course maintenance staff has found the products from these companies to provide the desired effects in order to provide a high level of playing conditions demanded by our golfing public. Helena Chemical has become a valued partner of ours over our years of operation. Helena Chemical currently provides products and services to following municipalities and golf courses: Normal, Decatur, Peoria, Springfield, Champaign and Quincy. The golf courses at Illinois State University and Crestwicke Country Club also use products through Helena Chemical. Entering into the early order program guarantees the discounted price for any additional products from these manufacturers purchased during 2019. Additionally, by participating in the early order program, we are offered extended payment terms with payment not due until mid-July on all early order purchases.

Syngenta, BASF, Bayer & Nufarm engage the assistance of local recognized quality turf distributors to assure the delivery, service and billing of their products. These companies operate using an agency pricing model, meaning the price of their chemicals is exactly the same regardless of the distributor chosen. These distributors are contractually obligated to offer these products at set agency prices. For 2019, we intend to utilize Helena Chemical which is located in Warrensburg, IL. Helena Chemical will store the products on their site and deliver to us on an as needed basis saving us space in our golf maintenance facilities. Helena Chemical's local dealership manager is a former golf course superintendent who has worked diligently for us over the years to help improve our golf courses.

There is no statewide contract available for the procurement of these chemicals and fertilizers. The deadline to enter this program is before December 7, 2018. However, maximum discounts are given when products are ordered by October 31st. While other "turf" chemicals are available, our experience is the cost savings realized in the "unit price" of the purchase price are lost as a result of the additional applications that are needed to be as effective as the Syngenta, BASF, Bayer & Nufarm products have proven through field experience. These products provide the weed, fungus and insect free turf that our customers expect to have when using our golf courses.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: City Purchasing Agent

FINANCIAL IMPACT: The golf courses annually spend approximately \$200,000 on chemicals and conservatively will realize savings of approximately \$24,000 by participating in this early buy program. Funds will be included in the FY 2020 Proposed Budget under Highland Park Golf Course-Other Repair & Maintenance account (56406400-70590), Prairie Vista Golf Course-Other Repair & Maintenance account (56406410-70590) and The Den at Fox Creek Golf Course-Other Repair & Maintenance account (56406420-70590).

COMMUNITY DEVELOPMENT IMPACT: HL-2 Ensure maximum usage of the City's parks and recreational facilities and associated resources

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:
N/A

Respectfully submitted for Council consideration.

Prepared By: Jason Wingate, Superintendent of Golf

Reviewed By: Jay Tetzloff, Parks, Recreation & Cultural Arts Director

Finance & Budgetary Review By: Chris Tomerlin, Budget Analyst
Scott Rathbun, Finance Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized flourish at the end.

Tim Gleason
City Manager

Attachments:

- PRCA2B - Bid Waiver
- PRCA2C - Early Order Programs
- PRCA2D - Helena Letter

RESOLUTION NO. 2018 - _____

A RESOLUTION AUTHORIZING WAIVING THE TECHNICAL BIDDING REQUIREMENTS AND APPROVING THE PURCHASE OF SYNGENTA, BASF, BAYER AND NUFARM CHEMICALS AND FERTILIZERS FROM HELENA CHEMICALS.

WHEREAS, the City has found that Helena Chemicals is a single source distributor and a reliable source for the provision of golf course chemicals and fertilizers; and

WHEREAS, to ensure the reliable provision and results that keep the turf free from disease and insects which if left untreated, have the potential to do significant damage and the best manner to treat turf diseases and insects is to do so in a preventative manner; and

WHEREAS, allowing the City to enter into an Early Order Program for procurement of the chemicals and fertilizer the City will realize savings of approximately \$24,000.

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

That the recitals set forth above are incorporated herein, the technical bidding requirements waived, and City Manager, or designated representatives, are authorized to enter the City into the Early Order Program for up to \$200,000 with an approximate savings of \$24,000 dependent on how much is needed, and are authorized to execute any necessary documents to effectuate the purchase.

PASSED this 22nd day of October 2018.

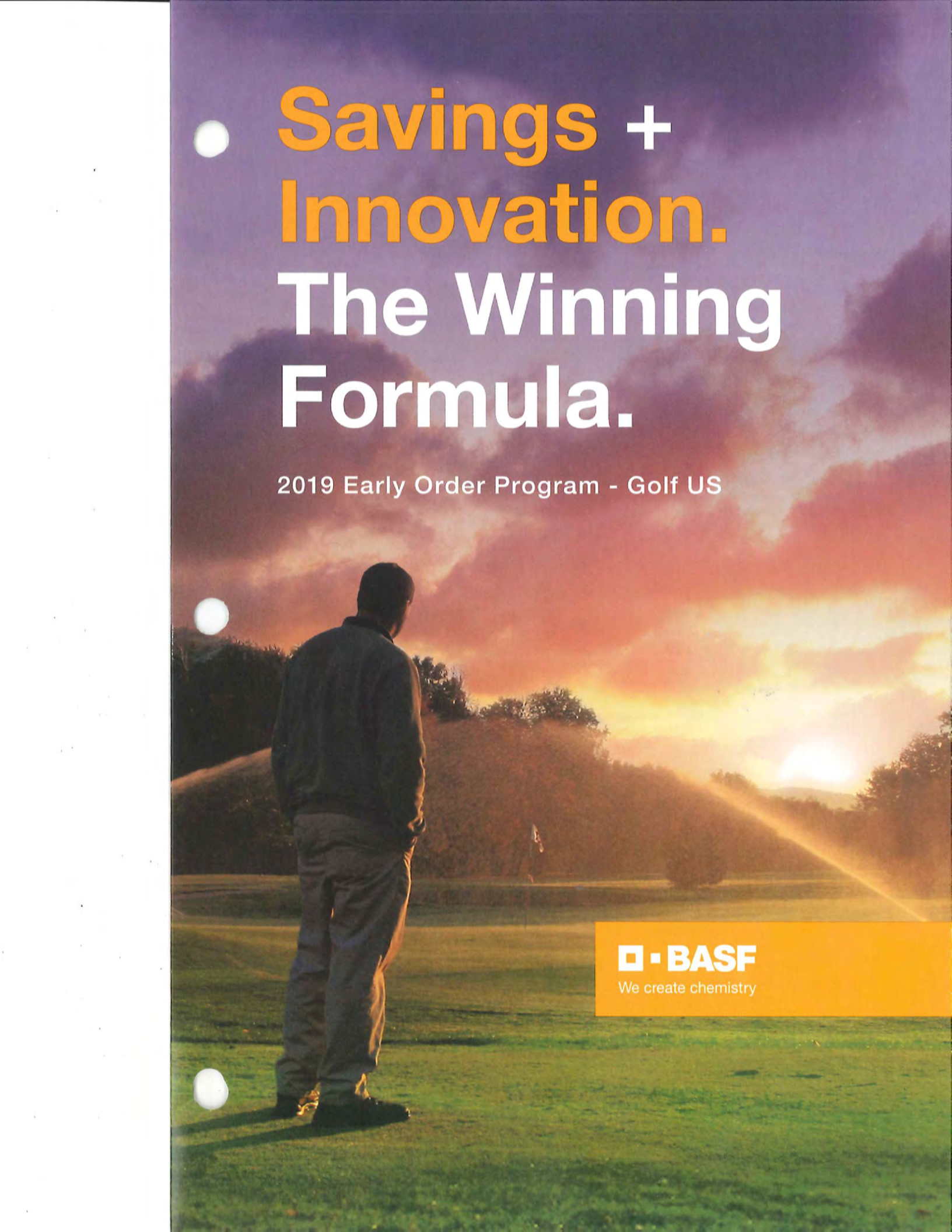
APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk



**Savings +
Innovation.**

The Winning Formula.

2019 Early Order Program - Golf US

 **BASF**

We create chemistry



2019

NUFARM EDGE REWARDS

// BOOST PROFITS WITH EARLY ORDER REWARDS

EARLY ORDER PROGRAM

EARN DISTRIBUTOR CREDITS

Purchase and take delivery of **at least two eligible Nufarm brands totaling \$3,336 or more** from a Nufarm authorized distributor and maximize profits with valuable distributor credit rebates.

PERIOD 1: September 15 - October 31, 2018

PERIOD 2: November 1 - December 7, 2018

Distributor credit available after June 30, 2019

REGISTER ONLINE TO QUALIFY

NUFARMINSIDER.COM/REWARDS

Must register between September 15 and December 7, 2018. Previous registrants will be automatically registered for 2019. **Valid e-mail address required for eligibility.**

TERMS AND CONDITIONS

1) By registering for Nufarm Edge Rewards Program you grant the distributor the right to release your sales records to the manufacturer. 2) End users will qualify based upon Nufarm authorized EDI reporting. 3) Reward calculations will be done at the sole discretion of Nufarm. 4) This offer is not available to Nufarm distributors, dealers or retailers. 5) Nufarm reserves the right to audit, change or terminate this program or pricing at any time without notification. 6) Nufarm also reserves the right to verify customer qualifications and claims for reward payments (verification may delay payments).

NEW FOR 2019

BEST PRODUCT
LINEUP YET

NOW INCLUDING
SPIRATO® GHN,
SURE POWER™,
AND TRACTION™

TWO ORDER
PERIODS TO
REWARD YOU
LONGER

// NUFARMINSIDER.COM/REWARDS

 **Nufarm**
Grow a better tomorrow



Maximize your

EOP Savings

// Order Early

Earn the October bonus

// Pick Your PAK

*Savings up to 25% & receive
an additional PAK bonus*

// Save

*on individual products & grow
your My Bayer Rewards*

// Box it Together

*then earn up to 9%
total program rebate*

// Extended Terms

*Enjoy PAK & Agency product
terms to June 5, 2019*

Rebates paid as My Bayer Rewards (MBR) points; members can redeem points for thousands of catalog items, company checks and/or distributor credits

Participants must be a member of My Bayer Rewards and accept 2018 Terms and Conditions. Update your profile at My Bayer Rewards by December 31, 2018. myrewards.cropscience.bayer.com



Fall Solutions

Golf

October 1 - December 7, 2018



● TAKE YOUR BUSINESS TO THE NEXT LEVEL WITH GREENTRUST 365.

ORDER EARLY

TURF CONDITIONED TO
PERFORM AND RECOVER

Maximize your budget and your turf quality when you order between **October 1 – December 7, of 2018**. With the broadest branded portfolio, GreenTrust® 365 offers new ways to save, includes new products, pallets and more.



Yearlong Rebates

Spend at least \$5,000 on Qualifying Products to lock in your yearlong rebate: October 1, 2018–September 30, 2019.



Pallet Solutions

Apply intelligently with the right mix of products for almost any facet of your agronomic program. You can save up to an additional 23% from a selection of Pallet Solutions, making it easy to meet your minimum order requirement on Qualifying Products.



GreenTrust Rewards

Every dollar spent in October earns triple points. Plus, you can earn up to an additional 70,000 GreenTrust Rewards points through the Acelepryn®, Posterity®, Secure®, and Spotlight Brand Points Bonus.



Product Assurances

Protect your course with confidence through expert application recommendations and performance guarantees.



SummerPay™

Keep your cash flow in check by deferring payment until June 28, 2019.



Multipaks

Save even more on complementary products delivered in convenient multipaks.

GreenTrust365.com/Golf

 **GreenTrust® 365**

syngenta®

Golf and Sports Turf

 @SyngentaTurf

HELENA

Steve Mulvey
Isabelle Drive
Auburn, IL 62615
Cell: (217)725-4160
Fax: (217) 438-6432

Helena Chemical Company

City of Bloomington

10/09/18

To Whom It May Concern:

This letter is to confirm that Helena Chemical understands that the chemicals ordered during the 2019 Early Order Program are dependent on funds being approved in Fiscal Year 2020.

If any further information is needed, please let us know.

Thank you for your consideration.

Sincerely,

Steve Mulvey



CONSENT AGENDA ITEM NO. 7E

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Public Works

SUBJECT: Consideration of:

- (a) An Ordinance amending the FY 2019 Budget to allocate \$28,000 to the Motor Fuel Tax-MFT Architectural & Engineering for Capital (20300300-70051) account;
- (b) An MFT Resolution, and
- (c) A Preliminary Engineering Services Agreement with Farnsworth Group, Inc., for Engineering Survey Data Collection related to Jersey Avenue Bridge Rehabilitation (RFQ 2015-26), in the amount of \$28,000, as requested by the Public Works Department.

RECOMMENDATIONS/MOTIONS: That: (a) the Ordinance Amending the Budget Ordinance for the Fiscal Year Ending April 30, 2019 Budget in the Amount of \$28,000, be approved and the Mayor and City Clerk be authorized to execute the ordinance; and (b) the MFT Resolution be approved and the Mayor and City Clerk be authorized to execute the Resolution; and (b) the Preliminary Engineering Services Agreement with Farnsworth Group, Inc., for Engineering Survey Data Collection related to Jersey Avenue Bridge Rehabilitation in the amount of \$28,000, be approved, and the City Manager be authorized to execute the agreement and other related necessary documents.

STRATEGIC PLAN LINK: Goal 2 - Upgrade City Infrastructure and Facilities.

STRATEGIC PLAN SIGNIFICANCE: Objective 2a. Better quality roads and sidewalks; Objective 2d. Well-designed, well-maintained City facilities emphasizing productivity and customer service.

BACKGROUND: Public Works recommends approving an Ordinance approving a budget amendment allocating \$28,000 to the Motor Fuel Tax-MFT Architectural & Engineering for Capital (20300300-70051) account, a contract in the form of a Preliminary Engineering Services Agreement with Farnsworth Group, Inc. (FGI), and an MFT Resolution, in the amount of \$28,000, so that FGI will perform survey work at the Jersey Avenue Bridge. The work needs to be done this fall and winter when leaves are off the trees. The agreement requires an MFT Resolution to use Motor Fuel Tax funds for payment. The survey data collected in FY19 will be utilized under a new FGI contract in FY20 to perform engineering design of bridge rehabilitation plans. Construction work could then be budgeted for an out year after FY20.

FGI was selected in 2015 under RFQ 2015-26 utilizing the Quality-Based Selection (QBS) process to provide survey and engineering services for rehabilitation of the Linden Street, Jersey Avenue, and Cottage Avenue bridges. These three bridges were identified for rehabilitation due to their age and structural deterioration. Linden Street bridge rehabilitation substantial completion was achieved in 2017, final total cost will be approximately \$1,485,000.

Per direction given by Council at the Work Session of May 11, 2015 FGI will perform survey data collection necessary to include accommodation for a future bike trail underpass at the Jersey Avenue Bridge similar to that provided at the Linden Street Bridge. Coordination with the Bloomington Normal Water Reclamation District and the Town of Normal will be necessary, since BNWRD maintains the creek channel and Jersey Avenue is on the border with Normal.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: BNWRD and Town of Normal to be contacted during engineering design phase work.

FINANCIAL IMPACT: The Ordinance will amend the budget to increase the Motor Fuel Tax-MFT Architectural & Engineering for Capital (20300300-70051) account by \$28,000. Stakeholders can locate the Motor Fuel Tax Budget in the Budget Book titled "Other Funds & Capital Improvement" beginning on page 6.

COMMUNITY DEVELOPMENT IMPACT: N/A

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION: N/A

Respectfully submitted for Council consideration.

Prepared By: Greg Kallevig, PE, CFM
Michael Hill, Miscellaneous Technical Assistant

Reviewed By: Jim Karch, P.E., MPA, Director of Public Works

Finance & Budgetary Review By: Chris Tomerlin, Budget Analyst
Scott Rathbun, Finance Director

Water/Community Dev. Review By: Bob Mahrt, Community Development Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



Tim Gleason, City Manager

Attachments:

- PW 2B ORDINANCE Jersey Ave Bridge Rehab Field Survey Contract Farnsworth 20181022
- PW 2C BUA EXHIBIT Jersey Ave Bridge Rehab Field Survey Contract Farnsworth 20181022
- PW 2D MFT RESOLUTION Jersey Ave Bridge Rehab Field Survey Contract Farnsworth 20181022
- PW 2E PRELIMINARY ENGINEERING SERVICES AGREEMENT Jersey Ave Bridge Rehab Field Survey Contract Farnsworth 20181022
- PW 2F LOCATION MAP Jersey Ave Bridge Rehab Field Survey Contract Farnsworth 20181022

ORDINANCE NO. 2018 - _____

**AN ORDINANCE AMENDING THE BUDGET ORDINANCE
FOR THE FISCAL YEAR ENDING APRIL 30, 2019 IN THE AMOUNT OF \$28,000**

WHEREAS, on April 9, 2018 by Ordinance Number 2018-23, the City of Bloomington passed a Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2019, which Ordinance was approved by Mayor Tari Renner on April, 10, 2018; and

WHEREAS, a Budget Amendment is needed as detailed below;

Farnsworth Group, Inc. will perform necessary surveying work for the upcoming Jersey Avenue Bridge project as part of a Preliminary Engineering Services Agreement in the amount of \$28,000.

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

Section One: Ordinance Number 2018- 23 (the Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2019) is further hereby amended by inserting the following line item and amount presented in Exhibit #1 in the appropriate place in said Ordinances.

Section Two: Except as provided for herein, Ordinance Number 2018-23 shall remain in full force and effect, provided, that any budgeted or appropriated amounts which are changed by reason of the amendments made in Section One of this Ordinance shall be amended in Ordinance Number 2018-23

Section Three: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this 22nd day of October 2018.

APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON:

Tari Renner, Mayor

ATTEST:

Cherry Lawson, City Clerk

FY 2019 Budget Amendment-Exhibit

Account #	Fund	Account Description	Amount	Comments
20300300-40000	Motor Fuel Tax	Use of Fund Balance	\$ (28,000.00)	
20300300-70051	Motor Fuel Tax	Architectural & Engineering for Capital	\$ 28,000.00	
Net Transaction:			\$ -	



Resolution for Improvement Under the Illinois Highway Code



Resolution Number	Resolution Type	Section Number
	Original	15-00355-00-BR

BE IT RESOLVED, by the Council of the City
Governing Body Type Local Public Agency Type
of Bloomington Illinois that the following described street(s)/road(s)/structure be improved under
Name of Local Public Agency
the Illinois Highway Code. Work shall be done by Contract
Contract or Day Labor

For Roadway/Street improvements:

	Name of Street(s)/Road(s)	Length (miles)	Route	From	To
+					

For Structures:

	Name of Street(s)/Road(s)	Existing Structure No.	Route	Location	Feature Crossed
+	Jersey Avenue	057-6316	FAU 6355	Jersey Avenue	Sugar Creek

BE IT FURTHER RESOLVED,

1. That the proposed improvement shall consist of

Engineering field survey for superstructure replacement and partial substructure replacement of the Jersey Avenue Bridge over Sugar Creek, new multi-use trail under the bridge including retaining walls, and necessary roadway improvements.

2. That there is hereby appropriated the sum of Twenty eight thousand and no/100

Dollars (\$28,000.00) for the improvement of
said section from the Local Public Agency's allotment of Motor Fuel Tax funds.

BE IT FURTHER RESOLVED, that the Clerk is hereby directed to transmit four (4) certified originals of this resolution to the district office of the Department of Transportation.

I, Cherry Lawson City Clerk in and for said City
Name of Clerk Local Public Agency Type Local Public Agency Type
of Bloomington in the State aforesaid, and keeper of the records and files thereof, as provided by
Name of Local Public Agency
statute, do hereby certify the foregoing to be a true, perfect and complete original of a resolution adopted by
Council of Bloomington at a meeting held on October 22, 2018
Governing Body Type Name of Local Public Agency Date

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this day of
Day Month, Year

(SEAL)

Clerk Signature

--

Approved

Regional Engineer
Department of Transportation

Date

--	--

Municipality City of Bloomington	L O C A L A G E N C Y	 Illinois Department of Transportation Preliminary Engineering Services Agreement For Motor Fuel Tax Funds	C O N S U L T A N T	Name Farnsworth Group, Inc.
Township				Address 2709 McGraw Drive
County McLean				City Bloomington
Section 15-00355-00-BR				State Illinois, 61704

THIS AGREEMENT is made and entered into this _____ day of October, 2018 between the above Local Agency (LA) and Consultant (ENGINEER) and covers certain professional engineering services in connection with the improvement of the above SECTION. Motor Fuel Tax Funds, allotted to the LA by the State of Illinois under the general supervision of the State Department of Transportation, hereinafter called the "DEPARTMENT", will be used entirely or in part to finance ENGINEERING services as described under AGREEMENT PROVISIONS.

Section Description

Name Jersey Avenue Bridge Rehabilitation - Survey

Route FAU 6355 Length 0.085 Mi. 450 FT (Structure No. 057-6316)

Termini From +/-200' West of Bridge to +/-250' East of Bridge and From +/-150' North of Bridge to +/-150' South of Bridge

Description:

Right-of-Way Survey, Topographic Survey, Hydraulic Survey, Preliminary Work Sheets and Administration

Agreement Provisions

The Engineer Agrees,

1. To perform or be responsible for the performance of the following engineering services for the LA, in connection with the proposed improvements herein before described, and checked below:
 - a. ☒ Make such detailed surveys as are necessary for the preparation of detailed roadway plans
 - b. ☒ Make stream and flood plain hydraulic surveys and gather high water data, and flood histories for the preparation of detailed bridge plans.
 - c. ☐ Make or cause to be made such soil surveys or subsurface investigations including borings and soil profiles and analyses thereof as may be required to furnish sufficient data for the design of the proposed improvement. Such investigations are to be made in accordance with the current requirements of the DEPARTMENT.
 - d. ☐ Make or cause to be made such traffic studies and counts and special intersection studies as may be required to furnish sufficient data for the design of the proposed improvement.
 - e. ☐ Prepare Army Corps of Engineers Permit, Department of Natural Resources-Office of Water Resources Permit, Bridge waterway sketch, and/or Channel Change sketch, Utility plan and locations, and Railroad Crossing work agreements.
 - f. ☐ Prepare Preliminary Bridge design and Hydraulic Report, (including economic analysis of bridge or culvert types) and high water effects on roadway overflows and bridge approaches.
 - g. ☐ Make complete general and detailed plans, special provisions, proposals and estimates of cost and furnish the LA with five (5) copies of the plans, special provisions, proposals and estimates. Additional copies of any or all documents, if required, shall be furnished to the LA by the ENGINEER at his actual cost for reproduction.
 - h. ☐ Furnish the LA with survey and drafts in quadruplicate of all necessary right-of-way dedications, construction easement and borrow pit and channel change agreements including prints of the corresponding plats and staking as required.

Note: Four copies to be submitted to the Regional Engineer

- i. ☐ Assist the LA in the tabulation and interpretation of the contractors' proposals
 - j. ☐ Prepare the necessary environmental documents in accordance with the procedures adopted by the DEPARTMENT's Bureau of Local Roads & Streets.
 - k. ☐ Prepare the Project Development Report when required by the DEPARTMENT.
- (2) That all reports, plans, plats and special provisions to be furnished by the ENGINEER pursuant to the AGREEMENT, will be in accordance with current standard specifications and policies of the DEPARTMENT. It is being understood that all such reports, plats, plans and drafts shall, before being finally accepted, be subject to approval by the LA and the DEPARTMENT.
- (3) To attend conferences at any reasonable time when requested to do so by representatives of the LA or the Department.
- (4) In the event plans or surveys are found to be in error during construction of the SECTION and revisions of the plans or survey corrections are necessary, the ENGINEER agrees that he will perform such work without expense to the LA, even though final payment has been received by him. He shall give immediate attention to these changes so there will be a minimum delay to the Contractor.
- (5) That basic survey notes and sketches, charts, computations and other data prepared or obtained by the Engineer pursuant to this AGREEMENT will be made available, upon request, to the LA or the DEPARTMENT without cost and without restriction or limitations as to their use.
- (6) That all plans and other documents furnished by the ENGINEER pursuant to this AGREEMENT will be endorsed by him and will show his professional seal where such is required by law.

The LA Agrees,

1. To pay the ENGINEER as compensation for all services performed as stipulated in paragraphs 1a, 1b, 2, 3, 5 and 6 in accordance with one of the following methods indicated by a check mark:
 - a. ☒ A sum of money equal to the extension of actual hours and chargeable rates, but not exceed \$ 28,000.00 in accordance with the attached schedule of chargeable rates and Scope of Services.
 - b. ☐ A sum of money equal to the percent of the awarded contract cost for the proposed improvement as approved by the DEPARTMENT based on the following schedule:

Schedule for Percentages Based on Awarded Contract Cost

Awarded Cost	Percentage Fees	
Under \$50,000		(see note)
		%
		%
		%
		%
		%

Note: Not necessarily a percentage. Could use per diem, cost-plus or lump sum.

2. To pay for services stipulated in paragraphs 1b, 1c, 1d, 1e, 1f, 1h, 1j & 1k of the ENGINEER AGREES at actual cost of performing such work plus _____ percent to cover profit, overhead and readiness to serve - "actual cost" being defined

as material cost plus payrolls, insurance, social security and retirement deductions. Traveling and other out-of-pocket expenses will be reimbursed to the ENGINEER at his actual cost. Subject to the approval of the LA, the ENGINEER may sublet all or part of the services provided under the paragraph 1b, 1c, 1d, 1e, 1f, 1h, 1j & 1k. If the ENGINEER sublets all or part of this work, the LA will pay the cost to the ENGINEER plus a five (5) percent service charge.

"Cost to Engineer" to be verified by furnishing the LA and the DEPARTMENT copies of invoices from the party doing the work. The classifications of the employees used in the work should be consistent with the employee classifications for the services performed. If the personnel of the firm, including the Principal Engineer, perform routine services that should normally be performed by lesser-salaried personnel, the wage rate billed for such services shall be commensurate with the work performed.

3. That payments due the ENGINEER for services rendered in accordance with this AGREEMENT will be made as soon as practicable after the services have been performed in accordance with the following schedule:
 - a. Upon completion of detailed plans, special provisions, proposals and estimate of cost - being the work required by paragraphs 1a through 1g under THE ENGINEER AGREES - to the satisfaction of the LA and their approval by the DEPARTMENT, 90 percent of the total fee due under this AGREEMENT based on the approved estimate of cost.
 - b. Upon award of the contract for the improvement by the LA and its approval by the DEPARTMENT, 100 percent of the total fee due under the AGREEMENT based on the awarded contract cost, less any amounts paid under "a" above.

By Mutual agreement, partial payments, not to exceed 90 percent of the amount earned, may be made from time to time as the work progresses.

4. That, should the improvement be abandoned at any time after the ENGINEER has performed any part of the services provided for in paragraphs 1a, through 1h and prior to the completion of such services, the LA shall reimburse the ENGINEER for his actual costs plus * _____ percent incurred up to the time he is notified in writing of such abandonment - "actual cost" being defined as in paragraph 2 of THE LA AGREES.
5. That, should the LA require changes in any of the detailed plans, specifications or estimates except for those required pursuant to paragraph 4 of THE ENGINEER AGREES, after they have been approved by the DEPARTMENT, the LA will pay the ENGINEER for such changes on the basis of actual cost plus * _____ percent to cover profit, overhead and readiness to serve - "actual cost" being defined as in paragraph 2 of THE LA AGREES. It is understood that "changes" as used in this paragraph shall in no way relieve the ENGINEER of his responsibility to prepare a complete and adequate set of plans and specifications.

*See Attached Schedule of Charges

It is Mutually Agreed,

1. That any difference between the ENGINEER and the LA concerning their interpretation of the provisions of this Agreement shall be referred to a committee of disinterested parties consisting of one member appointed by the ENGINEER, one member appointed by the LA and a third member appointed by the two other members for disposition and that the committee's decision shall be final.
2. This AGREEMENT may be terminated by the LA upon giving notice in writing to the ENGINEER at his last known post office address. Upon such termination, the ENGINEER shall cause to be delivered to the LA all surveys, permits, agreements, preliminary bridge design & hydraulic report, drawings, specifications, partial and completed estimates and data, if any from traffic studies and soil survey and subsurface investigations with the understanding that all such material becomes the property of the LA. The ENGINEER shall be paid for any services completed and any services partially completed in accordance with Section 4 of THE LA AGREES.
3. That if the contract for construction has not been awarded one year after the acceptance of the plans by the LA and their approval by the DEPARTMENT, the LA will pay the ENGINEER the balance of the engineering fee due to make 100 percent of the total fees due under this AGREEMENT, based on the estimate of cost as prepared by the ENGINEER and approved by the LA and the DEPARTMENT.
4. That the ENGINEER warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the ENGINEER, to solicit or secure this contract, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this contract. For Breach or violation of this warranty the LA shall have the right to annul this contract without liability.

IN WITNESS WHEREOF, the parties have caused the AGREEMENT to be executed in quadruplicate counterparts, each of which shall be considered as an original by their duly authorized officers.

Executed by the LA:

ATTEST: City of Bloomington of the
(Municipality/Township/County)
State of Illinois, acting by and through its
County Board
By _____

City Clerk
(Seal)

By _____
Title Mayor

Executed by the ENGINEER:

ATTEST: Farnsworth Group, Inc.
2709 McGraw Drive
Bloomington, Illinois 61704
By Robert C. Kohlhaase
Title Principal

By Joseph M. Lowman
Title Senior Engineering Manager

Approved _____ Date Department of Transportation _____ Regional Engineer

ATTACHMENT A
(PROJECT SCOPE OF SERVICES)

ATTACHMENT A
PROJECT SCOPE OF SERVICES – October 5, 2018

City of Bloomington
Jersey Avenue Bridge Rehabilitation - Survey
Section: 15-00355-00-BR, S.N. 057-6316
McLean County

Provide Phase I Surveying Services – Right-of-Way (R.O.W.) Survey, Topographic Survey, Hydraulic Survey and Preliminary Work Sheet per the requirements of the IDOT – Bureau of Local Roads and Streets (BLRS) Manual, 2005 Edition (as updated on the IDOT website).

1. Right-of-Way (R.O.W.) Survey:

The existing R.O.W. and property lines will be established from 300' west of the centerline of the existing bridge over Sugar Creek to approximately $\pm 100'$ east of the centerline of Ethell Parkway. Also, the creek R.O.W. will be established within the limits of the project.

2. Topographic Survey:

A Topographic Survey will be performed from 300' west of the centerline of the existing bridge over Sugar Creek to approximately $\pm 100'$ east of the centerline of Ethell Parkway. The bridge will be detailed due to the reusing of the substructure elements. The limits of the topographic survey will be $\pm 25'$ north of the north R.O.W. line to $\pm 25'$ south of the south R.O.W. line, including 100' of Brookwood Drive. Additionally, the west side of Sugar Creek will have a topographic survey from approximately 200' north of the centerline of the existing bridge to 200' south of the centerline of the existing bridge for placing a multi-use trail.

3. Hydraulic Survey:

A Hydraulic Survey will be performed along Sugar Creek from approximately 500' north (upstream) of the bridge to 500' south (downstream) of the bridge. Hydraulic cross sections will be taken at roughly 100' intervals and will extend to either one foot above the existing bridge deck or 500' west and 500' east of the bridge, whichever is established first.

4. Preliminary Work Sheets:

Create a Digital Terrain Model (DTM) to create the Plan & Profile sheet(s), Cross Sections and Alignment Drawings. The Plan and Profile drawings will be at a 1" = 20' scale. The Roadway Cross Sections will be cut at 50' increments.

5. Administration:

Coordination with the City, Utilities, IDOT and BNWRD will be performed. Also, various billing items will be performed as well.

6. Items to be furnished by the City of Bloomington:

- A. Existing Roadway Plans (if more recent than the FGI plans dated December 16, 1963)
- B. Existing Structure Plans (if more recent than the FGI plans dated May 15, 1964)

7. Compensation:

Farnsworth Group, Inc. will perform the above professional services on an hourly basis, as outlined in Attachment B – Fee Summary.

Note: Not included in this Contract and Scope of Services. This work listed below can be provided on a time and material basis under a separate contract addendum if determined to be needed during the project and if requested later by the City.

Additional Right-of-Way/Easement/Property Items:

- Services related to Right-of-Way other than those listed above

ATTACHMENT A
PROJECT SCOPE OF SERVICES – October 5, 2018

City of Bloomington
Jersey Avenue Bridge Rehabilitation - Survey
Section: 15-00355-00-BR, S.N. 057-6316
McLean County

- Right-of-Way (R.O.W.) or Easement Plats
- Title Commitment payments
- R.O.W. or Easement Appraisals, negotiations, acquisition or recording services or fees
- Staking proposed R.O.W. or Easement in the field

ATTACHMENT B

(FEE SUMMARY)

Attachment B

Fee Summary - October 5, 2018

City of Bloomington
Jersey Avenue Bridge Rehabilitation - Survey
Section 15-00355-00-BR, S.N. 057-6316 (Ex.)

1. RIGHT-OF-WAY (R.O.W.) SURVEY:

Sr. Proj. L.S.	8 Hrs.	@	\$168.00 /Hr. =	\$1,344.00	
Designer	31 Hrs.	@	\$133.00 /Hr. =	\$4,123.00	
GPS (2)	10 Hrs.	@	\$44.00 /Hr. =	\$440.00	
Robot	15 Hrs.	@	\$22.00 /Hr. =	\$330.00	
Field Vehicle	28 Hrs.	@	\$13.00 /Hr. =	\$364.00	
Rods, Stakes, Copies, Misc.				<u>\$99.00</u>	\$6,700.00

2. TOPOGRAPHIC SURVEY:

Sr. Proj. Tech.	2 Hrs.	@	\$165.00 /Hr. =	\$330.00	
Chief Tech.	32 Hrs.	@	\$123.00 /Hr. =	\$3,936.00	
Technician II	30 Hrs.	@	\$96.00 /Hr. =	\$2,880.00	
GPS (2)	2 Hrs.	@	\$44.00 /Hr. =	\$88.00	
Robot	22 Hrs.	@	\$22.00 /Hr. =	\$484.00	
Field Vehicle	30 Hrs.	@	\$13.00 /Hr. =	\$390.00	
Rods, Stakes, Copies, Misc.				<u>\$92.00</u>	\$8,200.00

3. HYDRAULIC SURVEY:

Sr. Proj. Tech.	3 Hrs.	@	\$165.00 /Hr. =	\$495.00	
Chief Tech.	27 Hrs.	@	\$123.00 /Hr. =	\$3,321.00	
Technician II	26 Hrs.	@	\$96.00 /Hr. =	\$2,496.00	
GPS (2)	4 Hrs.	@	\$44.00 /Hr. =	\$176.00	
Robot	13 Hrs.	@	\$22.00 /Hr. =	\$286.00	
Field Vehicle	26 Hrs.	@	\$13.00 /Hr. =	\$338.00	
Rods, Stakes, Copies, Misc.				<u>\$88.00</u>	\$7,200.00

4. PRELIMINARY WORK SHEETS:

Sr. Tech. Mgr.	18 Hrs.	@	\$200.00 /Hr. =	\$3,600.00	
CADD	18 Hrs.	@	\$15.00 /Hr. =	\$270.00	
Copies, Plots, Misc.				<u>\$30.00</u>	\$3,900.00

5. ADMINISTRATION:

Sr. Eng. Mgr.	10 Hrs.	@	\$199.00 /Hr. =	\$1,990.00	
Copies, Plots, Postage, Misc.				<u>\$10.00</u>	\$2,000.00

Agreement Total \$28,000.00



Schedule of Charges - January 1, 2018

Engineering/Surveying Professional Staff	Per Hour
Administrative Support.....	\$ 68.00
Engineering Intern I	\$ 109.00
Engineering Intern II	\$ 120.00
Engineer/Land Surveyor	\$ 132.00
Senior Engineer/Senior Land Surveyor	\$ 138.00
Project Engineer/Project Land Surveyor	\$ 151.00
Senior Project Engineer/Senior Project Land Surveyor	\$ 168.00
Engineering Manager/Land Surveying Manager	\$ 189.00
Senior Engineering Manager/Senior Land Surveying Manager	\$ 199.00
Principal/Vice President.....	\$ 207.00

Technical Staff

Technician I	\$ 71.00
Technician II	\$ 96.00
Senior Technician	\$ 106.00
Chief Technician	\$ 123.00
Designer/Computer Specialist/Lead Technician	\$ 133.00
Senior Designer	\$ 138.00
Project Designer/Project Technician	\$ 146.00
Senior Project Designer/Systems Integration Manager	\$ 165.00
Design Manager/Government Affairs Manager	\$ 177.00
Technical Manager	\$ 187.00
Senior Technical Manager.....	\$ 200.00

Architecture/Landscape Architecture/Interior Design Professional Staff

Designer I	\$ 99.00
Senior Interior Designer/Designer II	\$ 109.00
Architect/Designer III/Project Coordinator	\$ 125.00
Senior Architect/Senior Project Coordinator	\$ 132.00
Project Architect/Project Manager	\$ 144.00
Senior Project Architect/Senior Project Manager	\$ 158.00
Architectural Manager.....	\$ 169.00
Senior Architectural Manager	\$ 178.00
Principal – Architecture	\$ 201.00

Units

Overtime, If Required by Client – Non-Exempt Employees Only	1.25xbilling rate
Expert Testimony.....	2xbilling rate
Per diem	\$51.00/day
ATV & Trailer	\$11.00/hr
Field Vehicle	\$13.00/hr
Automobile mileage	\$0.58/mile
Software/CAD/Revit Station	\$15.00/hr
Hand Held GPS	\$11.00/hr
GPS Unit (each).....	\$22.00/hr
Utility Locator/Robotic Total Station	\$22.00/hr
Subconsultants & Other Reimbursable Expenses Related to Project*	Cost+ 10%

*Includes the actual cost of prints/copies, supplies, travel charges, testing services, conferencing services, and other costs directly incidental to the performance of the above services.

CHARGES EFFECTIVE UNTIL JANUARY 1, 2019 UNLESS NOTIFIED

ATTACHMENT C
(LOCATION MAP)



PROJECT LOCATION MAP

Jersey Avenue Bridge

Date: 10/9/2018





CONSENT AGENDA ITEM NO. 7F

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Public Works

SUBJECT: Consideration of an Ordinance providing for the Vacation of a 50 foot portion of the No-Access Line adjacent to Empire Street and a Final Plat of Resubdivision of Lot 6, Lot 17, and Outlot 18 in Empire Business Park Ninth Addition, so the property owned by Biaggi's Ristorante Italiano can have frontage and access to Empire Street, as requested by the Public Works Department.

RECOMMENDATION/MOTION: That the Ordinance providing for the Vacation of a fifty (50) foot portion of the No-Access Line adjacent to Empire Street and the Final Plat of Resubdivision of Lot 6, Lot 17, and Outlot 18 in Empire Business Park Ninth Addition, so the property owned by Biaggi's Ristorante Italiano can have frontage and access to Empire Street, be approved, and the Mayor and City Clerk be authorized to executed the necessary documents.

STRATEGIC PLAN LINK: Goal 3. Grow the Local Economy

STRATEGIC PLAN SIGNIFICANCE: Ordinance 3a. Retention and growth of current local businesses

BACKGROUND: Public Works is recommending approval of an Ordinance to vacate a no-access line adjacent to Empire Street. The proposed final plat will allow property owned by Biaggi's Ristorante Italiano to have frontage, access, and an address on Empire Street.

The subject final plat consists of two lots and one outlot located east of Airport Road and North of Empire Street. The zoning in this area is B-1 and B-2. The proposed use is permitted in these zoning districts.

The differences between this final plat and the previously approved plat are as follows: Extending the lot for the second restaurant to reach Empire Street; shrink the outlot by 6 foot to better coincide with the curb in the proposed design; vacate a portion of the no-access line on empire street; and providing an access easement to provide access from Empire Street to a second Biaggi's restaurant.

The City has received confirmation that the Illinois Department of Transportation (IDOT) has approved the right-in-right-out entrance in the same location of the proposed fifty feet (50') vacation of the no-access line.

The final plat complies with City engineering standards (Manual of Practice and Chapter 24 of City Code) and City staff has no objections to the plan.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Biaggi's Ristorante Italiano

FINANCIAL IMPACT: Biaggi's Ristorante Italiano paid all survey and plat costs. Tap-on fees were paid as part of Empire Business Park 9th Addition Final Plat. No additional tap-on fees are required.

COMMUNITY DEVELOPMENT IMPACT: The Economic Development chapter of the City's Comprehensive Plan 2035 (Adopted August 24, 2015) includes multiple goals and objectives related to approving this item:

ED-1 Ensure a broad range of employment opportunities for all residents

ED-1.1 Focus on retention and expansion of existing businesses

ED-4 Enhance the image of Bloomington as a business friendly community

ED-4.2 Prioritize infill and redevelopment to spur growth and reinvestment in the City

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:

N/A

Respectfully submitted for Council consideration.

Prepared By: Anthony J. Meizelis PE, Civil Engineer
Michael Hill, Miscellaneous Technical Assistant

Reviewed By: Jim Karch, PE CFM, Director of Public Works

Finance & Budgetary Review By: Chris Tomerlin, Budget Analyst
Scott Rathbun, Finance Director

Water/Community Dev. Review By: Bob Mahrt, Community Development Director

Legal Review By: George D. Boyle, Assistant Corporation Counsel

Recommended by:



Tim Gleason
City Manager

Attachments:

- Pw 3b Ordinance And Legal Descriptions

- Pw 3c Petition
- Pw 3d School District Certificate
- Pw 3e County Clerks Certificate
- Pw 3f Owners Certificate
- Pw 3g Drainage Statement
- Pw 3h Final Plat Checklist
- Pw 3i Final Plat Map
- Pw 3j Tap-On Memo
- Pw 3k Final Plat

ORDINANCE NO. 2018 - _____

**AN ORDINANCE PROVIDING FOR
THE VACATION OF A 50 FOOT PORTION OF THE NO-ACCESS LINE ADJACENT TO EMPIRE
STREET AND APPROVAL OF THE FINAL PLAT OF RESUBDIVISION OF LOT 6, LOT 17 &
OUTLOT 18 IN EMPIRE BUSINESS PARK NINTH ADDITION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for vacation of a 50 foot portion of the No-Access Line as shown on the Final Plat for the Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition and approval of the Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition Subdivision, legally described in Exhibit A, attached hereto and made a part hereof by this reference; and

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code-1960, as amended: None

and

WHEREAS, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and provided for, and the Final Plat attached to said Petition was prepared in compliance with requirements of the Bloomington City Code.

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

SECTION 1. The above recitals are incorporated herein by this reference as if specifically stated in full.

SECTION 2. That the Final Plat of the Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition dated September 28, 2018, is hereby approved.

SECTION 3. That the no-access line vacation as shown on the Final Plat for the Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition dated September 28, 2018, is hereby vacated.

SECTION 4. This Ordinance shall be effective immediately upon its passage and approval.

SECTION 5. This Ordinance is passed and approved pursuant to the home rule authority granted by Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 22 day of October 2018.

APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk

Exhibit A

Lot 6, Lot 17 and Outlot 18 in Empire Business Park Ninth Addition to the City of Bloomington, Illinois, according to the plat thereof recorded July 3, 2018 as Document No. 2018-10643 in the McLean County Recorder's Office, McLean County, Illinois.

State of Illinois)
)ss.
County of McLean)

Now comes Biaggi's Ristorante Italiano, 1705 Clearwater Ave., Bloomington, Illinois 61704,

1. That your petitioner is the owner of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit A, which is attached hereto and made a part hereof by this reference, is a corporation having proprietary interest in said premises.
2. That your petitioner seeks approval of the Final Plat for the subdivision of said premises to be known and described as Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition.
3. That your petitioner seeks approval of the vacation of a 50 foot portion of the No-Access Line as described on the Final Plat for the Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition.
4. That said vacation of a 50 foot portion of the No-Access Line is reasonable and proper because such 50 foot portion of the No-Access Line coincides with the permission granted by the Illinois Department of Transportation for access to the property described in the Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition.
5. Your petitioner also seeks approval of the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960: None.

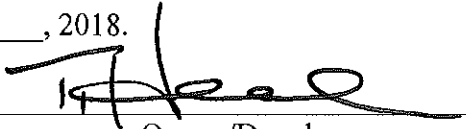
Respectfully submitted,

By:

SCHOOL DISTRICT CERTIFICATE

This is to certify that I Todd Hovenden as Owner/Developer of the property herein described in the Surveyor's Certificate, which will be known as Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition, to the best of my knowledge, is located within the boundaries of Community Unit School District No. 5 in McLean County, Illinois.

Dated this 5th day of October, 2018.

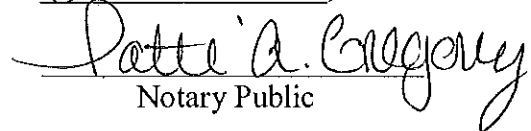

Owner/Developer

NOTARY CERTIFICATE

State of Illinois)
)ss.
County of McLean)

I, Patti A. Gregory a Notary Public in and for the county and State aforesaid, do hereby certify that Todd Hovenden personally known to be the same person whose name is subscribed to the foregoing owner's statement, appeared before me, this day, in person and acknowledged the execution of this statement as his free and voluntary act.

Given under my hand and notarial seal this 5th day of October, 2018.


Notary Public

My commission expires 4.27.2019.



COUNTY CLERK'S CERTIFICATE

State of Illinois)
)ss.
County of McLean)

I, Kathy Michael, County Clerk of McLean County, State of Illinois, do hereby certify that on the 21 day of September, 2018, there were no delinquent general or special assessments unpaid, special assessments or delinquent special assessments unpaid against the tract of land shown on the plat attached to this certificate and described in the certificate of the Surveyor attached hereto and to said Plat.



County Clerk, McLean County, Illinois

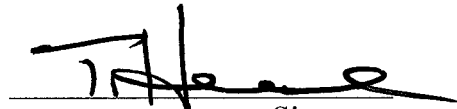
PIN 15-31-351-009, 15-31-351-010

OWNER'S CERTIFICATE

State of Illinois)
)ss.
County of McLean)

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, hereby certify that we are the owners of the premises embodied in the attached Plat of Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition in the City of Bloomington, McLean County, Illinois, and that we have caused said Plat to be made and that it is a true and correct plat of "Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition" in the City of Bloomington, McLean County, Illinois as laid off in lots and streets by Brent Bazan, Registered Illinois Land Surveyor Number 3715; and we, the undersigned, hereby dedicate and set apart to the City of Bloomington for general utility purposes, (and further dedicated the public use areas as shown on said Plat)*

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals this
1st day of October, 2018.


Signature

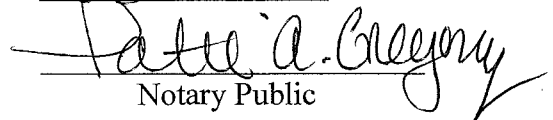
*where dedication is required under Section 3.5.

NOTARY CERTIFICATE

State of Illinois)
)ss.
County of McLean)

I, Patti A. Gregory, a Notary Public in and for the county and State aforesaid, do hereby certify that Todd Hovenden personally known to be the same person whose name is subscribed to the foregoing owner's statement, appeared before me, this day, in person and acknowledged the execution of this statement as his free and voluntary act.

Given under my hand and notarial seal this 1st day of October, 2018.


Notary Public

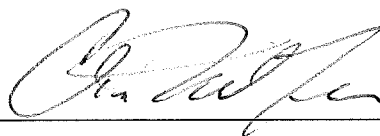
My commission expires 4.27.2019.



DRAINAGE STATEMENT

I, Charles Neil Finlen, Registered Professional Engineer, and Biaggi's Ristorante Italiano, being the owner of the premises heretofore platted by Brent A. Bazan, Illinois Professional Land Surveyor No. 3715, to be and become "Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition", in the City of Bloomington, McLean County, Illinois, do hereby state that to the best of their knowledge and belief, the drainage of surface waters will not be changed by the construction of said Subdivision or any part thereof; or that if such surface waters drainage will be changed, reasonable provision has been made for collection and diversion of such surface waters into public areas or drains which the Subdivider has a right to use and that such waters will be planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of the Subdivision.

I further state that no lots are within the Special Flood Hazard Area, as identified by the Federal Emergency Management Agency.



Registered Professional Engineer, No. _____ OF
OWNER: _____
BY:  _____





RESUBDIVISION OF LOT 6, LOT 17 & OUTLOT 18 IN EMPIRE BUSINESS PARK NINTH ADDITION

Date Prepared: 5/11/2018

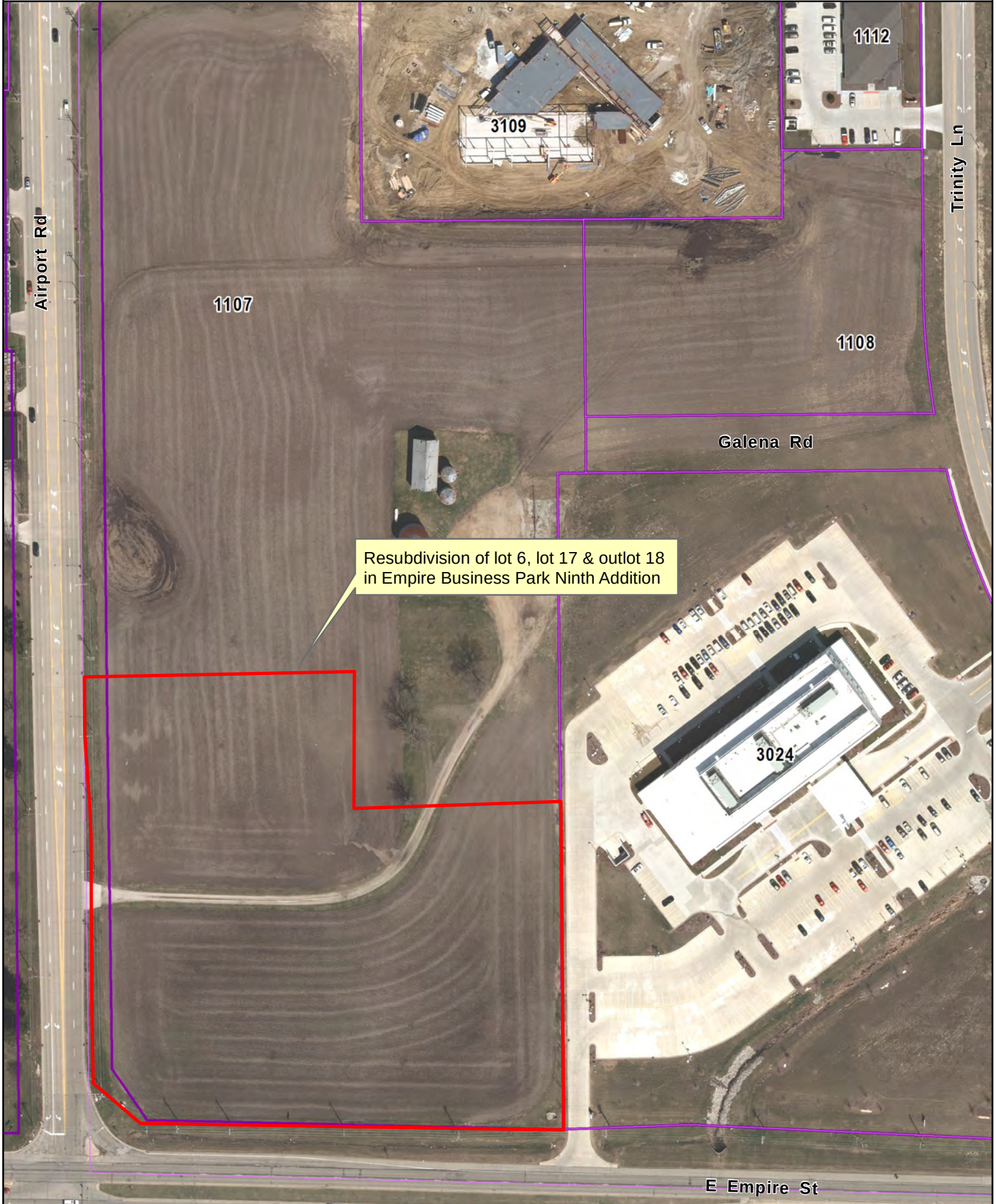
Shown on Final Plat:		Initial
	Easements shown for all public improvements	TJM
	City Engineer's Signature Block	TJM
	Clerk's Signature Block	TJM
	Areas or facilities to be dedicated to the public	N/A
	Railroad Right of Ways	N/A
	Subdivision Boundaries	TJM
	References to nearest street lines, Township, Sections lines, or monuments.	TJM
	Name of Subdivision	TJM
	Legal Description	TJM
	Existing Parcel Id Number (PIN)	TJM
	Surveyor's statement regarding any Special Flood Hazard Areas.	TJM
	Total Acreage	TJM
	Street Names	TJM
	Proposed Lot numbers (consecutively numbered)	TJM
	Front Yard Setbacks	TJM
The following shall be provided:		
	School District Certificate	TJM
	County Clerk's Certificate	TJM
	Owner's Certificate	TJM
	Drainage Statement	TJM
	Owner's Petition	TJM
	Ordinance	TJM
	Utility Company Signoffs	N/A
	Digital PDF Submittal provided to Public Works	*in progress*
	Digital CAD format submittal provided to Public Works	*in progress*
	2 Mylar Copies	
	12 Paper Copies	
The following requirements shall be met:		
	Final plat retains the design characteristics of a valid Preliminary Plan that has not expired	TJM
	Retains the design characteristics of approved public improvement engineering plans and specifications.	TJM
	Final Plat is signed by IL licensed surveyor	TJM
	Plans for all public improvements approved by Public Works	TJM

Resubdivision of lot 6, lot 17 &
outlot 18 in Empire Business Park
Ninth Addition



0 135 270
Feet

Date: 10/3/2018



DATE: October 3, 2018
TO: Katie Simpson, City Planner
FROM: Anthony J. Meizelis, P.E.
RE: **Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition**
Performance Guarantees and Tap-On Fees

The following are the Performance Guarantee and Tap On fees required from the developer before releasing for recording the final plat: **Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition**. The final plat will be considered for approval by the City Council at the October 22, 2018 meeting.

A. The following Performance Guarantee is required:

This subdivision is a resubdivision of a portion of Empire Business Park Subdivision 9th Addition; the performance guarantee in effect for Empire Business Park Subdivision 9th Addition should remain in effect. No additional performance guarantee is required.

Bond/Guarantee must be in the form(s) and language provided by City Code.

- Any bonds currently in effect for Empire Business Park should remain in effect.

B: Tap-On Fees:

This subdivision is a resubdivision of a portion of Empire Business Park Subdivision 9th Addition; the tap-on fees for this subdivision were paid for with the final plat for Empire Business Park Subdivision 9th Addition. No additional tap-on fee is required for this subdivision.

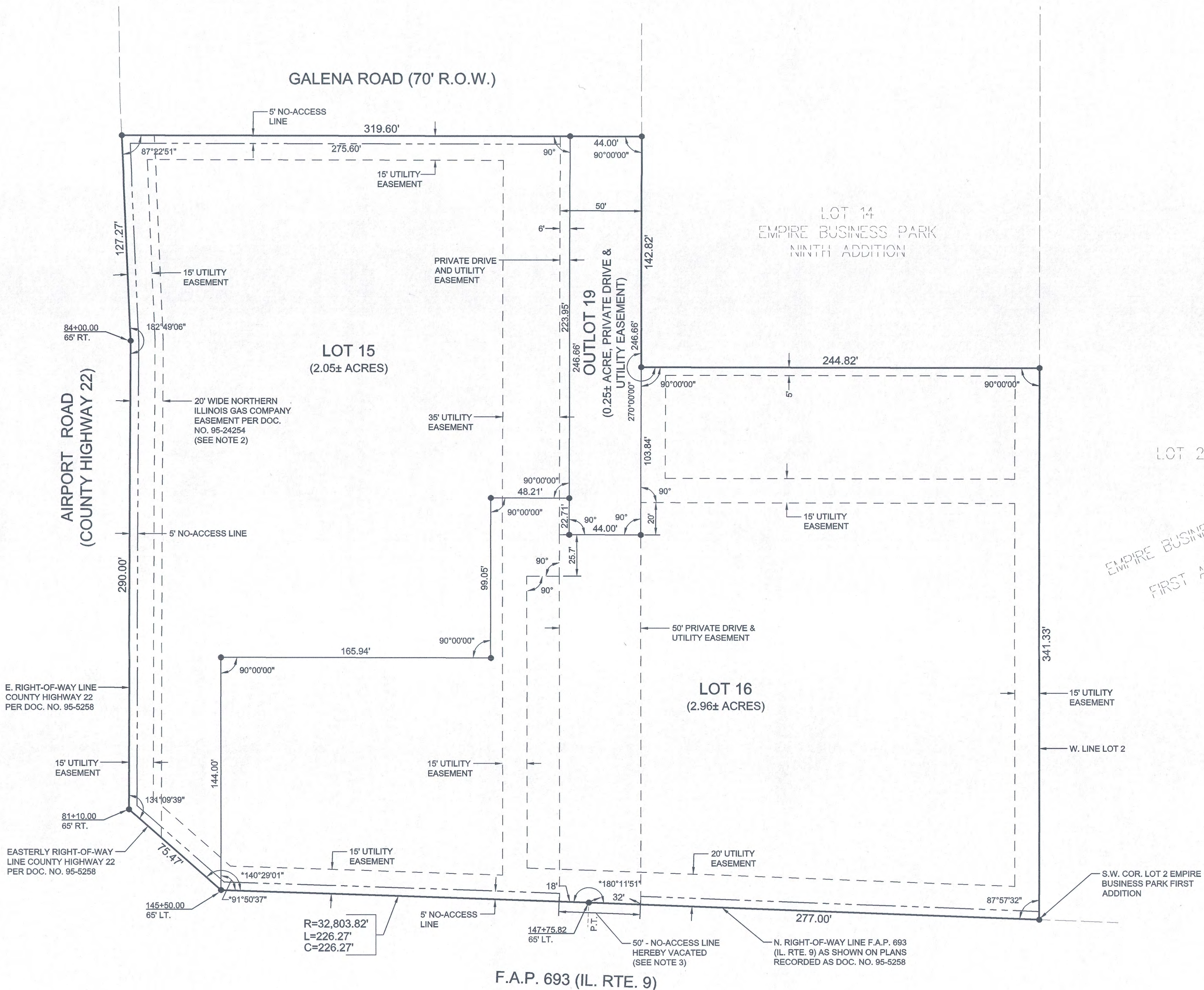
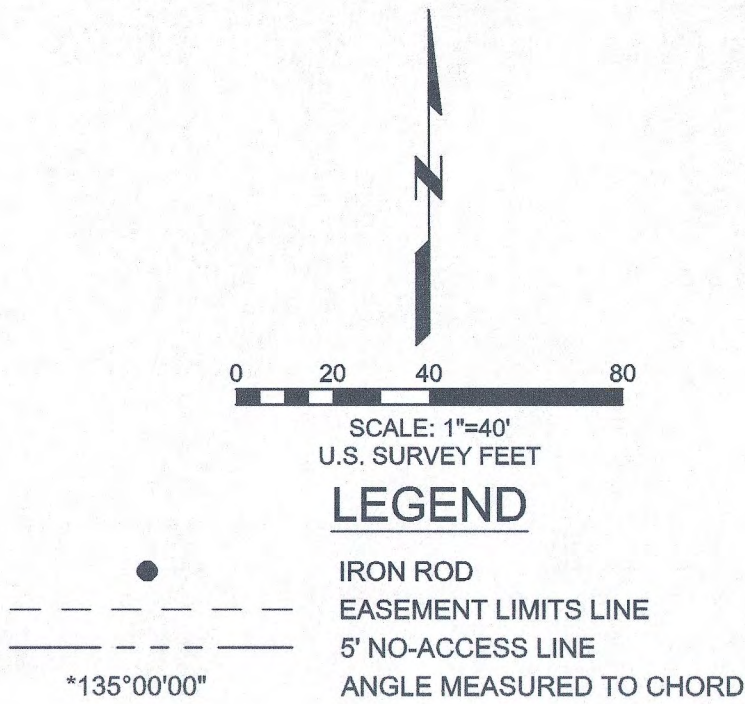
C: Guarantee Substandard Street Improvement:

This subdivision is adjacent to Airport Road, a street improved with public funds. The tap-on fee for Airport Road was paid as a part of the final plat for Empire Business Park Subdivision 9th Addition. There are no other Substandard Street Improvement guarantees required.

cc: Jim Karch, Director of Public Works
Kevin Kothe, City Engineer
Chris Tomerlin
Neil Finlen, Farnsworth Group
file

RESUBDIVISION OF LOT 6, LOT 17 & OUTLOT 18
IN EMPIRE BUSINESS PARK NINTH ADDITION

PART OF SW 1/4 SEC 31, TOWNSHIP 24 NORTH, RANGE 3 EAST OF THE THIRD PRINCIPAL MERIDIAN
CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS



SURVEYOR'S DECLARATION

The following described property has been surveyed and platted under my direction:

Lot 6, Lot 17 and Outlot 18 in Empire Business Park Ninth Addition to the City of Bloomington, Illinois, according to the plat thereof recorded July 3, 2018 as Document No. 2018-10643 in the McLean County Recorder's Office, McLean County, Illinois.

Said property contains 5.26 acres, more or less.

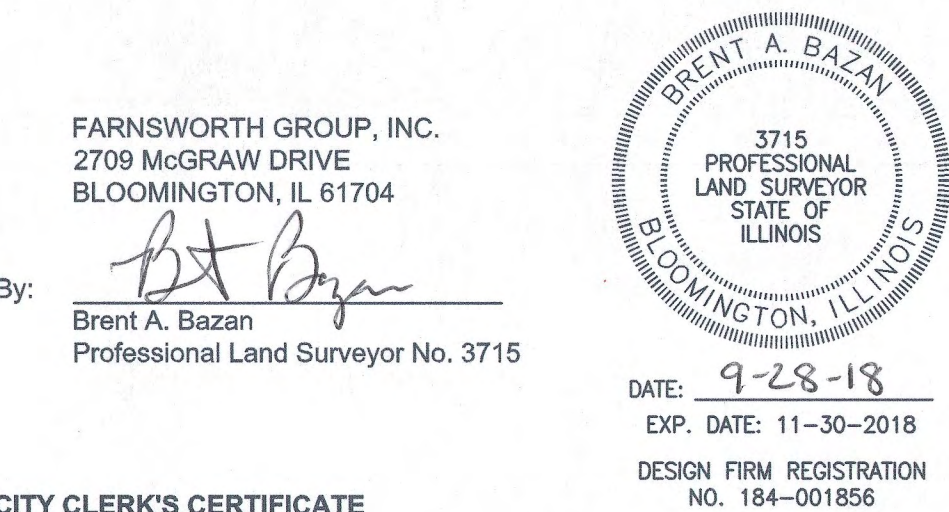
This property has been subdivided into 2 lots, numbered 15 & 16 and 1 Outlot number 19 and easements as shown. Said Subdivision is to be known as "Resubdivision of Lot 6, Lot 17 and Outlot 18 in Empire Business Park Ninth Addition" in the City of Bloomington, McLean County, Illinois.

This Subdivision lies within Zone X (Areas Determined to be Outside the 0.2% Annual Chance Floodplain) according to the Federal Emergency Management Agency's Flood Insurance Rate Map for McLean County, Illinois, Map No. 17113C0510 E, dated July 16, 2008.

Notes:

- This property is part of PIN 15-31-351-009 & 15-31-351-010.
- The Northern Illinois Gas Company easement as shown hereon is approximate. The description for said easement in Document number 95-24254 is vague and cannot be accurately represented on this plat.
- A 50 foot wide portion of the 5 foot No-Access Line as shown on the final plat for Empire Business Park Ninth Addition according to the plat thereof recorded July 3, 2018 as Document No. 2018-10643 is hereby vacated.
- Access to Lot 15 is to be gained via a private drive to be built on Outlot 19 and a portion of Lot 15 and via the 50 foot wide private drive easement located on Lot 16.

Witness my hand and seal this 28th day of September 2018.



FARNSWORTH GROUP, INC.
2709 McGRAW DRIVE
BLOOMINGTON, IL 61704
By: *Brent A. Bazan*
Brent A. Bazan
Professional Land Surveyor No. 3715

CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF McLEAN) SS

I, _____, City Clerk of the City of Bloomington, Illinois, do hereby certify that the foregoing is a true and complete copy of an original "Resubdivision of Lot 6, Lot 17 & Outlot 18 in Empire Business Park Ninth Addition", presented, passed and approved at a regular meeting of said City Council, held on the _____ Day of _____, 2018, by an affirmative vote of the majority of all members of said council, the vote having been taken by yeas and nays and entered on the record of the proceedings of said council.

Witness my hand and seal of said city of Bloomington, this _____ day of _____, 2018.

City Clerk

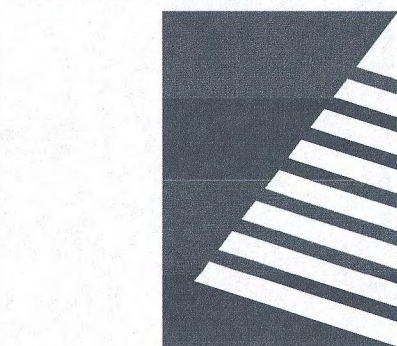
CITY ENGINEER'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF McLEAN) SS

I, _____, City Engineer for the City of Bloomington, hereby certify that the land improvements described in the annexed plat and the plans and specification therefor meet the minimum requirements for said City of Bloomington outlined in Chapter 24 of the Bloomington City code.

Dated at Bloomington, Illinois, this _____ day of _____, 2018.

City Engineer
Bloomington, Illinois



Farnsworth
GROUP

2709 McGRAW DRIVE
BLOOMINGTON, ILLINOIS 61704
(309) 663-8435 / info@f-w.com

www.f-w.com
Engineers | Architects | Surveyors | Scientists

ISSUE # DATE: DESCRIPTION:

PROJECT:
RESUBDIVISION OF LOT 6, LOT 17,
& OUTLOT 18 IN EMPIRE BUSINESS
PARK NINTH ADDITION

BLOOMINGTON, ILLINOIS

Date: 9-28-18

Design/Drawn: DJM

Reviewed:

Field Book No.:

Project No.: 0180999.00

SHEET TITLE:

FINAL PLAT

SHEET NUMBER:

1

S.W. 1/4 SEC. 31, T.24N., R.3E., 3P.M.

File No.: 24-9226-1

CITY OF
Bloomington ILLINOIS
CONSENT AGENDA ITEM NO. 7G

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Community Development Department – Planning Division

SUBJECT: Consideration of an Ordinance approving a Special Use Permit to allow an “Educational/Training Facility”, a nonconforming use in the R-1B Medium Density Single Family Residential District, for property located at 1311 W. Olive St., as requested by the Community Development Department.

RECOMMENDATION/MOTION: That the Ordinance approving a Special Use Permit to allow an “Educational/Training Facility”, a nonconforming use in the R-1B Medium Density Single Family Residential District, for property located at 1311 W. Olive St. be approved, conditioned upon the provision of a ten foot transitional yard, and that the Mayor and City Clerk be authorized to execute the necessary documents.

STRATEGIC PLAN LINK: Goal 3. Grow the local economy. Goal 4. Strong Neighborhoods.

STRATEGIC PLAN SIGNIFICANCE: Objective 3c. Revitalization of older commercial homes; Objective 3e. Strong working relationship among the City, businesses, economic development organizations; 4c. Preservation of property/home valuations

BACKGROUND: The subject property, 1311 W. Olive St. is located at the northeast corner of W. Olive St. and Magoun St. The property is zoned R-1B, Medium Density Single Family Residential District, and is improved with a brick, two-story mixed use building. The surrounding neighborhood is zoned R-1B and developed with single family homes. Sarah Raymond Elementary School (zoned S-2) is located at the southwest corner of W. Olive St. and Magoun St. Additionally, West Olive United Methodist Church (zoned R-1B) is located across the street from the subject property. The subject property is 4,570 square feet and the building appears to have been built between 1900 and 1920. The structure’s first floor is built for retail use and the second floor is used as an apartment. The 1940 Polk Directory shows that the building was used as Erickson’s Grocery Store. Other city records indicate the building’s first floor has been used predominantly for commercial uses. The property has a legal, nonconforming status, and a special use permit is required to allow for a continuing nonconforming use at this location.

The petitioners, Mary and Hank Campbell, have an option to purchase the subject property, contingent upon approval of a Special Use Permit to allow an Education/Training Facility for at-risk and low income women interested in improving building/trade capacities. The program, as described in the petition, serves as a platform for other apprentice and education opportunities in the community including partnerships with Heartland Community College, Mid-Central Community Action, and

the Building and Trade Unions. The proposed use would necessitate two additional off-street parking spaces. The petitioner proposes to provide three or four off-street spaces behind the building. Staff concluded that the additional off-street parking proposed by the petitioner could ensure the proposed use does not add to the on-street parking congestion. Staff also recommended that the Zoning Board of Appeals add a condition to the special use permit that the petitioner should provide a ten (10) foot transitional yard, in accordance with 44.4-5, along the sides and rear of the property that abut the residential districts. The transitional yard will provide screening to the adjoining residents from car headlights and from the parked cars, in general. The petitioner agreed to the condition and the Zoning Board approved adding the condition to their favorable recommendation to allow a less nonconforming use.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: On September 19, 2018, the Zoning Board of Appeals held a public hearing on the petition for a Special Use permit. Draft minutes of the hearing accompany this memorandum. Legal notice for the hearing was published in the *Pantagraph* on September 3, 2018. Four citizens Anthony D'Agostino, Cameron D'Agostino, Drake Zimmermen, and Diana Beichner, spoke in favor of the petition. Charles Smock, a nearby resident, spoke in opposition to the petition. The Zoning Board also received an email from Bridget Sabastiani, a resident, expressing concerns about parking and congestion. The email was entered into the record and marked "Exhibit A." The Board established that the proposed use was less nonconforming and that the petition meets the standards for a special use permit, Chapter 44.10-4. The Zoning Board of Appeals unanimously recommended in favor of the Special Use permit with the condition recommended by staff by vote of 5-0.

FINANCIAL IMPACT: The Special Use permit encourages investment in an older commercial building. Improvements to the building could result in increased property value and property tax revenues for the City.

COMMUNITY DEVELOPMENT IMPACT: This project aligns with the Comprehensive Plan goals outlined below and encourages strengthening Bloomington's workforce.

- Goal N-1 Ensure compact development of the City through denser, mixed-use developments and reinvestment in the established older neighborhoods.
- Goal N-1.1. Enhance the livability of all Bloomington neighborhoods.
- N-1.1d Identify opportunities for mixed-use developments and encourage such development to enhance neighborhoods.
- Goal N-1.2 Prioritize, with urgency, the revitalization of the neighborhoods in the Regeneration Area.
- Goal EDU-2. Provide life-long skills and learning opportunities for all by investing in excellent schools, colleges and continuous education.
- EDU-2.1a. Work closely with area universities to expand workforce training and educational programs to meet the needs of current and the targeted industries.
- EDU-2.1b. Work with the local universities to expand their training programs and research capabilities to ensure the students are receiving training in emerging employment sectors.
- Goal EDU-2.3 Strengthen job training programs for low-skilled workers.

- EDU-2.3b. Partner with existing organizations such as LABYRINTH that provide training in “soft skills”, vocational skills, daycare, and other services that enable people to enter the workforce and earn a living wage.

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:

N/A

Respectfully submitted for Council consideration.

Prepared By: Katie Simpson, City Planner

Reviewed By: Bob Mahrt, Community Development Director

Finance & Budgetary Review By: Chris Tomerlin, Budget Analyst
Scott Rathbun, Finance Director

Legal Review By: George D. Boyle, Assistant Corporation Counsel

Recommended by:



Tim Gleason
City Manager

Attachments:

- CD1B_Ordinance
- CD1C_Petition
- CD1D_Site Plan
- CD1E_Zoning Map
- CD1F_Aerial View
- CD1G_List of permitted uses in the R-1B District
- CD1H_Staff Report ZBA 9.19.18
- CD1I_DRAFT Minutes ZBA 9.19.18
- CD1J_Notices

ORDINANCE NO. 2018 - ____

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR AN
“EDUCATIONAL/TRAINING” FACILITY, A NONCONFORMING USE IN THE R-1B,
MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT, FOR PROPERTY
LOCATED AT: 1311 W. OLIVE ST.**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting a Special Use Permit for a training/education facility, a nonconforming use, in the R-1B Single Family Residential District for certain premises hereinafter described in Exhibit(s) A; and

WHEREAS, the Bloomington Board of Zoning Appeals, after proper notice was given, conducted a public hearing on said petition; and

WHEREAS, the Bloomington Board of Zoning Appeals, after said public hearing made findings of fact that such Special Use was less nonconforming than the previous nonconforming use and such Special Use Permit would comply with the standards and conditions for granting such special permitted use for said premises as required by Chapter 44, Section 44.10-3C of the Bloomington City Code, 1960, as amended; and

WHEREAS, the Bloomington Board of Zoning Appeals has the authority to recommend conditions on a special use permit to the City Council; and

WHEREAS, the Board of Zoning Appeals recommends the petitioner add a ten foot side and rear transitional yard compliant with Section 44.4-5 of the City Code, 1960, as amended; and

WHEREAS, the City Council of the City of Bloomington has the power to pass this Ordinance and grant this special use permit with the recommended conditions.

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

1. That the Special Use Permit for a training/education facility, a nonconforming use in the R-1B District, at the premises commonly known as 1311 W. Olive St. hereinafter described in Exhibit(s) A shall be and the same is hereby approved, conditioned upon the providing of a 10 foot rear and side transitional yard compliant with Section 44.4-5 of the City Code, 1960, as amended.
2. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 22nd day of October 2018.

APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk

Exhibit A

“Legal Description for 1311 W Olive St.”

W41' OF S111' OF LOT 38 IN BLOCK 1 IN STEVENSON & WORRELL'S
CONSOLIDATED SUBN PART OF SECTION 5 & 8, TOWNSHIP 23 N, RANGE 2 E OF
THE THIRD PRINCIPAL MERIDIAN

PETITION FOR A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT:

1311 W. Olive St., Bloomington, IL

State of Illinois)

)ss.

County of McLean)

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

Now come(s)

Mary and Hank (Harry)
Campbell

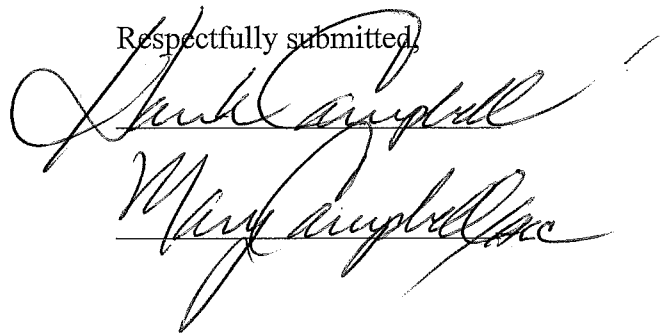
hereinafter referred to as your petitioner(s), respectfully representing and requesting as follows:

1. That your petitioner(s) is (are) the owner(s) of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit(s) AS IS, which is (are) attached hereto and made a part hereof by this reference, or is (are) a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix); trustee, lease, or any other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises presently has a zoning classification of RIB under the provisions of Chapter 44 of the Bloomington City Code, 1960;
3. That under the provisions of Chapter 44, Section 44.6-30 of said City Code Be used for education/training, are allowed as a special use in a _____ zoning district; center for women
4. That the establishment, maintenance, or operation of said special use on said premises will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
5. That said special use on said premises will not be injurious to the use and enjoyment of other property in the immediate vicinity of said premises for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
6. That the establishment of said special use on said premises will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the RIB zoning district;

7. That the exterior architectural treatment and functional plan of any proposed structure on said premises will not be so at variance with either the exterior architectural treatment and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood adjacent to said premises;
8. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided to said premises for said special permitted use;
9. That adequate measures have been or will be taken to provide ingress and egress to and from said premises so designed as to minimize traffic congestion in the public streets; and
10. That said special permitted use on said premises shall, in all other respects, conform to the applicable regulations of the R1B zoning district in which it is located except as such regulations may, in each instance, be modified by the City Council of the City of Bloomington pursuant to the recommendations of the Bloomington Board of Zoning Appeals.

WHEREFORE, your petitioner(s) respectfully pray(s) that said special use for said premises be approved.

Respectfully submitted,



PETITION FOR APPROVAL OF A SPECIAL USE DESIGNATION

The purpose of this petition is to request that a special use permit be granted for the property at 1311 W. Olive, Bloomington, to allow it to be used as an educational/training center for low income women. DREAMS ARE POSSIBLE is a program that will help women attain basic, pre-entry level training and education that would facilitate their participation in the currently existing training programs at Mid Central Community Action, the Certification programs and job retraining efforts at Heartland Community College and the apprenticeship programs through the building trades. It will be the pre-entry level path toward better employment and future educational opportunities for women who struggle daily to sustain themselves and their families in this community.

DREAMS ARE POSSIBLE will serve as the neighborhood-based outreach to women who will gain hands-on experience, individualized training curriculum, and close supervision/coaching/mentoring. For example, the building trades need female participation in its membership but the lack of women's familiarity with tools and the trades prevent them from that one opportunity to pass the exams for apprenticeship. Moreover, the program will enable the women to bridge the divide from minimum, low skilled employment to a job with a living wage, benefits, and personal dignity. According to a report on "Opening Doors" in the 8/26/18 Pantagraph : 'A person working a full time job at minimum wage would need to have 2.1 jobs to afford ' rent and utilities in Bloomington/Normal.

DREAMS ARE POSSIBLE will involve many volunteers and will collaborate with community agencies such as Mid Central Community Action, the building trades, Heartland Community College, Habitat for Humanity Women Build, and the WBRP Tool Library, to name just a few. It will primarily operate throughout the day and early evening and is located on the Connect Transit bus line. The first floor of the building at 1311 W. Olive has not been used as a residence since prior to the current owner's (Miller Properties) awareness. Instead it has been used by Miller Properties as their warehouse/work station. The building, except for the upstairs apartment, has been virtually empty and getting minimal attention for many years. It has been for sale for 2 years. The outside façade is in need of tuck pointing and upkeep. The inside is in need of serious infrastructure attention, including the first floor needs to be shored up. We make the commitment to restore and improve the infrastructure and the appearance of this building and the surrounding property as we had done to the two Labyrinth properties in the 600 block of W. Monroe for formerly incarcerated women in 2015.

In the pictures of the property on the web site, and confirmed by a 40+ year long neighbor who borders the yard to the north, (on Maquoin St) there was a curb cut on the west side of the building and a gravel parking lot for several cars in the rear of the property until recent years. It would be very beneficial to be able to return those access points so that loading and unloading of materials would be accessible to the rear of the building and it would decrease the use of on-street parking. Although many of the women participants, if not most, do not have access to a car, access from the rear for unloading tools and supplies by those who are teaching the classes/activities will facilitate the process. It would also allow for the residents of the upstairs apartment to park their work trailer and truck in the evening hours. The rear parking would be well maintained and would still leave a significant space for a garden and other uses.

The current neighborhood surrounding 1311 W. Olive is mixed site housing and mixed use. Sarah Raymond School is less than a block away as is the West Olive United Methodist Church. It is on the Connect Transit bus line and within a few blocks of a group of Habitat built housing (on the site of the old train station). There are rentals and individually owned housing in the surrounding 2 block neighborhood and the range of housing quality varies greatly from house to house.

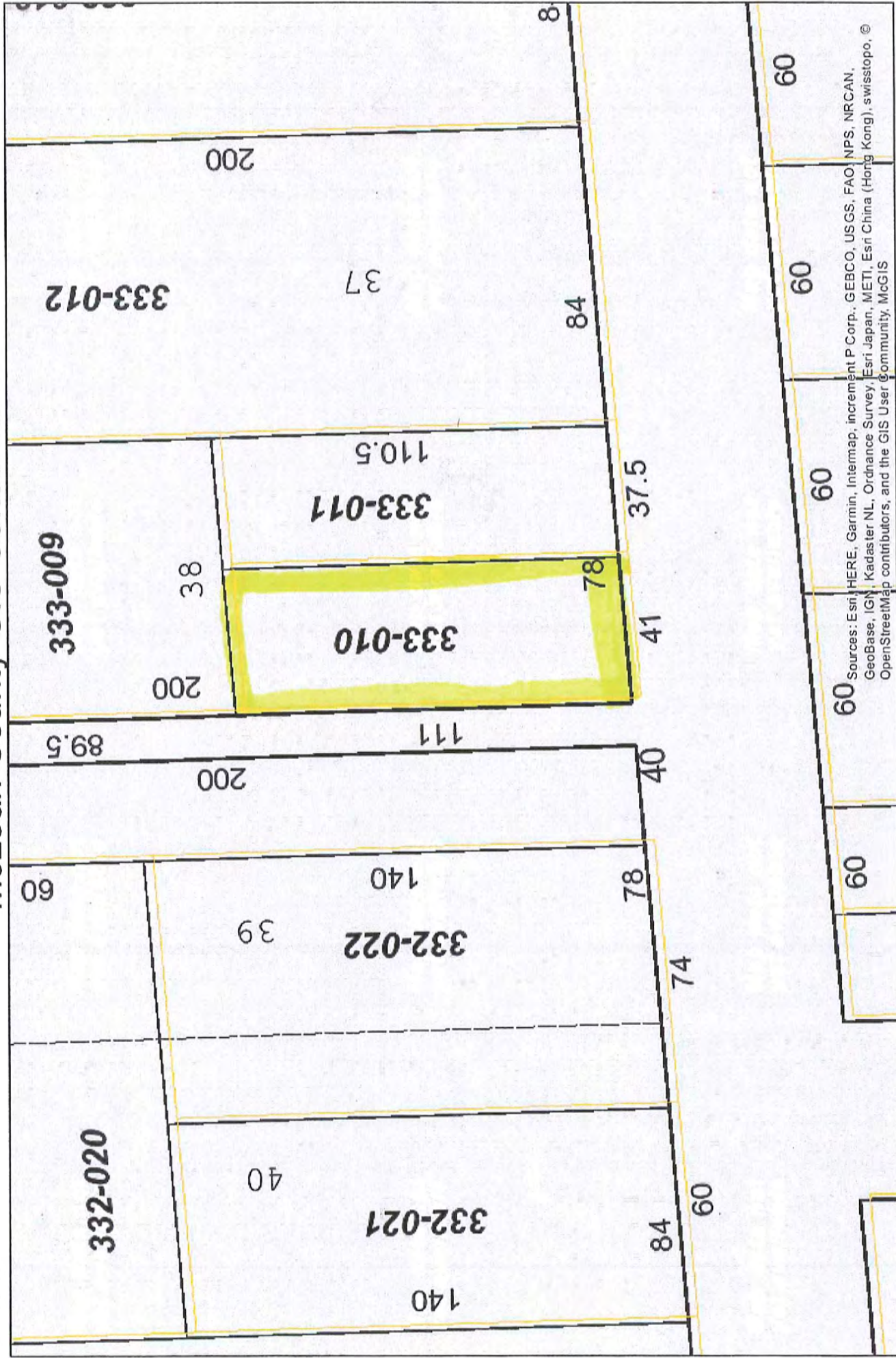
In our conversation with future partners (Mid Central Community Action, Heartland Community College, building trades representatives, etc.), there exists a need for the creation of a "bridge" program that will enable the women who will be served by DREAMS ARE POSSIBLE, to cross over from poverty and our low wage workforce to acquire better employment with a living wage. Hank (Harry) and Mary Campbell have placed an offer to purchase with the owner, Miller Properties, which has been accepted. The offer is contingent on being approved and receiving a special use permit for the program, DREAMS ARE POSSIBLE.

Our petition requests that 1311 W. Olive, Bloomington be granted a special use permit to operate this educational/training center for women.

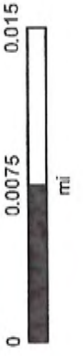
LEGAL DESCRIPTION
1311 W OLIVE ST

STEVENSON & WORRELL'S CONSOLIDATED SUBN
PT 5& 8 23 2 E W41' S111' 38 1

McLean County GIS Consortium



McGIS does not guarantee the accuracy of the information displayed. Only on-site verification or field surveys by a licensed professional land surveyor can provide such accuracy. Use for display and reference purposes only.



McGIS

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), © OpenStreetMap contributors, and the GIS User Community, McGIS

Affidavit for 1311 West Olive St Bloomington, Il 61701

I have had this property listed for sale since Dec 31st 2016. The the main property on the first level was originally a grocery store and has been used as a commercial space for as long as it has been around. The last use was for a repair shop for their Rental properties up until around September 2017. There was a small efficiency apt on the east side of no more than 550 Square feet rented till 2014, but the main large area has always been commercial. Just looking at the outside will attest that it has been a commercial building and is just not the architecture for a residential building, with the large windows in front and large overhang. The buildings main floor has been vacant since September of 2017. Any other questions call me at 309-275-3039. Thanks.....

Mark Haeffele



Coldwell Banker TREG

309-275-3039





WEST OLIVE FAITH UNITED METHODIST CHURCH



October 9, 2018

Dear Mr. Renner and Bloomington City Council:

I am writing on behalf of West Olive Faith United Methodist Church concerning ample parking for the new women's help center that Mary Campbell is trying to get established across the street from our church. It has come to our attention that there may be times when more parking is needed than the number of spots that they will have on their property. In order to keep parked cars on the street to a minimum, we will gladly allow them to use our parking lot when needed.

If further information is needed, please feel free to contact me at Morningstar United Methodist Church (309-452-6255). I am the pastor for both West Olive Faith and Morningstar United Methodist Churches.

Sincerely,

Pastor Tiffany Black

1306 West Olive St.
Bloomington, IL 61701
309-828-7052

OCT 10 2018

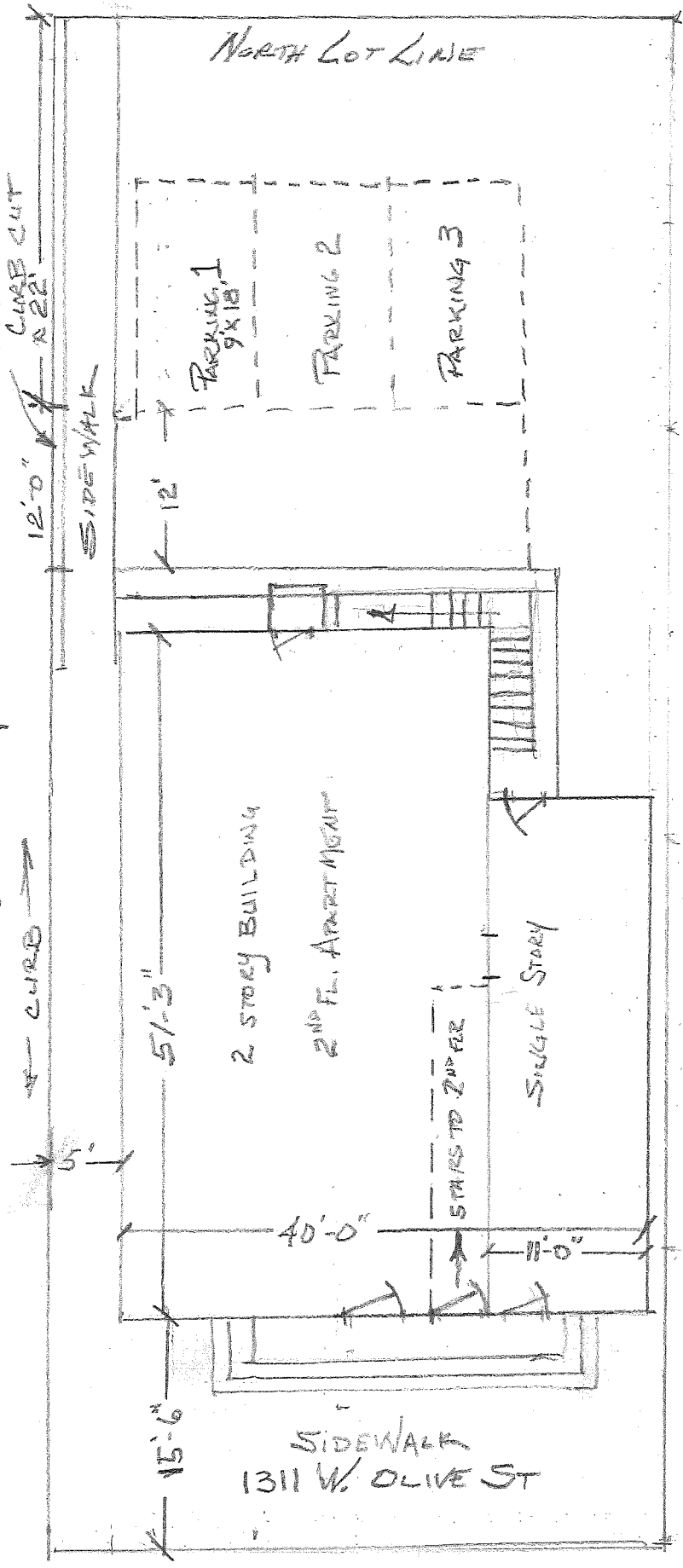
SITE PLAN
1311 W. OLIVE ST
BLOOMINGTON, IL

SCALE 1/4" = 3'-0"



Maguoin St

OLIVE ST



EXISTING LOT LINE

Aug 2013 by HLC



McGIS, <http://www.McGIS.org/License>

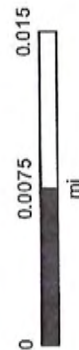


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Section 44.6-30

Permitted Uses in the R-1B District

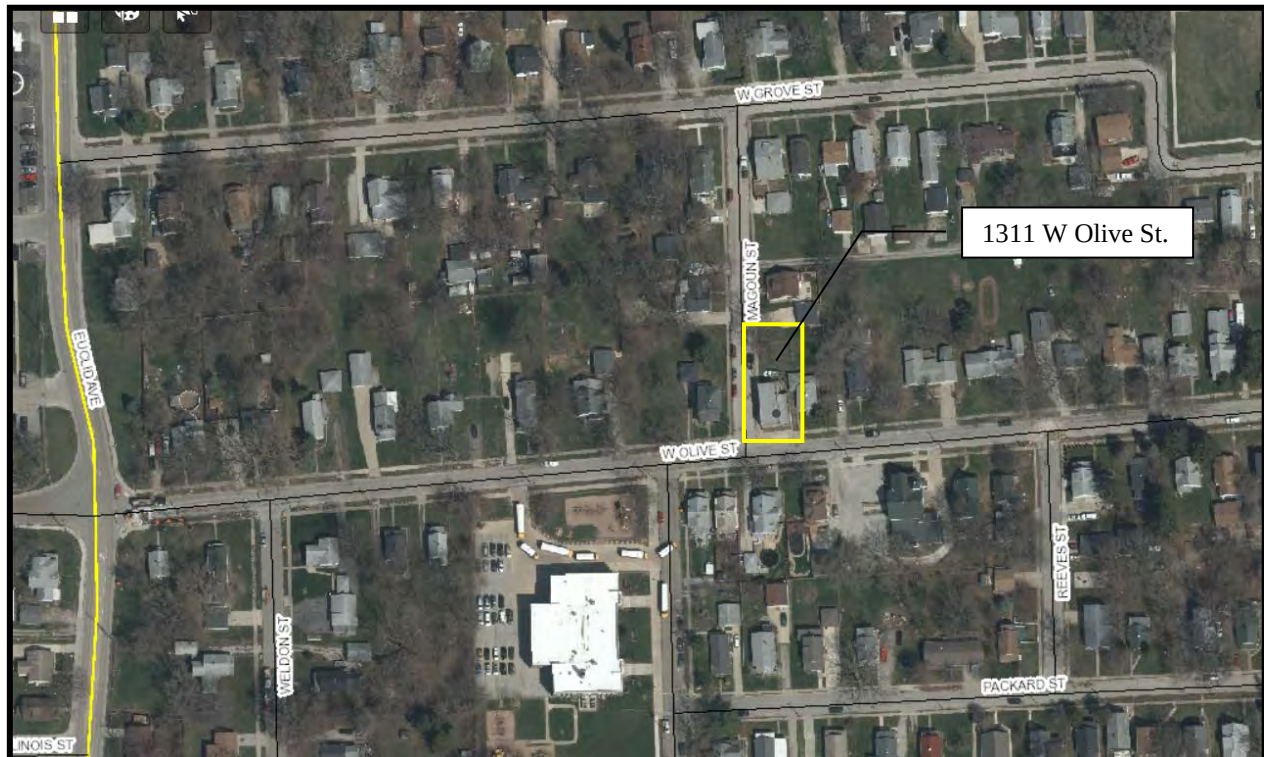
Agency-Operated Family Homes	P	Religious Education Facility	S
Agriculture	P	Sewage Lift Stations	P
Cemeteries	S	Swimming Pools	S
Churches, Synagogues, Temples	S	Telecommunication Antenna Facilities	S
Columbarium	S	Telephone Exchange Substations	S
Country Clubs, Golf Clubs	S	Utility Conduits, Lines, Pipelines	P
Day Care Centers	S	Water Pressure Control Stations	P
Dwellings, Single-Family	P	Water Purification Plants	P
Electricity Regulating Substations	P	Water Storage Reservoirs	P
Flammable Liquid Pipelines	P		
Forestry	P		
Gas Regulatory Stations	P		
Golf Courses - Not Miniature Golf	S		
Group Homes for Parolees	S		
Group Homes for Parolees	S		
Irrigation Channels	P		
Nursery Schools	S		
Parking Lot, Noncommercial	S		
Parks, Playgrounds, Aboretums	P		
Police Stations, Fire Stations	P		
Postal Services	P		
Pre-Schools	S		

**CITY OF BLOOMINGTON
REPORT FOR THE BOARD OF ZONING APPEALS
September 19, 2018**

CASE NUMBER	SUBJECT:	TYPE	SUBMITTED BY:
SP-05-18	1311 W Olive St.	Allow a nonconforming use—training/education facility—in the R-1B district	Katie Simpson, City Planner

PETITIONER'S REQUEST:			
Section of Code: 44.4-6 D. 3 Nonconformities			
Type	Request	Required	Special Use
Special Use permit	Training/education facility	R-1B Permitted Uses	Allow a nonconforming use

Project Description	The petitioner is seeking a Special Use to allow a training/education facility, a nonconforming use, in the R-1B district for the property located at 1311 W Olive St.
Staff Recommendation	Staff finds that the petition has met the Zoning Ordinance's standards required to allow a special use. Staff recommends approval of the requested special use for a training/education facility at 1311 W Olive St, SP-05-18, with the condition that a 10ft transitional side and rear yard are provided in accordance with 44.4-5 on the south and west sides of the property, respectfully.



NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements. Notice was published in the Pantagraph on Monday, September 3, 2018

GENERAL INFORMATION

Petitioner: Mary Campbell

The Petitioner has demonstrated contractual interest in the property.



LEGAL DESCRIPTION:

W41' OF S111' OF LOT 38 IN BLOCK 1 IN STEVENSON & WORRELL'S CONSOLIDATED SUBN PART OF SECTION 5 & 8, TOWNSHIP 23 N, RANGE 2 E OF THE THIRD PRINCIPAL MERIDIAN

PROPERTY INFORMATION

Existing Zoning: R-1B, Medium Density Single-Family Residence District
Existing Land Use: Mixed-use building—1st floor commercial/repair store; 2nd floor apartment
Property Size: (41' X 112') approximately 4570 square feet
PIN: 21-05-333-010

Surrounding Zoning and Land Uses

Zoning

North: R-1B, Single-Family Residential District
South: R-1C, Single-Family Residential District
South: R-1C, Single-Family Residential District
East: R-1B, Single-Family Residential District
East: M-1 Restricted Manufacturing District
West: R-1B, Single-Family Residential District
Southwest: S-2, Public Lands and Institutions

Land Uses

North: Single family homes
South: Single family homes
South: Church
East: Single family homes
East: Commercial/warehouse storage
West: Single family homes
Southwest: Sarah Raymond Elementary School

Analysis

Submittals

This report is based on the following documents, which are on file with the Community Development Department:

1. Application for a special use
2. Site Plan
3. Aerial photographs
4. Site visit

BACKGROUND

The subject property, 1311 W. Olive St. is located at the northeast corner of the intersection of W. Olive St. and Magoun St. The subject property is approximately 41 feet wide and 112 feet long, and is improved with a mixed-use building. The structure appears to have been built between 1900 and 1920. The building's first floor is built for retail, and the second floor is

constructed as an apartment. The subject property has no off-street parking and is located on a nonconforming lot. A curb cut and gravel parking area was located in the rear of the property, but the City removed the curb cut in 2017 when replacing sidewalk on Magoun St. The subject property abuts single-family homes. Sarah Raymond Elementary School is located at the southwest corner of Magoun St. and W. Olive St, and West Olive United Methodist Church is located on the south side of W. Olive Street, across the from subject property. Depending on hours of operation and if the owners consented, the Elementary School and the Church could possibly provide supplemental off-street parking to support a nonresidential use at 1311 W. Olive St.

Over the past decades, the subject property has played host to a number of commercial uses including: Erickson Edw. A Grocery store, Middelstaedt Grocery Store, the Mud Hut, Alicia's Cleaning in 2011 and recently, according to Google Maps, D'Agostino Design. A notarized affidavit from the realtor listing the property, included in the petitioner's application, attests that a management company used the property as a repair shop until September 2017. According to previous zoning maps, the property was zoned residential in 1941. In 1956, the zoning changed to R-2, Mixed Residential, and eventually to its current zoning, R-1B. The R-1B District is the Medium Density Single Family Residential District and primarily allows for single-family homes. A few other assembly and commercial uses are contemplated with a special use permit such as religious education facilities, daycares, churches, and country clubs. The property is a legal, nonconforming structure, located on a legal nonconforming lot, occupied by legal, nonconforming uses. The zoning ordinance allows a nonconforming structure to exist and be occupied by a nonconforming use following approval of a special use permit. Staff cannot find records of past special use permits at this site, but a special use permit would be required for any future nonconforming uses. To help reduce negative impacts on the surrounding properties and businesses, the Zoning Board of Appeals may apply conditions to the special use permit.

PROJECT DESCRIPTION

The petitioner submitted a special use permit petition requesting a special use permit to allow a pre-entry level educational/training facility for low income and at-risk women looking to improve building/trade capacities. The program described in the application, would serve as a platform for other apprenticeships and education opportunities with Heartland Community College, Mid Central Community Action, and the Building and Trade Unions. The petitioner hopes for partnerships with other community organizations such as the West Bloomington Revitalization Project/Tool Library and Habitat for Humanity Women Build. The project aligns with the goals of the Comprehensive Plan and encourages strengthening Bloomington's workforce. .

The proposed special use would occupy the first floor of the building (approximately 1,817.7 square feet) and the second floor would continue to be used as an apartment. The proposed use will have employees and volunteers, and a known group of users, similar to a school or day-care. These uses differ from the previous retail uses in that, while the produce foot and vehicular traffic, they tend to generate less random foot and vehicular traffic and have specific and known, commuting hours. Additionally, the petitioner proposed to operate during the daytime and early evening, a schedule that varies from the previous retail uses. A training/education facility in a 1817.7 square foot building would require five (5) parking spaces (1:400 sqft), two (2) spaces

less than a retail use(1:250 sqft) originally at this location. The previous use or a repair shop required three (3) parking spaces (1:600 sqft). Since the requirement was only for three (3) spaces, the previous tenant was exempt from providing parking under 44.7-2D. Under section 44.7-1C, a change in use triggers the need to add additional parking, but only to the difference in required parking. The proposed use would then necessitate (2) two additional parking spaces, not five (5).

The subject property does not have off-street parking. The petitioner would also like to add (3) three parking spaces behind the building to provide off-street parking for employees and volunteers. Staff has minor concerns regarding the parking layout provided in the site plan. Staff recommends shifting the spaces to face east and west to promote better circulation. Additionally, staff recommends that, if approved by the ZBA, the petitioner provides a 10 (ten) foot transitional rear and side yard, in accordance with 44.4-5 of the zoning ordinance which will serve as a buffer between the adjacent properties and provide screening for the parking on the south and west sides of the lot. Staff understands the lot is nonconforming and believes a larger transitional yard would impede the petitioner's ability to make reasonable use of their property. Staff is recommending ten (10) feet as a compromise. The subject property is located close to a bus stop, and some students may use public transportation to travel to and from the site. However, staff also encourages the petitioner to work toward acquiring a parking agreement with the adjacent church or school to provide additional off-street parking for students, if needed.

Conformance with the Comprehensive Plan: The subject property is located within the Regeneration Area, as identified in the Comprehensive Plan. The Plan recommends creating walkable neighborhoods and prioritizing redevelopment in the Regeneration Area. A Special Use Permit could contribute to the following goals:

- Goal N-1 Ensure compact development of the City through denser, mixed-use developments and reinvestment in the established older neighborhoods.
- Goal N-1.1. Enhance the livability of all Bloomington neighborhoods.
- N-1.1d Identify opportunities for mixed-use developments and encourage such development to enhance neighborhoods.
- Goal N-1.2 Prioritize, with urgency, the revitalization of the neighborhoods in the Regeneration Area.
- Goal EDU-2. Provide life-long skills and learning opportunities for all by investing in excellent schools, colleges and continuous education.
- EDU-2.1a. Work closely with area universities to expand workforce training and educational programs to meet the needs of current and the targeted industries.
- EDU-2.1b. Work with the local universities to expand their training programs and research capabilities to ensure the students are receiving training in emerging employment sectors.
- Goal EDU-2.3 Strengthen job training programs for low-skilled workers.
- EDU-2.3b. Partner with existing organizations such as LABYRINTH that provide training in “soft skills”, vocational skills, daycare, and other services that enable people to enter the workforce and earn a living wage.

Action by the Board of Zoning Appeals.

For each special use application the Board of Zoning Appeals shall report to the Council its findings of fact and recommendations, including the stipulations of additional conditions and guarantees, when they are deemed necessary for the protection of the public interest or to meet the standards as specified herein. No special use application shall be recommended by the Board of Zoning Appeals for approval unless such Board shall find:

1. **that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, comfort or general welfare;** the subject property has not been converted to a single family home. The first floor is designed for commercial activity and has been difficult to occupy as a single-family residence. Rather than remain vacant and in disrepair, the special use permit will allow a use, similar to other conditional uses contemplated in the R-1B district, and will encourage investment in the site, which can positively impact the neighborhood and improve general welfare of the area. Staff recommends that the ZBA consider adding a required 10 ft transitional rear and side yard as a condition of the special use permit to mitigate negative impacts. **The standard is met.**
2. **that the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;** The special use will encourage investment in the decaying structure, which will assist the overall neighborhood. The proposed use aligns with the goals of the Comprehensive Plan and the Regeneration neighborhood. **The standard is met.**
3. **that the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district;** A ten (10) foot transitional yard on the south and west side could provide a noise and visual barrier for the adjacent residential homes and encourage orderly development. The use should not prohibit orderly development and will generate less traffic than the retail uses would have at this location. **The standard is met.**
4. **that adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided;** Any changes in grade or slope, and access to the public street would require approval from the engineering department. Once a curb cut is issued, and the additional gravel parking provided, the will be standard is met.
5. **that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;** The Engineering Department controls access to Magoun St. The petitioner will need to acquire a curb cut permit. Additionally, changing the orientation of the parking area behind the building from north south to east west could provide better circulation. Lastly, the petitioner should attempt to secure permission from either the nearby school or church to allow students to park in their lots on off-hours. **The standard is met.**
6. **that the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by the**

Council pursuant to the recommendations of the Board of Zoning Appeals. (Ordinance No. 2006-137). Staff recommends the ZBA consider adding a condition requiring a transitional yard. **The standard is met.**

STAFF RECOMMENDATION: Staff finds that the petition has met the Zoning Ordinance's standards required to allow a special use. Staff recommends approval of the requested special use for a training/education facility at 1311 W Olive St, SP-05-18, with the condition that a 10ft transitional side and rear yard are provided in accordance with 44.4-5 on the south and west sides of the property, respectfully.

Respectfully submitted,
Katie Simpson, City Planner

Attachments:

- Draft Ordinance
- Exhibit A-Legal Description
- Petition and supplemental documents from petitioner
- Site Plan
- Aerial Map
- Zoning Map
- List of permitted uses in the R-1B District
- Neighborhood Notice Map, Newspaper Notice and List of Addresses Notified

**MINUTES
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 4:00 P.M.
WEDNESDAY, SEPTEMBER 19, 2018
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

Members present: Ms. Barbara Meek, Mr. Robert Schultz, Mr. Terry Ballantini, and Ms. Victoria Harris, Chairman Tristan Bullington

Members absent: Mr. Jeff Brown, Mr. Veitengruber

Also present: Mr. George Boyle, Assistant Corporation Counsel
Ms. Katie Simpson, City Planner
Ms. Izzy Rivera, Assistant City Planner

Chairman Bullington called the meeting to order at 4:03 p.m. Ms. Simpson called the roll; with five members present, the Zoning Board of Appeals established a quorum.

PUBLIC COMMENT: None.

MINUTES: The Zoning Board of Appeals reviewed the August 15, 2018 regular meeting minutes. Ms. Harris motioned to approve the minutes. Seconded by Ms. Meek. The Board approved the minutes by voice vote, 5-0.

REGULAR AGENDA:

Z-19-18 Consideration, review and action of a petition submitted by Patrick McKimm for a variance to allow a 1' decrease in distance between a principle structure and accessory structure, from the 10' requirement to construct a garage at 1007 N Oak Street. (Ward 7).

Chairman Bullington introduced the case and swore in the petitioner, Mr. Patrick McKimm, 1007 N Oak Street. Mr. McKimm provided testimony that he has been updating the property and would like to add a garage. He would like a 416 square foot of storage space but would be 9 feet away from the house. He would like to build a garage for storage and to free up parking spaces on the street. Mr. McKimm stated he would be able to park his vehicles in the garage as well and his property value would go up as well.

No one spoke in favor of the petition. No one spoke in opposition of the petition.

Ms. Rivera presented the staff report and the recommendation to approve the variance. Ms. Rivera provided the Board with an overview of the general standards the Board uses to review Zoning cases. Ms. Rivera provided pictures of the subject property, the surrounding properties and an aerial view of the neighborhood as well as the zoning view. She stated the site is located within a high density area, with properties that have accessory structures closer to the principle structure. A garage like the one proposed would be compatible in this neighborhood. The property has had a shed since 1983 and according to the proposed plan, the shed would be

removed to provide space for the new garage. The proposed garage would meet all other accessory structure standards except for the 10 foot requirement, necessitating the 1 foot variance.

Ms. Rivera provided staff's analysis of the standards for a variance and determined the petition meets the factors. The site is a corner lot thus resulting in more restrictions. The lot is smaller and the variance is not intense. The site is located within a higher density neighborhood with accessory structures closer to the principle structure. A garage like the one proposed would be compatible in the neighborhood and it would not be detrimental to public welfare.

Mr. Schultz motioned to adopt the staff's finding as fact for case Z-19-18, seconded by Chairman Bullington. The motion was approved, 5-0, with the following votes called: Mr. Schultz—yes; Chairman Bullington—yes; Mr. Ballantini—yes; Ms. Harris—yes; Ms. Meek—yes.

Chairman Bullington requested the Board vote in favor or against the petition for a variance, case Z-19-18. The variance was approved, 5-0, with the following votes called: Mr. Ballantini—yes; Ms. Harris—yes; Ms. Meek—yes; Mr. Schultz—yes; Chairman Bullington—yes.

SP-05-18 Consideration, review and action of a petition submitted by Mary and Hank Campbell for a special use permit to allow for an education and training center for women in the R-1B, Medium Density Single-Family Residence District at 1311 W Olive Street. (Ward 6).

Chairman Bullington introduced the case and swore in the petitioner, Mary and Hank Campbell and Feli Sebastian. Ms. Campbell provided testimony that she along with Feli Sebastian started the Labyrinth program working with incarcerated women, which is now part of the YWCA. The program is a part of empowerment for women. Ms. Campbell stated she along with her team wanted to start a program for all women who struggle and cannot move out of the minimum wage jobs. She stated they searched for a location in west Bloomington. She read an excerpt from the history of the building that was done by Mike Matika. She noted the initials that are still carved into the side of the building, AG Erickson. His story resonates with some of the goals that she has for the program. Ms. Campbell stated, "Swedish immigrant AG Erickson left the wretched conditions of the Bloomington coal mine and started a grocery at 1311 W. Olive, in what was called Stevensonville. He wanted to help the immigrant families who lived in his neighborhood. As they shopped in his store and he learned much about their difficulties and needs and did everything he could to help. Many of his customers did not speak English and on occasion when he did not have what customers needed he sent them to stores where he knew there was a clerk who could translate for them. Because of his knowledge of mining, Erickson soon found himself elected by his neighbors to be the president of the United Mine Workers Union. He eventually served his community as a city alderman, county commissioner, McLean County Supervisor, School Board member, and as Bloomington's Mayor. All while maintaining his grocery at 1311 W. Olive." Ms. Campbell stated they would use the building as a center for education and training for women. She stated she along with her husband will be purchasing the building. After speaking with many of the social service agencies the need for this type of program was identified. They have also spoken to the building trades, who are very interested in getting women trained and

in the work force. Ms. Campbell stated this program can address the issues that have been reported on in the Pantagraph, such as needing 2.1 jobs for someone in a low wage jobs to rent an apartment. This situation becomes more difficult for single women. The goals will be to work with the women, teach basic skills, literacy, and tool library knowledge.

Ms. Campbell addressed the parking issue that had been raised. She stated Sarah Raymond School is the right of the property and a Methodist Church is to the left. As part of the Special Use permit, she is suggesting that parking spaces will be placed in the rear of the lot. She stated they have approached the Methodist Church about using their parking lot since the lot is vacant during the time they will have trainings. Most of the women that they will be assisting do not have cars and take public transportation. Eventually once the program is up and running, they will partner with a non for profit to ensure the program has long term success.

Ms. Campbell stated the building has been vacant for 2 years. There is an apartment building on the second floor that has been taken care off by its tenants. The intent is to keep the apartment upstairs and have the first floor used for a variety of trainings. She stated she is on the Heartland Community College Board and reentry program along with Heartland is another part of the project.

Chairman Bullington stated there are 6 factors the Board must consider when making a decision. He asked Ms. Campbell to elaborate on the 5th standard which addressed ingress and egress. Ms. Campbell stated they will be requesting a curb cut and adding additional parking the rear of the lot to minimize traffic as well as using the church's parking lot. Chairman Bullington stated the other parking spaces have only been addressed in conversations since no official agreements have been made. He stated the petitioner has the option to table the case until she is able to get an official agreement to address the parking concerns. Ms. Campbell stated the purchase of the building is contingent upon obtaining a special use permit. They are making efforts to include parking in the rear and they will possibly not need any more parking as women they work with do not normally have vehicles.

Ms. Harris stated the Council may be more open to approving the variance, if there was a more formal agreement made with the church to include more parking. Ms. Campbell stated they do not have a formal agreement with the church but they would be able to get it, if needed. However they may not be a need for more parking spots.

Chairman Bullington entered into the record Exhibit A, which was a letter from Bridget Sebastini. Ms. Campbell stated there are currently two tenant who have vehicles. In the evening, when the tenants are home they would be able to use the parking lot in the rear and ease the parking on the street.

Ms. Meeks asked what the size of the classes would be. Ms. Campbell stated they would be 5-8. The classes need to be smaller so that more individualized attention can be given. The classes would be small and there would be one instructor from one of the trades.

Mr. Ballantini asked what the operating hours would be. Ms. Campbell stated usually classes would run 10AM to 6PM. They are not typical hours as a regular store would have. Mr.

Ballentini asked if the tenants had any problems with parking or if they had any other complaints.

Chairman Bullington swore in Cameron D'Agostino and Anthony D'Agostino, residents at 1311 W. Olive. Mr. D'Agostino stated parking has not been an issue and adding parking and allowing a center for education would be a benefit to the community. Mr. A. D'Agostino stated the building has been vacant and potential buyers have backed out because of the condition of the building and the neglect. He added a use like this would be beneficial. Mr. C. D'Agostino stated they both park on the street along Magoun St. and having parking on the lot would free up some parking on the street. They also have a cargo trailer and they have received complaints about parking it on the street. They have lived at 1311 W. Olive for 2 years now.

Mr. Campbell stated there was a curb cut and driveway there before but they have since been removed. They would like to see it restored.

Chairman Bullington swore in Drake Zimmerman, 20722 Cheneys Grove Rd Bloomington, IL 61705. Mr. Zimmerman gave testimony that he has worked with Mary and Hank Campbell and other projects which they execute well. He is willing to contribute the money needed for the gravel and parking needs. Mr. Zimmerman also stated he would be willing to donate the rental parking fees to the church if need be. Mr. Zimmerman stated as a member of the County Zoning Board he is familiar with the procedures and suggests that contingencies be made with an approval. He represents many people who are interested in contributing to the program and want to see it succeed. Ms. Harris commented on his generosity and appreciated the suggestion.

Chairman Bullington swore in Dr. Dawn Beichner, 511 E Market Street Bloomington, IL. Ms. Beichner gave testimony that she has worked with Labyrinth and Mary Campbell and Feli Sebastian. She stated most of the women in the program do not have vehicles and do not get rides from friend or family but rely on public transportation. Since she has worked with the petitioner and her team before she know they work hard and provide the work that they say they will and the project will work to enhance the work in west Bloomington.

Chairman Bullington swore in Charles Smock resident at 213 Packard St. Bloomington, IL. Mr. Smock gave testimony that he is not opposed to people getting job training. He has concerns with the number of people, hour of operation, traffic, trash removal and the size of the building. He stated the school parking lot is always full and people end up parking in his yard. He is opposed to the petitioner using the building as he feels it is too small and there are too many unknowns.

Ms. Simpson presented the staff report and the staff's favorable recommendation for the special use with a condition that a 10 foot screening buffer be maintained to provide screening from the parking lot. She provided pictures of the subject property, the surrounding properties and an aerial view of the neighborhood as well as the zoning view. The site was used as a grocery store, and when Mr. Erickson left there was another grocery store. It was also a Mud Hut and a Jiffy Photo Shop. There was also an addition to the building which was converted into a single family apartment and has since been removed and under the proposed use would be used for training space. Ms. Simpson stated there are commercial uses that are

permitted in the R-1B such as day care center and religious education facilities with a special use permit with primarily residential uses. There is a school and a church located in the immediate area as well. The petitioner is proposes an education facility for women. Parking is available in the area and staff encourages the petitioner to seek out the additional parking. Based on the previous use, of a repair shop, the size of the building and the parking requirements, 3 parking spaces would be required. The Zoning Code also has an exception which states when 3 parking spaces are being required, they do not need to be provided. The Zoning Code also states when a new use is going into an existing building, the additional parking that would be required would have to be provided. The square footage of the first floor which is approximately 1,817 square feet would be taken resulting in 5 spaces needed at this site. Taking into consideration the additional parking that would be required, staff would encourage 3 other spaces be found off site. Ms. Simpson stated she believe a curb cut in this area would comply with the code. She stated staff would recommend changing the site plan for the parking, it could result in an additional parking spot. The screening buffer for new development would be 15 feet however with the constraints of the property 10 feet would still be accomplished and give the lot space for parking. The screening will shield the residences from the cars. The proposal conforms to the Comprehensive Plan, the site is located in the regeneration area. Staff highlighted Comprehensive Plan goals, which includes investment in existing infrastructure, provide lifelong skills for all, and partner with program such as Labyrinth.

Chairman Bullington asked about the screening buffer. Ms. Simpson stated the buffer would only be required in the rear of the lot as it would not be possible in the front. Mr. Schultz asked about Exhibit A, and the concerns of traffic and parking are existing. The City could address those issues by putting “no parking” signs closer to intersections. Ms. Simpson stated staff is supportive of the parking in the rear of the property to assist with these concerns. Concerns with the visibility of the corner could be brought to the attention of the Traffic Commission. Ms. Harris stated the revitalization of the building is essential and would benefit the area. Ms. Simpson stated parking in the older neighborhood will be a challenge since there is not much area and the City will have to work individually with each project. Ms. Harris asked how close the other parking lots are to the site. Ms. Simpson stated they are fairly close, down the street from the site. The school is used throughout the day. Ms. Simpson stated staff finds the standards are met.

Chairman Bullington asked the petitioner if they are in agreement with the conditions set by the staff. Ms. Campbell stated that they were and they will consult with Ms. Simpson on the design and to maximize the space. Mr. Schultz asked if they had a reason for the proposed site plan. Ms. Campbell stated there was not, they just wanted to get the message across that they would like parking in the rear.

Chairman Bullington declared the evidentiary hearing closed.

Chairman Bullington requested the Board discuss the conditions, staff findings and factors. Ms. Meek stated she recommends in favor of the existing condition placed by staff.

Chairman Bullington requested the Board establish a finding of fact for case SP-05-18. He explained the Board will take a position on each factor and state if the factor is “met” or “not

met”. Ms. Simpson called each factor and performed a roll call vote for each factor for a special use (44.10-3C)

Factor 1. Mr. Ballantini—met; Ms. Harris—met; Ms. Meek—met; Mr. Schultz—met; Chairman Bullington—met.

Factor 2. Mr. Ballantini—met; Ms. Harris—met; Ms. Meek—met; Mr. Schultz—met; Chairman Bullington—met.

Factor 3. Mr. Ballantini—met; Ms. Harris—met; Ms. Meek—met; Mr. Schultz—met; Chairman Bullington—met.

Factor 4. Mr. Ballantini—met; Ms. Harris—met; Ms. Meek—met; Mr. Schultz—met; Chairman Bullington—met.

Factor 5. Mr. Ballantini—met; Ms. Harris—met; Ms. Meek—met; Mr. Schultz—met; Chairman Bullington—met.

Factor 6. Mr. Ballantini—met; Ms. Harris—met; Ms. Meek—met; Mr. Schultz—met; Chairman Bullington—met.

Chairman Bullington requested the Board vote on the conditions, the rear and side yard transition yard and screening; the petitioner should be required to maintain a 10 foot transitional rear and side yard on the parts of the property immediately adjacent to other properties and not on the side of the street. A vote of yes would make this part of the recommendation. Ms. Simpson performed a roll call vote, with the following votes cast:

Mr. Ballantini—yes; Ms. Harris—yes; Ms. Meek—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington requested the Board vote in favor or against the petition for a special use with the conditions set, the Board voted in favor of recommendation with the following votes cast:

Mr. Ballantini—yes; Ms. Harris—yes; Ms. Meek—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Ms. Simpson stated the Zoning Board recommended in favor of SP-05-18, unanimously with the condition that a 10 foot transition yard be maintained. The case will be heard before City Council on Oct. 22.

OTHER BUSINESS:

Approve 2019 Meetings

Staff would like to increase the deadlines by a week, in order to give staff more time to review and provide comments and community with petitioners before publishing in the newspaper. Mr. Schultz motioned to accept the 2019 meeting dates, seconded by Ms. Meek. Motioned was approved by voice vote.

ADJOURNMENT

Chairman Bullington motioned to adjourn. Seconded by Mr. Schultz. The motion was approved by voice vote. The meeting adjourned at 5:07 p.m.

Respectfully Submitted,
Izzy Rivera
Assistant City Planner

12044
CITY OF BLOOMINGTON
PUBLIC HEARING NOTICE
ZONING BOARD
OF APPEALS
SEPTEMBER 19, 2018

Notice is hereby given that the Zoning Board of Appeals of the City of Bloomington, Illinois, will hold a public hearing scheduled for Wednesday September 19, 2018 at 4:00 p.m. in the Council Chambers of City Hall Building, 109 E. Olive St., Bloomington, Illinois, petitions submitted by Mary & Hank Campbell for the approval of a special use permit for an education center non-conforming use in R-1B, Medium Density Single-Family Residence District at 1311 W Olive Street. The petitioner or his/her Counsel/Agent must attend the meeting and the subject property is legally described as follows:

Legal Description:
STEVENSON & WORRELL'S
CONSOLIDATED SUBN PT 5&
8 23 2 E W41' S111' 38 1
REQUEST

A request to allow an educational and training center for women in the R-1B, Medium Single-Family Residence District as a special use.

In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact the City Clerk, preferably no later than five days before the hearing.

The City Clerk may be contacted either by letter at 109 E. Olive St., Bloomington, IL 61701, by telephone at 309-434-2240, or email cityclerk@cityblm.org. The City Hall is equipped with a text telephone (TTY) that may also be reached by dialing 309-829-5115.

Published: September 3, 2018



Department of Community Development
115 E Washington St, Ste 201
Bloomington IL 61701

September 5, 2018

Dear Property Owner or Resident:

The Zoning Board of Appeals will hold a public hearing on **Wednesday September 19, 2018 at 4:00PM in the Council Chambers, 109 E. Olive Street, Bloomington, Illinois** to hear testimony for a petition submitted by Mary & Hank Campbell for the approval of a special use permit for the property located at **1311 W Olive St.**, at which time all interested persons may present their views upon such matters pertaining thereto. The petitioner or his/her Counsel/Agent must attend the meeting.

REQUEST

The petitioner is requesting to allow for an education & training center for women in R-1B, Medium Single Family Density District as a special use.

LEGAL DESCRIPTION: STEVENSON & WORRELL'S CONSOLIDATED SUBN
PT 5& 8 23 2 E W41' S111' 38 1

You are receiving this courtesy notification since you own property within a 500 foot radius of the land described above (refer to attached map). All interested persons may present their views upon said petition, or ask questions related to the petitioner's request at the scheduled public hearing. Copies of the submitted petition are available for public review at the Department of Community Development, 115 E. Washington St. Bloomington, IL 61701. Communications in writing in relation to the petition may be sent to the Department of Community Development prior to the hearing, or presented at such hearing.

In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact the City Clerk at (309) 434-2240, preferably no later than five days before the hearing. Please note that cases are sometimes continued or postponed for various reasons (i.e lack of quorum, additional time needed, etc.). The date and circumstance of the continued or postponed hearing will be announced at the regularly scheduled meeting.

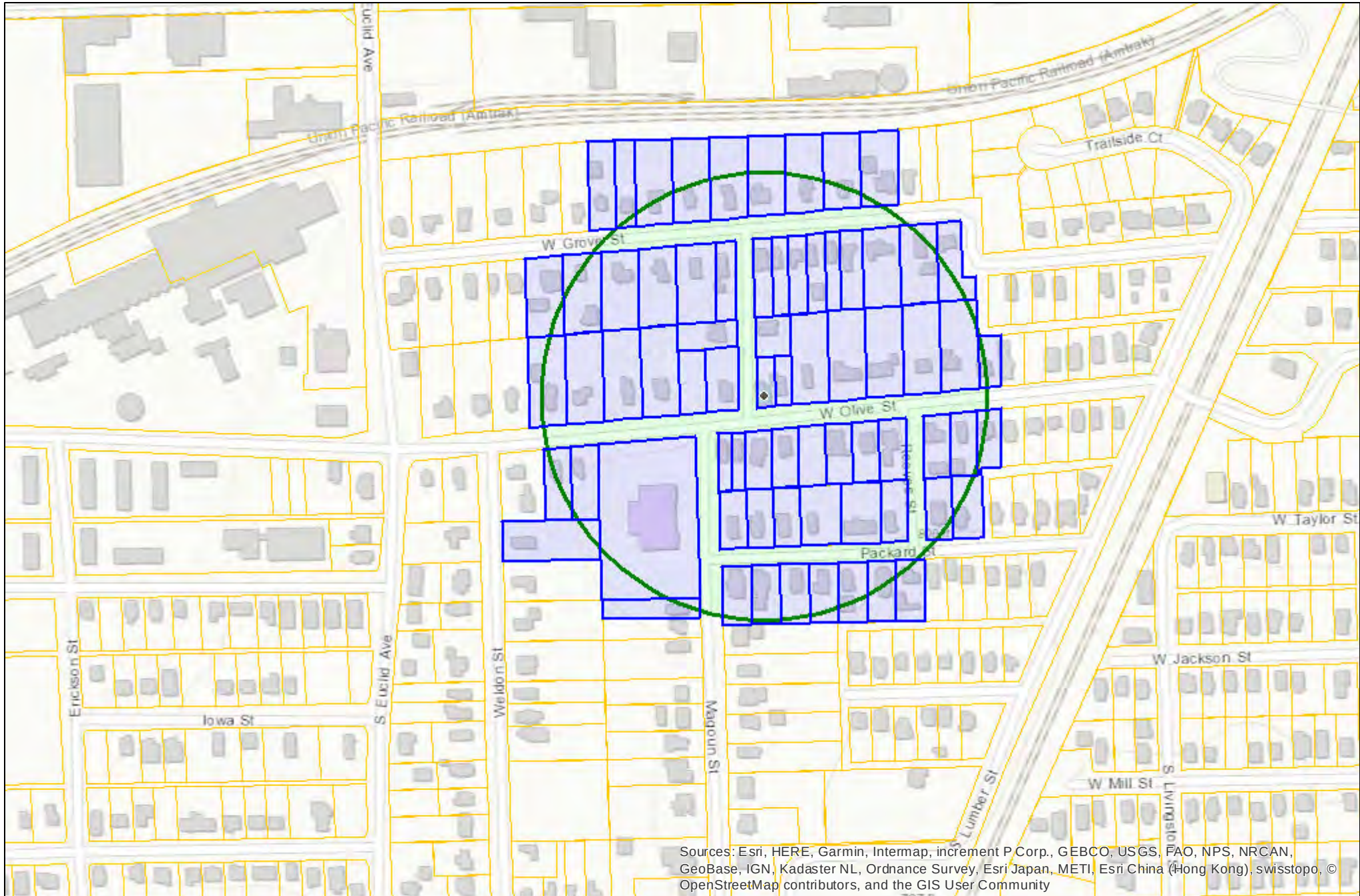
The agenda and packet for the hearing will be available prior to the hearing on the City of Bloomington website at www.cityblm.org. If you desire more information regarding the proposed petition or have any questions you may email me at irivera@cityblm.org or call me at (309) 434-2448.

Sincerely,

Izzy Rivera, Assistant City Planner

Attachments:

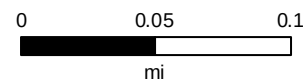
Map of notified properties within 500 ft of subject property



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community



McGIS does not guarantee the accuracy of the information displayed. Only on-site verification or field surveys by a licensed professional land surveyor can provide such accuracy. Use for display and reference purposes only.



ETHEL HENDRICKS
1312 1/2 W GROVE ST
BLOOMINGTON, IL 61701

LYDIA COCHRAN
112 MAGOUN ST
BLOOMINGTON, IL 61701

MORGAN FLUBACKER
109 E CLEVELAND ST
HEYWORTH, IL 61745

BRYAN & SARAH FLICK
1403 W OLIVE ST
BLOOMINGTON, IL 61701

HAMILTON TRUJILLO
1901 MARTIN LUTHER KING DR
BLOOMINGTON, IL 61701

JESUS & CRISTINA DIAZ
212 PACKARD ST
BLOOMINGTON, IL 61701

AMANDA KATHLEEN POWELL
1407 W OLIVE ST
BLOOMINGTON, IL 61701

CATHERINE FISHER
1214 W OLIVE ST
BLOOMINGTON, IL 61701

MARK E & SANDRA BARRETT
1304 W GROVE ST
BLOOMINGTON, IL 61701

BRADLEY & PENNY TAYLOR
1306 W GROVE ST
BLOOMINGTON, IL 61701

ANTHONY & JENNIFER BROWN
311 CLOVER CT
BLOOMINGTON, IL 61704

ALLEN BROOKS
1402 W Grove St
BLOOMINGTON, IL 61701

ADDIE MAE BROWN-JOHNSON
1308 W. GROVE STREET
BLOOMINGTON, IL 61701

VASTHI SCHWARZ
1217 W OLIVE
BLOOMINGTON, IL 61701

TVEO CORPORATION
1901 MARTIN LUTHER KING DR
BLOOMINGTON, IL 61701

BENJAMIN & TAMARAH BARTLETT
1302 W GROVE ST
BLOOMINGTON, IL 61701

BRYAN & SARAH FLICK
1306 W OLIVE
BLOOMINGTON,, IL 61701

JEFFREY & TERRY LINK COCHRAN
1403 W OLIVE ST
BLOOMINGTON, IL 61701

DAWN PROVINES
112 MAGOUN ST
BLOOMINGTON, IL 61701

JEFF HEINRICH
103 N 2ND ST
SECOR, IL 61771

ANNETTA MILLER
1303 W OLIVE ST
BLOOMINGTON, IL 61701

CHARLES & ROBIN SMOCK
32 COUNTRY CLUB PL
BLOOMINGTON, IL 61701

MARIA NAGLE
213 PACKARD ST
BLOOMINGTON, IL 61701

DAVID BARNES
201 PACKARD ST
BLOOMINGTON, IL 61701

ASHLEY FLEMING
209 PACKARD ST
BLOOMINGTON, IL 61701

DENNIS EVANS
1308 1/2 W GROVE ST
BLOOMINGTON, IL 61701

RAYMOND SCHOOL BOARD OF
EDUCATION
PO BOX 1965
BLOOMINGTON, IL 61701

JEREMY D & ELPETH DEGENHART
300 E MONROE
BLOOMINGTON, IL 61701

GENE CUNNINGHAM
203 PACKARD ST
BLOOMINGTON, IL 61701

AAO RENTALS LLC
1409 BUTCHERS LN
BLOOMINGTON, IL 61701

CEVAT KARASEN
25 FETZER CT APT 1
BLOOMINGTON, IL 61704

RICHARD NORDINE
305 W CHESTNUT ST
BLOOMINGTON, IL 61701

JEFF AND LYDIA COCHRAN
1411 W GROVE ST
BLOOMINGTON, IL 61701

DEWHITT & VANITA BINGHAM
112 MAGOUN ST
BLOOMINGTON, IL 61701

RICHARD & JACQUELINE BIRCKELBAW
111 PACKARD ST
BLOOMINGTON, IL 61701

DONALD BRADFORD
1310 W OLIVE ST
BLOOMINGTON, IL 61701

JANINE & MELISSA PALMA
1403 W Grove St
BLOOMINGTON, IL 61701

TROY DELIO
1407 W GROVE ST
BLOOMINGTON, IL 61701

JOE NEAL
1218 W OLIVE ST
BLOOMINGTON, IL 61701

JUSTIN CURLEY
1307 W GROVE ST
BLOOMINGTON, IL 61701

LINDA SIGLER
1311 W GROVE ST
BLOOMINGTON, IL 61701

NO LIMITS REAL ESTATE LLC
109 MAGOUN ST
BLOOMINGTON, IL 61701

DOUGLAS AUGSTIN
704 W MULBERRY ST APT 4
BLOOMINGTON, IL 61701

RONALD MOREHEAD
1401 W OLIVE ST
BLOOMINGTON, IL 61701

WALTER WALLS
401 E. SYCAMORE
NORMAL, IL 61761

BRANDAN DELANEY
716 W GROVE ST
PONTIAC, IL 61764

JORDAN GROTH
3210 DORSET CT
BLOOMINGTON, IL 61704

SHERRY KEIST
1312 W OLIVE ST
BLOOMINGTON, IL 61701

Bridget Sebastiani
1302 W OLIVE ST
BLOOMINGTON, IL 61701

ERIC & ELLISHA RENNICKS
1314 W Olive St
BLOOMINGTON, IL 61701

LACEE FOSTER
1316 W OLIVE
BLOOMINGTON, IL 61701

J & E HOLDINGS LTD
1305 W OLIVE ST
BLOOMINGTON, IL 61701

RAEANN HADFIELD
2201 EASTLAND DR STE 2
BLOOMINGTON, IL 61704

UNITED METHODIST CHURCH
1309 W OLIVE ST
BLOOMINGTON, IL 61701

CHRISTY GORDON
1306 W OLIVE ST
BLOOMINGTON, IL 61701

COREY SWAN
1414 W WALNUT ST
BLOOMINGTON, IL 61701

JOHN HILL
1216 W OLIVE ST
BLOOMINGTON, IL 61701

OCTAVIO MONTENEGRO
1405 W GROVE ST
BLOOMINGTON, IL 61701

DEAN FENWICK
1310 W GROVE ST
BLOOMINGTON, IL 61701

C MICHAEL FLEMING
1310 1/2 W Grove St
BLOOMINGTON, IL 61701



CONSENT AGENDA ITEM NO. 7H

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Administration

SUBJECT: Consideration and action on an ordinance amending the City Code to clarify the various department names of the City and specifically that the Water Department will become a division of the City's Public Works Department, as requested by the City Administration.

RECOMMENDATION/MOTION: That the Ordinance Amending the City Code Provisions on the Various Department Names and Providing that the Water Department Shall be a Division of the Department of Public Works, be approved and the Mayor and City Clerk authorized to execute the ordinance.

STRATEGIC PLAN LINK: Goal 1: Financially Sound City Providing Quality Basic Services

STRATEGIC PLAN SIGNIFICANCE: Objective 1d. City services delivered in the most cost-effective, efficient manner

BACKGROUND: There are several outdated references to departmental names within the City Code and a need to update same, including changing references from the Public Service Department, to the Public Works Department; (2) Personnel Department to the Human Resources Department; and (3) Parks and Recreation Department to the Parks, Recreation and Cultural Arts Department. In addition, there was an old reference to the Department of Engineering & Water.

To help update the City Code, as well as clarify that the Water Department will become a division of the Public Works Department, certain amendments and updates are being presented to reflect, the changes with the Water Department, current operations and departmental names.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: N/A

FINANCIAL IMPACT: N/A

COMMUNITY DEVELOPMENT IMPACT: N/A

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:
N/A

Respectfully submitted for Council consideration.

Prepared by:

Jeffrey R. Jurgens, Corporation Counsel

Finance Review by:

Chris Tomerlin, Budget Manager
Scott Rathbun, Finance Director

Recommended by:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized, looping flourish at the end.

Tim Gleason
City Manager

Attachments:

- Ordinance

ORDINANCE 2018 - _____

AN ORDINANCE AMENDING THE CITY CODE PROVISIONS ON THE VARIOUS DEPARTMENT NAMES AND PROVIDING THAT THE WATER DEPARTMENT SHALL BE A DIVISION OF THE DEPARTMENT OF PUBLIC WORKS

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

SECTION 1. That the provisions of Chapter 2 and Chapter 27 of the Bloomington City Code, 1960, as amended, shall be amended as follows:

Chapter 2: Section 29: Departments Enumerated.

In addition to the Office of the City Manager, the administrative service of the City shall be organized into the following departments which are hereby established:

Community Development
~~Department of Engineering and Water~~
Finance Department
Fire Department
Legal Department
~~Parks and Recreation Department~~ Parks, Recreation and Cultural Arts Department
~~Personnel~~ Human Resources Department
Police Department
~~Public Service~~ Public Works Department

Chapter 2: Section 56: Department of Public Works ~~Service~~.

- (a) Establishment. There is hereby created the Department of Public Works Service for the City. This department shall consist of the Director of Public Works Service, the Divisions of Streets and Sewers, Refuse, and Equipment Maintenance, the Water Division, Engineering Division and such other officers and employees as may be provided by the Council.
- (b) Director of Public Works Service. There is hereby created the Office of Director of Public Works Service who shall be appointed by the City Manager as provided by law. The Manager shall serve as ex officio Director of Public Works Service until this office is filled by appointment. The Director shall have control and supervision over all officers and employees assigned to this department, subject to the control of the City Manager.
- (c) Functions. The Director of Public Works Service shall have charge of and supervision over all public property of the City including all streets,

sewers, inlets, parkways, sidewalks, parking lots, and all other property of the City not specifically assigned to some other officer. He shall have charge of and be responsible for the care, maintenance and operation of the sewer system of the City, all streets and sidewalks, and the drainage thereof, except insofar as the care, maintenance, and operation of any of the foregoing may by law or valid ordinance be required to be cared for, maintained or operated by an existing board created or a separate municipal corporation. He shall have charge of the collection and disposal of garbage and refuse. He shall have charge of the Equipment Maintenance Division.

The Water Division shall be responsible for the construction, operation and maintenance of all facilities and programs necessary to provide for the treatment and distribution of potable water to all customers in conformance with all Illinois Environmental Protection Agency (IEPA) rules, regulations and guidelines. The Water Division shall also be responsible for the improvement and maintenance of all public land located at Lake Bloomington and Evergreen Lake.

The Engineering Division shall perform the following functions: (1) design or approve the design and provide construction supervision of all improvements located on the public right-of-way; (2) review all proposed plans for the subdivision of land for conformance to the Subdivision Code and make recommendations to the City Manager; (3) retain records concerning all public improvements; (4) provide engineering services to other City Departments; (5) issue excavation permits for all projects located on the public right-of-way; (6) maintain the official record of the City limits; (7) assign all addresses; and (8) design and maintain all traffic control devices.

- (d) Bond - Oath. Before entering upon the duties of his office, he shall take the oath prescribed by law for all City officers and shall execute and deliver a bond payable to the City in the penal sum of Five Thousand Dollars (\$5,000.00) with sureties to be approved by the Council conditioned upon the faithful performance of the duties of his office.

Chapter 27: Section 1: Creation of Division of Water Treatment and Division of Water Distribution.

There is hereby created a Division of Water Treatment and Division of Water Distribution, within the Water Division of the Department of Public Works ~~Department of Engineering and Water~~ which Divisions shall be under the supervision, management and control of the Director of the ~~Department of Public Works Engineering & Water~~. The Director of ~~Public Works Engineering & Water~~ shall have charge of the supplying and distribution of water within or without the limits of said City from the water supply and distribution system now owned

and operated by said City, which said supplying and distribution is authorized and directed.

Chapter 27: Section 8: Rules Governing Use of City Water

- (d) Right of Entry. The officers, agents and employees of the Water Division ~~Department~~ shall have free access to all and every part of any building, structure or premises to which water is supplied from the City's water system for the purpose of:
- (i) reading water meters and/or remote reading devices;
 - (ii) examining and/or repairing the water pipes, taps, fixtures, hydrants, valves, shutoff boxes and any other appurtenances related or connected to the City's water system; and
 - (iii) disconnecting and/or reconnecting water service as provided in this Chapter.

Such officers, agents and employees shall also have the right to take such steps as are necessary to repair pipes, taps, fixtures, hydrants, valves, shutoff boxes and other appurtenances related to or connected with the City water system and/or disconnect or reconnect water service as provided in this Chapter, including but not limited to conducting excavations on the customer's premises.

No person shall in any manner obstruct, or cause to be obstructed or refuse or prevent, the free access of any officer, agent or employee of the Water Division ~~Department~~ to all or any part of any building, structure or premise for the purposes set forth herein. Any person who so obstructs the access of any such officer or person or who shall refuse to permit such entry or access or who shall do or cause to be done any act or thing for the purpose of preventing such entry or access, shall be punished as provided in Section 1-6 of Chapter 1 of this Code.

SECTION 3: That Chapter 2, Section 55, Department of Engineering and Water, shall be deleted in its entirety.

SECTION 4. That all references in the City Code to the "Department of Engineering and Water" shall be changed to "Public Works Department" and all references in the City Code to the Water Department" shall be changed to "Public Works Department."

SECTION 5. That all references in the City Code to the "Personnel Department" shall be changed to the "Human Resources Department."

SECTION 6. That all references in the City Code to "Public Service Department" shall be changed to "Public Works Department."

SECTION 7. That all references in the City Code to “Parks and Recreation Department” shall be changed to “Parks, Recreation and Cultural Arts Department.”

SECTION 8. Except as provided herein, the Bloomington City Code, 1960, as amended shall remain in full force and effect.

SECTION 9. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 10. The City Clerk is hereby authorized to publish this ordinance in pamphlet form as provided by law and shall provide notice of the change in meeting times as set forth in the Illinois Open Meetings Act.

SECTION 11. This ordinance shall be effective immediately after the date of its publication as required by law.

SECTION 12. 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 October, 2018.

APPROVED this _____ day of October, 2018.

APPROVED:

Tari Renner, Mayor

ATTEST:

Cherry Lawson, City Clerk



CONSENT AGENDA ITEM NO. 71

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Administration

SUBJECT: Consideration of an Ordinance amending the City's Schedule of Fees and amending various Chapters within the City Code regarding fees, as requested by the City Manager.

RECOMMENDATION/MOTION: The Ordinance amending the Schedule of Fees for the City of Bloomington and amending the City Code be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

STRATEGIC PLAN LINK: 1. Financially Sound City Providing Quality Basic Services; 3. Grow the Local Economy;

STRATEGIC PLAN SIGNIFICANCE: 1a. Budget with adequate resources to support defined services and level of services, 1d. City services delivered in the most cost-effective, efficient manner; 3e. Strong working relationship among the City, businesses, economic development organizations.

BACKGROUND: On March 26, 2018, during discussions related to the formulation of the City's Fiscal Year 2019 budget, the City Council directed staff to study and revise the many various fees detailed in the City Code. On October 8, 2018, the City Council adopted Ordinance No. 2018-89 "An Ordinance Adopting a Schedule of Fees for the City of Bloomington and Amending the City Code".

Following adoption of Ordinance No. 2018-89 certain fees were found to be incorrectly listed or omitted from the Exhibit A – Schedule of Fees. It is recommended that the City Council consider increasing the Sign Contractor Registration Fee in Chapter 3 to match other Contractor Registration Fees outlined in Chapter 10; to revise the Advanced Life Support 2 Emergency Medical Service to match the actual annual adjustment through 2018; and to add the Business Registration Fee following adoption of Ordinance No. 2018-88 "An Ordinance Amending Chapter 11 of the City Code to Establish Business Registration Requirements." The Schedule of Fees is requested to be revised as follows:

ADVERTISING SIGN CODE (CHAPTER 3)

- | | | |
|----|--------------------------------|---------------------------|
| A. | Sign Contractor's Registration | (3-3.2(b)) |
| 1. | Contractor Registration Fee | \$50.00 100.00 |

FIRE DEPARTMENT AND FIRE PREVENTION (CHAPTER 17)

- | | | |
|-------|---|-----------------------------|
| A. | Emergency Medical Services | (17-92(b)) |
| 1. | Fee for Emergency Medical Services and Transportation | |
| 6(a) | Basic Life Support Services | \$652.38* |
| 7(b) | Advanced Life Support | \$782.87* |
| 8(c) | Advanced Life Support 2 | \$675.00 878.12* |
| 9(d) | Mileage | \$15.66 per Mile* |
| 10(e) | Medical Treatment with No Transport | \$195.71* |
| 11(f) | Oxygen | \$19.00* |

- * The charges for the foregoing services shall be adjusted on January 1 of every year by multiplying the then current fee by 1.03 and the product shall be the new fee for such service.

BUSINESS LICENSES AND REGULATIONS (CHAPTER 11)

- | | | |
|----|-----------------------|---------|
| D. | Business Registration | (11-34) |
| 1. | Registration Fee | \$50.00 |

In addition, Section 34 of Chapter 11 of the Municipal Code is recommended to be revised to now reference the Schedule of Fees. This Section is requested to be revised, as follows:

A one-time fee as set forth in the Schedule of Fees of ~~\$50~~ shall be due for registering each physical location of a business. This fee shall be paid at the time the registration is made. There shall be no fee to register a charitable organization or home-based occupation.

Staff recommends that the City Council adopt the proposed Ordinance which would amend the Schedule of Fees for the City and revise the Code as necessary to reference the Schedule of Fees.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Multiple public meetings were held regarding priority setting for the FY 2019 Budget.

FINANCIAL IMPACT: The City Council directed Staff to review and revise the City's various fees, so that the fees more closely align with the City costs to administer the related functions. It was contemplated that the potential revisions would provide additional revenues in the amount of \$225,000 in FY 2019 for program cost recovery. Revenues for various fees contemplated by this Ordinance are budgeted within General Fund, Non-Departmental, Other Miscellaneous Revenue account (10010010-57990). Stakeholders can locate this in the FY 2019 budget book titled "Budget Overview & General Fund" on page 120. Actual realized fees will be recorded in the issuing Department's associated revenue account.

COMMUNITY DEVELOPMENT IMPACT: The Schedule of Fees is a document that is designed to assist the public, developers, and municipal officials in quickly and easily determining the correct fee for a requested license, permit, fine, or service is in alignment with the following goal and objective of the City's Comprehensive Plan 2035 (Adopted August 24, 2015 – Resolution 2015-31):

Economic Development:

ED-4 Enhance the image of Bloomington as a business friendly community

ED-4.5 Identify and reduce barriers for local growth and economic development

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:

N/A

Respectfully submitted for Council consideration.

Prepared By: Bob Mahrt, Community Development Director

Reviewed By: Austin Grammer, Economic Development Coordinator

Finance & Budgetary Review By: Chris Tomerlin, Budget Manager
Scott Rathbun, Finance Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



Tim Gleason
City Manager

Attachments:

- ADMIN 1B – Ordinance

**ORDINANCE NO. 2018 -
AN ORDINANCE AMENDING THE SCHEDULE OF FEES FOR THE
CITY OF BLOOMINGTON AND AMENDING THE CITY CODE**

WHEREAS, the City of Bloomington, Mclean County, Illinois (hereinafter referred to as "City") is an Illinois home-rule municipality; and,

WHEREAS, the City charges fees for various services, licenses, permits and registrations within the City; and,

WHEREAS, on October 8, 2018, the City Council of the City of Bloomington, McLean County, Illinois, adopted Ordinance No. 2018-89 "An Ordinance Adopting a Schedule of Fees for the City of Bloomington and Amending the City Code"; and,

WHEREAS, certain fees were incorrectly listed and/or inadvertently omitted from the Schedule of Fees Exhibit included with Ordinance No. 2018-89; and,

WHEREAS, the City desires to amend the Schedule of Fees to reflect the appropriate fees.

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

SECTION 1. The above recitals are incorporated herein by this reference as if specifically stated in full.

SECTION 2. The City Council hereby adopts the following amendments to the Schedule of Fees and adds a new section on Business Registration.

ADVERTISING SIGN CODE (CHAPTER 3)

- | | | |
|----|--------------------------------|---------------------------|
| A. | Sign Contractor's Registration | (3-3.2(b)) |
| 1. | Contractor Registration Fee | \$50.00 100.00 |

**FIRE DEPARTMENT AND FIRE
PREVENTION (CHAPTER 17)**

- | | | |
|-------|---|-----------------------------|
| A. | Emergency Medical Services | (17-92(b)) |
| 1. | Fee for Emergency Medical Services and Transportation | |
| 6(a) | Basic Life Support Services | \$652.38* |
| 7(b) | Advanced Life Support | \$782.87* |
| 8(c) | Advanced Life Support 2 | \$675.00 878.12* |
| 9(d) | Mileage | \$15.66 per Mile* |
| 10(e) | Medical Treatment with No Transport | \$195.71* |
| 11(f) | Oxygen | \$19.00* |

- * The charges for the foregoing services shall be adjusted on January 1 of every year by multiplying the then current fee by 1.03 and the product shall be the new fee for such service.

**BUSINESS LICENSES AND
REGULATIONS (CHAPTER 11)**

D.	Business Registration	(11-34)
1.	Registration Fee	\$50.00

SECTION 3. The City Code shall be amended to add references to the Schedule of Fees, as follows:

Chapter 11: Section 34: Fees.

A one-time fee as set forth in the Schedule of Fees of ~~\$50~~ shall be due for registering each physical location of a business. This fee shall be paid at the time the registration is made. There shall be no fee to register a charitable organization or home-based occupation.

SECTION 4. Except as provided herein, the Bloomington City Code, 1960, as amended shall remain in full force and effect.

SECTION 5. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 6. The City Clerk is hereby authorized to publish this ordinance in pamphlet form as provided by law.

SECTION 7. This ordinance shall be effective on November 1, 2018, after the date of its publication as required by law.

SECTION 8. 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 October, 2018.

APPROVED this____day of October, 2018.

APPROVED:

ATTEST:

Tari Renner, Mayor

Cherry Lawson, City Clerk



CONSENT AGENDA ITEM NO. 7J

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: City Clerk's Office

SUBJECT: Consideration of approving an application of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse Restaurant requesting a Class RAS (Restaurant, All Types of Alcohol, Sunday Sales) liquor license to be located at 1637 E. Empire Street which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week, as requested by the City Clerk's Office.

RECOMMENDATION/MOTION: Recommend the application of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse Restaurant requesting a Class RAS (Restaurant, All Types of Alcohol, Sunday Sales) liquor license to be located at 1637 E. Empire Street which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week be approved, contingent upon compliance with all health and safety codes.

STRATEGIC PLAN LINK: Goal 5. Great place – livable, sustainable City.

STRATEGIC PLAN SIGNIFICANCE: Objective 5.d. Appropriate leisure and recreational opportunities responding to the needs of residents.

BACKGROUND: Bloomington Liquor Commissioner Tari Renner called a public hearing on October 9, 2018, on the application of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse Restaurant requesting a Class RAS (Restaurant, All Types of Alcohol, Sunday Sales) liquor license to be located at 1637 E. Empire Street which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week.

Present were: Commissioners Tari Renner, Lindsey Powell, and James Jordan. Staff Present: George Boyle, Assistant Corporation Counsel, Asst. Police Chief Greg Scott, Bob Mahrt, Community Development Director and Ashley Lara, Legislative Assistant.

Curtis Akers, manager, appeared before the Commissioners to provide testimony on the request before the Commission. Commissioner Renner asked whether there is anything else the Commission needs to be made aware of with the exception of the change in location of the restaurant.

Mr. Akers stated they are going to have 40 additional seats to allow them the ability to host large parties in the prime times of the year, Christmas, all the graduations that

we have here with Illinois and Wisconsin. The current building can hold two parties of 10 or more right now. In the new building, they would be able to seat 12 parties of 10 or more, be able to service more people at times when they are out and want to sit together. He has been here for many years and had ran the Chili's before coming to this location.

Mr. Boyle stated the City does not have any concerns with this request. However, the business is still under construction. Therefore, the decision of the Commission will be contingent on compliance with health and safety and building codes. Staff has no problem with it being sent with a positive recommendation.

Commissioner Renner asked for a motion then to positively recommend this to the City Council contingent upon compliance with health and safety and the regulations.

Motion by Commissioner Powell second by Commissioner Jordan to positively recommend that the license be approved to the City Council contingent upon compliance with health and safety codes.

Commissioner Renner directed the Clerk to call the roll.

Ayes: Commissioners Renner, Powell and Jordan

Nays: None

Motion carried.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the October 9, 2018 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: If approved, related liquor sales tax revenues will be realized by the City. Stakeholders can locate information related to City tax revenues, licenses and fees in the FY2019 Budget Book titled "Budget Overview & General Fund Adopted" starting on page 117.

COMMUNITY DEVELOPMENT IMPACT: N/A

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:
N/A

Respectfully submitted for Council consideration.

Prepared By: Cherry L. Lawson, City Clerk

Finance Review By: Chris Tomerlin, Budget Manager
Scott Rathbun, Finance Director

Legal Review By:

George D. Boyle, Assistant Corporation Counsel

Recommended by:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized, looping flourish at the end.

Tim Gleason
City Manager

Attachments:

- Application
- Public Hearing Notice



ROUTE SLIP FOR LIQUOR APPLICATION

NAME OF ESTABLISHMENT Outback Steakhouse

LOCATION 1637 E. Empire Street, Bloomington, IL 61701

NAME OF OWNER Outback Steakhouse of Florida, LLC

OWNER'S DATE OF BIRTH [REDACTED] SS# [REDACTED]

PHONE NUMBER(S): [REDACTED] / (309) 663-0455 - location

REQUIRED DOCUMENTS TO BE FILED AT TIME OF APPLICATION

- | | |
|---|--|
| 1. ☒ Emergency Call-In Sheet ✓ | 8. ☒ Financial Statement ✓ |
| 2. ☒ Questionnaire ✓ | 9. ☒ Articles of Incorporation ✓ |
| 3. ☒ Application (Signed & Notarized) ✓ | 10. ☒ Copy of Lease ✓ |
| 4. ☒ Application for Sunday Sales ✓ | 11. ☒ Site/Floor Plan ✓ |
| 5. ☒ Food & Beverage Tax Form ✓ | 12. ☒ BASSET Certificates* (On File with City - updated certificate forthcoming) |
| 6. ☒ Evidence of Dram Shop Insurance
<i>OLD ADDRESS - need new</i> | 13. ☒ Proof of Good Standing (State of IL) ✓ |
| 7. ☒ Bond ✓ | 14. ☒ \$400 Application Fee ✓ |

*All servers and bouncers (i.e. those required to check ID's)
*BASSET Certificates are required BEFORE license can be issued

OFFICE USE ONLY

09.26.18 Date Received/Paid
Tyler Receipt #
1008370423 Check # (If Applicable)
alana Staff Initials

10/09/18 Date of Council
09.27.18 Date of Public Hearing
09.27.18 Date Tax Form taken to Finance

APPROVAL

____ Building Safety
(Bob Coombs)

____ Health Department
(Linda Foutch)

____ Fire Inspector
(Bob Coombs)

OTHER REQUIRED LICENSES

Public Dancing Yes _____ No X
Tobacco Yes _____ No X

BUSINESS ID: 48216 LICENSE CLASS: BAS
19

UPDATED 06/2018

annual



September 25, 2018

VIA FEDERAL EXPRESS (7733 1633 6847)

Ashley Lara
City of Bloomington
109 E. Olive Street
Bloomington, IL 61701
(309) 434-2240

Re: Outback Steakhouse of Florida, LLC
Outback Steakhouse, 1637 E. Empire Street, Bloomington, IL 61701

Dear Ms. Lara:

Pursuant to our conversation, enclosed for filing with the City are the following items in connection with the relocation of the above-referenced Outback Steakhouse location:

1. Route Slip for Liquor Application;
2. Emergency Call-In Listing form;
3. Liquor License Application Questionnaire, which includes a list of violations for this specific location, a fiscal sales report, and a Memorandum of Lease;
4. Application for Sunday Sales of Alcoholic Beverages;
5. Personal Financial Statement;
6. Bloomington/Normal Food & Beverage Tax Registration Form;
7. Certificate of Liability Insurance;
8. Bond Rider;
9. FORM 10-Q for the parent company Bloomin' Brands, Inc.;
10. Articles or Organization;
11. Lease;
12. Site plans and Floor plans;
13. Placeholder for the BASSETT Certificates, which are forthcoming;
14. Certificate of Good Standing;
15. Check in the amount of \$400.00 representing the application fee; and
16. Ownership Structure for Outback Steakhouse of Florida, LLC.

Should you have any questions, or require any further information, please do not hesitate to contact me at (813) 830-4715.

Sincerely,

Carrie Chadbourne, FRP
Senior Paralegal – License Compliance

/cc
Enclosures



OFFICE USE ONLY	
Submittal Date:	09/26/18
Renewal Type (A, SA, Q):	Annual
Business ID:	4826 Class: BAS
Staff Initials:	alata



Emergency Call-In Listing

PLEASE FILL IN YOUR BUSINESS INFORMATION **CLEARLY** AND **COMPLETELY**.

Individual/Partnership/Corporation/LLC:	Outback Steakhouse of Florida, LLC
Doing Business As (D/B/A):	Outback Steakhouse
Business Address:	1637 E. Empire Street
City/State:	Bloomington, IL
Zip Code:	61701
Business Phone Number:	(309) 663-0455
Business Email Address:	LicensesPermits@BloominBrands.com

Please list those responsible for **License Renewals** and **Building Security** for the above establishment. Also, list the **Building Owner** information. *At least one person must live within McLean County.*

License Renewals

Name:	Ariane McQueen	Phone Number:	[REDACTED]
Address:	[REDACTED]	City/State:	[REDACTED]
Name:	Licenses Permits Dept.	Phone Number:	[REDACTED]
Address:	[REDACTED]	City/State:	[REDACTED]

Building Security

Name:	Solid Security	Phone Number:	[REDACTED]
Address:	[REDACTED]	City/State:	[REDACTED]
		Zip Code:	[REDACTED]

Building Owner Name:	Eastland Mall, LLC	Phone Number:	[REDACTED]
Address:	[REDACTED]	City/State:	[REDACTED]
		Zip Code:	[REDACTED]



Liquor License Application Questionnaire

TO THE APPLICANT:

On August 28, 1972, the Bloomington City Council enacted Ordinance No. 1972-57, revising standards for issuance of liquor licenses. The Ordinance, in addition to providing for an increase in the number of licenses, reflected a change in public attitude toward liquor licenses. Rather than lucrative privileges to be bought or sold, they are viewed as potential tools for community development, which can be an asset to the community. Consequently, licenses will be approved, not as a matter of right, but only where a need can be shown to exist and where the issuance of a license for a particular kind of establishment is supportive of and consistent with sound community planning. The following questions and the answers thereto can be of significant value in allowing the Liquor Commission to make an intelligent assessment of your application. Your cooperation in completing it as fully and in as much detail as possible is appreciated.

The questions in the Questionnaire apply equally to yourself and any partner, or any officer or director of a corporation. If more space is needed to answer any question completely, use additional paper.

LEGAL REQUIREMENTS: *(Please Circle)*

☒ Y ☐ N	Have you attained the age of 21 years?	☒ Y ☐ N	Have you ever had a Bloomington liquor license revoked for any cause?
☐ Y ☒ N	Have you been a resident of the City of Bloomington for one year?	☐ Y ☒ N	Are you eligible for a state retail liquor dealer's license?
☒ Y ☐ N	Are you a citizen of the United States?	☐ Y ☒ N	Is the manager of the establishment ineligible to hold a liquor license for any reason other than citizenship or residence?
☒ Y ☐ N	Are you a person of good character and reputation?	☒ Y ☐ N	Have you ever been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor? *See below
☒ Y ☐ N	Do you own or have a valid lease to the premises for which the license is sought?	☐ Y ☒ N	Have you ever been convicted of a felony under the laws of the United States or any state?
☐ Y ☒ N	Have you ever been convicted of being the keeper, or are you now the keeper of a house of prostitution?	☐ Y ☒ N	Is a holder of over 5% of corporate stock ineligible to hold a liquor license for any reason other than citizenship or residence? <i>(If applicant is a corporation)</i>
☐ Y ☒ N	Have you ever been convicted of pandering or any other crime opposed to decency and morality?	☐ Y ☒ N	Is the establishment located within 100' of any church, school, hospital, home for aged or indigent persons or war veterans, their wives or children?

***See attached list of violations for existing location. Outback Steakhouse of Florida, LLC**

owns and operates over 500 Outback Steakhouse locations nationwide and from time to time, some of these locations have suffered minor infractions. No license has ever been canceled or revoked.

UPDATED 06/2018

Attachment to Page 23 regarding Violations

Liquor License Violations City of Bloomington, IL

Concept	Store No.	Store Name	State	Violation Date	License Entity or Permittee Cited	License Number and/or Citation Number	Description of Violation	Agency	Fine
Outback Steakhouse	1454	Bloomington, IL	IL	01/15/14	Outback Steakhouse of Florida, LLC	License No. 4516 Violation No. 2014-005	Sold alcoholic liquor to a person under the age of 21 years.	City of Bloomington	600.00
Outback Steakhouse	1454	Bloomington, IL	IL	07/22/14	Outback Steakhouse of Florida, LLC	License No. 1A-0104714 Case ID No. 1-844-540-672	Not having current state liquor license displayed; Contaminated liquor; Tap cleaning record not kept; Received something of value	Illinois Liquor Control Commission	750.00



NATURE OF LICENSE:

1. What class liquor license are you seeking? *(Please read descriptions below)* RA

TYPE	DESCRIPTION
CA	Clubs – All Types of Liquor
CB	Clubs – Beer and Wine Only
EA	Entertainment/Recreational Sports Venue – All Types of Liquor
EB	Entertainment/Recreational Sports Venue – Beer and Wine Only
GPA	Convenience Store – All Types of Liquor
GPB	Convenience Store – Beer and Wine Only
PA	Package Sales – All Types of Liquor
PB	Package Sales – Beer and Wine Only
RAP	Restaurant & Package Sales – All Types of Liquor
RA	Restaurant – All Types of Liquor
RB	Restaurant – Beer and Wine Only
TAP	Tavern & Package Sales – All Types of Liquor
TA	Tavern – All Types of Liquor
TB	Tavern – Beer and Wine Only
W	Catering – Beer and Wine Only (SALE OF ALCOHOL NOT PERMITTED)
S	Sunday Sales

2. What type of establishment do you intend to operate with this license? *(e.g. lounge, tavern, restaurant, wine & cheese shop)* Full-service restaurant

3. State the significance of a liquor license to your establishment, present or future: This is a relocation of the existing Outback Steakhouse location, which has been in business since 1999.

4. How will a liquor license of the kind requested benefit the City of Bloomington and its residents? It will allow us to continue to provide concentrated service to the great citizens of Bloomington.

5. Upon what facts do you base your answers to the previous question? Based on operations at the existing location, which has been in business since 1999.

6. Do you intend to furnish live entertainment in the establishment to be licensed? *(Please Circle)* Y ☒ N



a. If you answered "YES" to the previous question, state the nature of such entertainment: N/A

7. Will most of the establishment's gross revenue come from sources other than sale of alcohol? (*Please Circle*) ☒ Y ☐ N

a. If you answered "YES" to the previous question, from what sources will such revenue be derived? Food

8. Do you intend to obtain an additional license for any of the following (*please circle*):

Y ☒ N Public Dancing*

Y ☒ N Tobacco*

Y ☒ N Amusement* (If yes, which type: _____)

Y ☒ N Miscellaneous* (If yes, which type: _____)

**ALL ADDITIONAL LICENSES REQUIRE ADDITIONAL APPLICATION PER LICENSE TYPE.*

AMUSEMENT

Type	Description
<i>Auto Amusement Devices</i>	Any machine or device which upon the insertion of a coin or slug operates or may be operated as a game or contest of skill or amusement of any description.
<i>Musical Devices</i>	A mechanical Victrola, a mechanical piano, or any other mechanical musical instrument, the operation of which may be governed or controlled by the deposit of a coin or token therein, so that the person inserting the coin or token can cause the device to reproduce a selected musical piece.
<i>Theatre</i>	Any place within the corporate limits of the City wherein any show, moving picture, theatrical exhibition, amusement, or entertainment is shown, exhibited, or staged and for which an admission charge is made.

MISCELLANEOUS

Type	Description
<i>Sidewalk Cafe</i>	The use of public sidewalk by a food service establishment for the serving of food and beverages on the sidewalk immediately adjacent to the food service establishment, which use will be characterized by the sidewalk use of tables, and chairs and umbrellas.
<i>Video Gaming</i>	Currently Not Available; See City Code Chapter 7 Article XIII



IMPACT OF ESTABLISHMENT:

1. State the location of your establishment:

Address: 1637 E. Empire St. City/State: Bloomington, IL Zip Code: 61701

2. What hours will the establishment be open?

Monday: 11AM-10PM Tuesday: 11AM-10PM Wednesday: 11AM-10PM

Thursday: 11AM-10PM Friday: 11AM-11PM Saturday: 11AM-11PM Sunday: 11AM-9PM

3. What type or types of building(s) adjoin the establishment? None

- a. If any adjoining buildings are office or commercial, approximately what hours are they open for business? N/A - see above

- b. If adjoining buildings are predominately residential, are they single or multi- family and what other business establishments are in the area? N/A - see above

4. Describe streets immediately adjoining the establishment (e.g. approximate width, one or two-way, parking restrictions, etc.): The premises is adjacent to Frontage Road within Eastland Mall parking lot. Frontage Road is a two-way, single lane road that is approx. 31' width.
5. How much additional traffic do you expect the establishment with a liquor license to generate? The current location receives an estimate of 2,580 patrons per week/134,000 per year. We anticipate this number to increase by 10% at the new location.
6. Describe on and off street parking facilities to handle traffic anticipated: Off-street parking to be to be shared with existing mall. No on-street parking anticipated.
7. How many establishments with liquor licenses are located within the immediate area of your establishment? Two (2): Kobe Japanese Steakhouse, and Applebees
8. What do you estimate to be the demand for your establishment in the area in which it is or will be located? We typically average 20% of increased sales for our relocated sites



and anticipate the same outcome for this location. 11

a. Upon what facts do you base your answer to the previous question? _____

Since 2016, we have successfully relocated 53 locations nationwide, all

of which have seen an increase in sales from their prior location.

RESPONSIBILITY:

1. If establishment *is presently in operation*, **attach a financial statement** of the establishment's last fiscal year. See attached Sales Report
2. If establishment *is not presently in operation*, **attach a statement** showing your **assets and liabilities** (or if a corporation, the assets and liabilities of the corporation).
3. Do you now or have you ever had a Bloomington liquor license? Yes ☒ No ☐

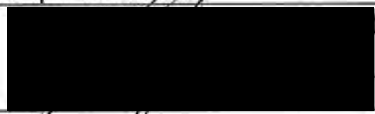
a. If you answer to the previous question is "YES", how many times have you been found guilty by the Bloomington Liquor Commission of violating Bloomington's liquor ordinance? _____

Only once since opening in 1999. On January 15, 2014 we were cited for sales to a minor.

DATED this 24 day of September, 20 18.

SIGNED:

Joseph J. Kadow

ed Name

Signature

Executive VP

Title

2202 N. West Shore Blvd., 5th Floor

Address

Tampa, FL 33607

City/State/Zip Code

David J. Deno

rinted Name

Signature

Executive VP

Title

2202 N. West Shore Blvd., 5th Floor

Address

Tampa, FL 33607

City/State/Zip Code

**Outback 1454 Bloomington, IL
Sales Report**

Account	2017					2018					Grand Total		
	September	October	November	December	January	February	March	April	May	June	July	August	
40000010 - Food Sales	221,763.05	175,949.63	196,444.27	294,584.58	209,960.58	231,880.71	270,328.57	209,598.85	207,812.63	240,720.97	191,508.47	210,274.00	2,660,826.31
40000020 - Beverage Sales	13,303.82	10,519.98	11,454.25	17,736.07	12,054.74	13,123.67	15,779.51	11,814.04	12,284.86	14,567.75	11,387.47	11,935.35	155,961.51
40010010 - Liquor Sales	7,476.75	5,359.95	5,689.50	9,898.75	7,258.41	7,680.51	9,016.25	7,728.29	7,308.01	8,527.25	6,867.52	6,518.00	89,329.19
40010020 - Beer Sales	8,462.80	6,850.30	8,515.95	12,753.00	9,312.85	9,803.10	10,656.62	8,695.40	7,346.30	8,875.10	7,379.70	7,459.60	106,110.72
40010030 - Wine Sales	4,382.65	3,581.90	4,386.55	6,102.15	4,537.05	4,796.90	5,022.55	4,532.35	3,612.10	4,333.56	3,048.35	3,478.20	51,814.31
Grand Total	255,389.07	202,261.76	226,490.52	341,074.55	243,123.63	267,284.89	310,803.50	242,368.93	238,363.90	277,024.63	220,191.51	239,665.15	3,064,042.04



Application for the Sale of Alcoholic Beverages

This application is being submitted as:

☒ A New Application ☐ Renewal (Change to Original Application)

To the Local Liquor Control Commissioner of the City of Bloomington, Mclean County, Illinois:

1. Application is herein made a **CLASS** RA **LICENSE** to sell Malt Vinous Beverages, pursuant to Chapter 6 of the Bloomington City Code 1960.

2. The undersigned applicant is (Check One):

☐ an Individual

☐ a Partnership

☒ a LLC
☒ a Corporation

A. If an Individual:

Name: _____ Age: _____

Address: _____ City/State/Zip Code: _____

Have you been a legal resident of City of Bloomington for more than One (1) year?

Yes ☐ No ☐

B. If a Partnership:

Following are the names of all partners who are entitled to share in any profit of the business:

Name: _____ Age: _____

Address: _____ City/State/Zip Code: _____

Have you been a legal resident of City of Bloomington for more than One (1) year?

Yes ☐ No ☐

Name: _____ Age: _____

Address: _____ City/State/Zip Code: _____

Have you been a legal resident of City of Bloomington for more than One (1) year?

Yes ☐ No ☐



C. If a Corporation:

Date of Incorporation: 8/27/87

State whether same is organized for profit ☒ or nonprofit ☐, under laws of the State of Florida.

(Attach objects of Incorporation according to the Charter of Corporation.)

The following are the names and addresses of all officers and directors of the said corporation and if the majority of stock is owned by one person, name and address:

Name: Joseph J. Kadow Title: Executive VP

Address: [REDACTED] City/State/Zip Code: [REDACTED]

Name: David J. Deno Title: CFO, Executive VP

Address: [REDACTED] City/State/Zip Code: [REDACTED]

Name: _____ Title: _____

Address: _____ City/State/Zip Code: _____

Name: _____ Title: _____

Address: _____ City/State/Zip Code: _____

3. Location and description of the premises or place of business to be operated under this license: The premises is located in the NE corner of the parking lot of Eastland Mall, which is SWQ of Empire Street and Veterans Parkway.

a. Trade Name: Outback Steakhouse

Please answer the following questions by circling Y (yes) or N (no).

Y ☒ N

Is this a location within 100 feet of any church, school, hospital, home of aged, or indigent persons, or for War Veterans, their wives, or children?

Y ☒ N

Does the place of business have access to any other portion of the same building or structure which is used for dwelling or lodging purposes, and which is permitted to be used or kept accessible for use by the public?



☒ Y ☐ N

Is it proposed to sell food in this place of business?

☒ Y ☐ N

Is applicant or any partner, officer, director, or majority stockholder engaged in the business of manufacturing or bottling malt vinous beverages or is the agent or any such person or corporation, or is a jobber of malt or vinous beverages?

☒ Y ☐ N

Has applicant, or any partner, officer, director, or majority stockholder ever been convicted of a felony, or of the violation of any law relating to the prohibition of the sale of intoxicating liquors, or any other crime or misdemeanor, (other than minor traffic violations)? **If yes, fully explain:** _____

☒ Y ☐ N

Has any other license issued to individual applicant, or to any partner, officer, director, or majority stockholder, issued for sale of alcoholic beverages, ever been revoked? **If yes, give further details:** _____

☒ Y ☐ N

Has a similar application ever been refused for cause that has been made by any of the foregoing persons?

☒ Y ☐ N

Is the applicant herein, the owner of the premises for which this license is sought?

If no, the information of the building owner:

See Memorandum of Lease as
recorded with McKlean County, IL

Name: Eastland Mall, LLC Term of Lease: _____ to _____

Address: _____ City/State: _____ Zip Code: _____

☒ Y ☐ N

Do you know of any reason whether stated in the above questions or not, that this application does not comply with the laws of the State of Illinois, or the Bloomington City Code 1960 in connection with the proposed sale of alcoholic beverages?

Please take this time to provide any additional information you would like to include with your application: _____

Attachment: Memorandum of Lease
Regarding "Term of Lease"

MCRN0V29'17 9:00AM

Type: OFFICIAL RECORDS

Recorded: 12/07/2017 01:49:38 PM

Fee Am t: \$39.00 Page 1 of 10

IL Rental Housing Fund: \$9.00

McLean County, IL

Kathy Michael McLean County Clerk

File#: 2017-00021794

Prepared by and return to:

Brad M. Wolfe, Esquire
Slutzky, Wolfe and Bailey, LLP
2255 Cumberland Parkway
Building 1300
Atlanta, Georgia 30339

**COVER PAGE FOR
MEMORANDUM OF LEASE**

**EASTLAND MALL, LLC
as Landlord**

AND

**OUTBACK STEAKHOUSE OF FLORIDA, LLC
as Tenant**

MEMORANDUM OF LEASE

Eastland Mall, LLC, a Delaware limited liability company with an address of CBL Center, Suite 500, 2030 Hamilton Place Boulevard, Chattanooga, TN 37421, as "**Landlord**" and Outback Steakhouse of Florida, LLC, a Florida limited liability company with an address of 2202 North West Shore Blvd., 5th Floor, Tampa, FL 33607, as "**Tenant**", entered into a Lease with an Effective Date of November 16, 2017 (the "**Lease**"). In accordance with the terms and provisions of the Lease, Landlord has leased to Tenant and Tenant has leased from Landlord certain Premises (more particularly described below) at Eastland Mall (the "**Shopping Center**"), located in Bloomington, Illinois. Landlord and Tenant are recording this Memorandum of Lease (i) to confirm and ratify the Lease and the granting of Tenant's leasehold estate in the Premises and Tenant's Appurtenant Use Rights under the Lease; (ii) to provide record notice of the Lease and all of Tenant's rights under the Lease; and (iii) to confirm that the portion of the Shopping Center owned by Landlord is subject to Tenant's leasehold estate in the Premises and Tenant's Appurtenant Use Rights under the Lease, as well as the other terms, covenants, conditions and restrictions contained in the Lease, as covenants and restrictions running with the land for the entire Term of the Lease.

The Lease includes, among others, the following terms and provisions:

Grant: Landlord has granted and conveyed to Tenant a leasehold interest in the Premises and certain Appurtenant Use Rights (both as more particularly described below). Tenant shall also have the benefit of any rights and easements of record appurtenant to the Shopping Center or any part thereof that includes the Premises.

Premises: The Premises is a portion of the Shopping Center more particularly described in the Lease and generally shown on the Site Plan attached to this Memorandum of Lease as **Exhibit "A."**

Appurtenant Use Rights: Tenant has certain rights to use certain portions of the Shopping Center outside the Premises, which are defined in the Lease as Tenant's Appurtenant Use Rights. Tenant's Appurtenant Use Rights are set out in Subsection 1.1B of the Lease.

Commencement Date: The Commencement Date of the Initial Term of the Lease shall commence on the date that is the earlier of: (a) one hundred eighty (180) days after the later of (i) the Tender Date and (ii) Tenant's written waiver (or earlier expiration) of all the Tenant Contingencies set forth in Section 1.5 of the Lease; or (b) the date Tenant first opens for business to the general public.

Term: The Term of the Lease is for ten (10) Lease Years (as defined in Section 1.3F of the Lease) beginning on the Commencement Date. The Term may be extended as provided for in the Lease or by agreement of Landlord and Tenant.

Renewal Options: Tenant has four (4) Renewal Options to renew the Lease and extend the Term, each for a period of five (5) years.

Certain Tenant Protections. Section 1.4 of the Lease provides for certain rights and protections in favor of Tenant, which include, but are not limited to: (i) restrictions on Landlord's ability to make or permit certain changes to the Protected Area within the Shopping Center shown on **Exhibit "A-1"** attached hereto; (ii) the prohibition of certain uses in the Shopping Center; and (iii) an exclusive in favor of Tenant.

This Memorandum of Lease is not intended to set out any of the terms or provisions of the Lease in their entirety, but is intended to be sufficient to put third parties on notice of such terms and provisions.

Interested persons may obtain additional information concerning the terms and provisions of this Lease by written request to Tenant, at the Tenant's address set out above made to the attention of the Sr. Director of Asset Management.

LEGAL DESCRIPTION OF SHOPPING CENTER

Tract No. 1: (Fee Parcel)

Lots 1 and 3 in the Eastland Mall Subdivision in Bloomington, Illinois, according to the plat thereof recorded January 07, 1999 as Document Number 99-490 and as amended by Document Number 2000R24331 recorded September 29, 2000, in McLean County, Illinois.

Tract No. 2 (Fee Parcel)

A part of Lot 16 in SECOND ADDITION TO MEDICAL HILLS SUBDIVISION, situated in the City of Bloomington, in the County of McLean, and State of Illinois, according to the plat thereof recorded September 14, 1972 as Document No. 72-9201, more particularly bounded and described as follows: Commencing at the Southeast corner of Lot 1 Medical Hills Subdivision, thence South 89 degrees, 48 minutes East 154.5 feet along the North line of Eastland Drive in the City of Bloomington to the Southwest corner of Lot 14 in the FOURTH ADDITION TO MEDICAL HILLS SUBDIVISION in the City of Bloomington; thence North 1 degree, 9 minutes West along the West line of said Lot 14, said line being parallel with the East line of Fairway Drive, 282 feet to the Northwest corner of said Lot 14 being a point on the North line of said Lot 10; thence North 89 degrees 48 minutes West along said North line, 154.5 feet to the Northeast corner of said Lot 1; thence South 1 degree, 9 minutes East along the East line of said Lot 1, 282 feet to the Southeast corner of said Lot 1;

Tract No. 3 (Fee Parcel)

A part of the Northwest 1/4 of the Northwest 1/4 of Section 2, Township 23 North, Range 2 East of the Third Principal Meridian, in the City of Bloomington, McLean County, Illinois, more particularly described as follows:

Beginning at the Southeast Corner of the Northwest 1/4 of said Northwest 1/4; thence North 1 degree 32 minutes West 525.04 feet along the East line of the Northwest 1/4 of said Northwest 1/4 to a point which is 872.21 feet South of the Northeast corner of the Northwest 1/4 of said Northwest 1/4; thence North 89 degrees 48 minutes West 776 feet parallel with the South line of the Northwest 1/4 of said Northwest 1/4; thence Southeast 64.83 feet along an arc of a curve of radius 339.70 feet, said curve being concave to the West and the 64.73 feet chord of said arc bears South 6 degrees 37 minutes East to a Point of Tangency; thence South 1 degree 09 minutes East 460.78 feet to a point on the South line of the Northwest 1/4 of said Northwest 1/4, said point being 773.63 feet West of the point of beginning; thence South 89 degrees 48 minutes East 773.63 feet along the South line of the Northwest 1/4 of said Northwest 1/4 to the point of beginning, in McLean County, Illinois.

Permanent Index Number: 21-02-126-012

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF the parties have executed this Memorandum of Lease as of the dates set forth in their respective acknowledgments.

WITNESS:

ALG

"Landlord"

Eastland Mall, LLC,
a Delaware limited liability company
By: CBL & Associates Management, Inc.,
a Delaware corporation, managing agent

By:

Name: Jeffery V. Curry

Title: Chief Legal Officer

Date: 11-16-17



WITNESS:

AG

"Tenant"

Outback Steakhouse of Florida, LLC,
a Florida limited liability company

By:

Name: Annette Rodriguez

Title: Authorized Agent - Real Estate

Date: November 8, 2017

See

[Acknowledgment of Landlord]

STATE OF Tennessee
COUNTY OF Hamilton

The foregoing instrument was acknowledged before me this 16 day of November, 2017, by Jeffery V. Curry, as Chief Legal Officer of CBL & Associates Management, Inc., a Delaware corporation, managing agent of Eastland Mall, LLC.

Carmen Lindsey
{Signature of Notary Public}
Printed Name: Carmen Lindsey
{Name to be printed or stamped}

(Notary Seal)

☒ personally known to me or ☐ produced identification. {applicable box to be checked}

Identification produced: _____
{if identification was produced, type of identification provided to be inserted}

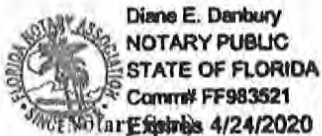


[Acknowledgment of Tenant]

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

My Commission Expires:
November 10, 2018

The foregoing instrument was acknowledged before me this 8th day of November, 2017, by Annette Rodriguez, as Authorized Agent - Real Estate of Outback Steakhouse of Florida, LLC, a Florida limited liability company, for and on behalf of the limited liability company.



Diane E. Danbury
{Signature of Notary Public}
Printed Name: DIANE E. DANBURY
{Name to be printed or stamped}

☒ personally known to me or ☐ produced identification. {applicable box to be checked}

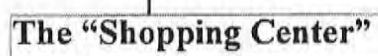
Identification produced: _____
{if identification was produced, type of identification provided to be inserted}

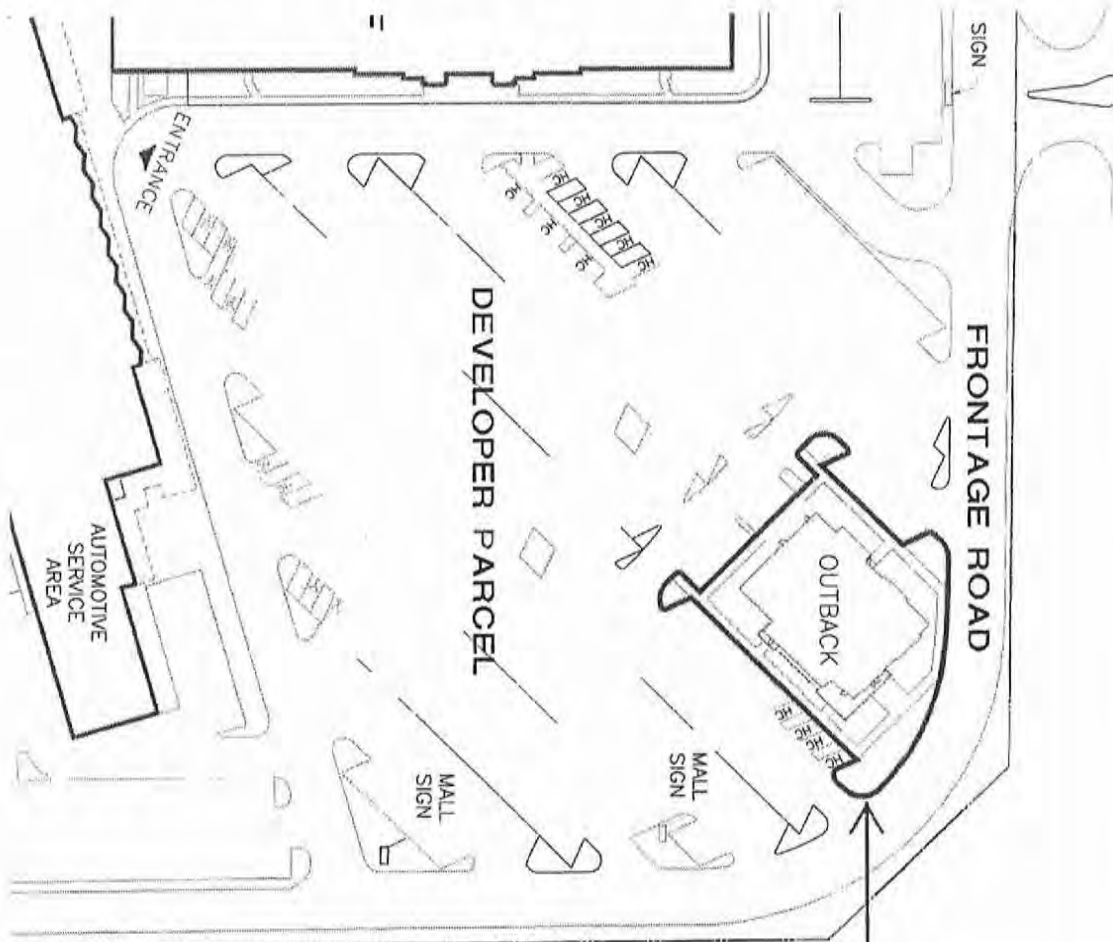
Exhibit "A"

Site Plan

[See the following two (2) attached pages]

det





E. 5)
Y)

The "Premises"



DATE	BY	REVISION

CBL
CBL & ASSOCIATES PROPERTY, INC.
10000 E. 10TH AVE. SUITE 100
DENVER, CO 80231

Exhibit "A" -
Page 2 of 2

REVISION

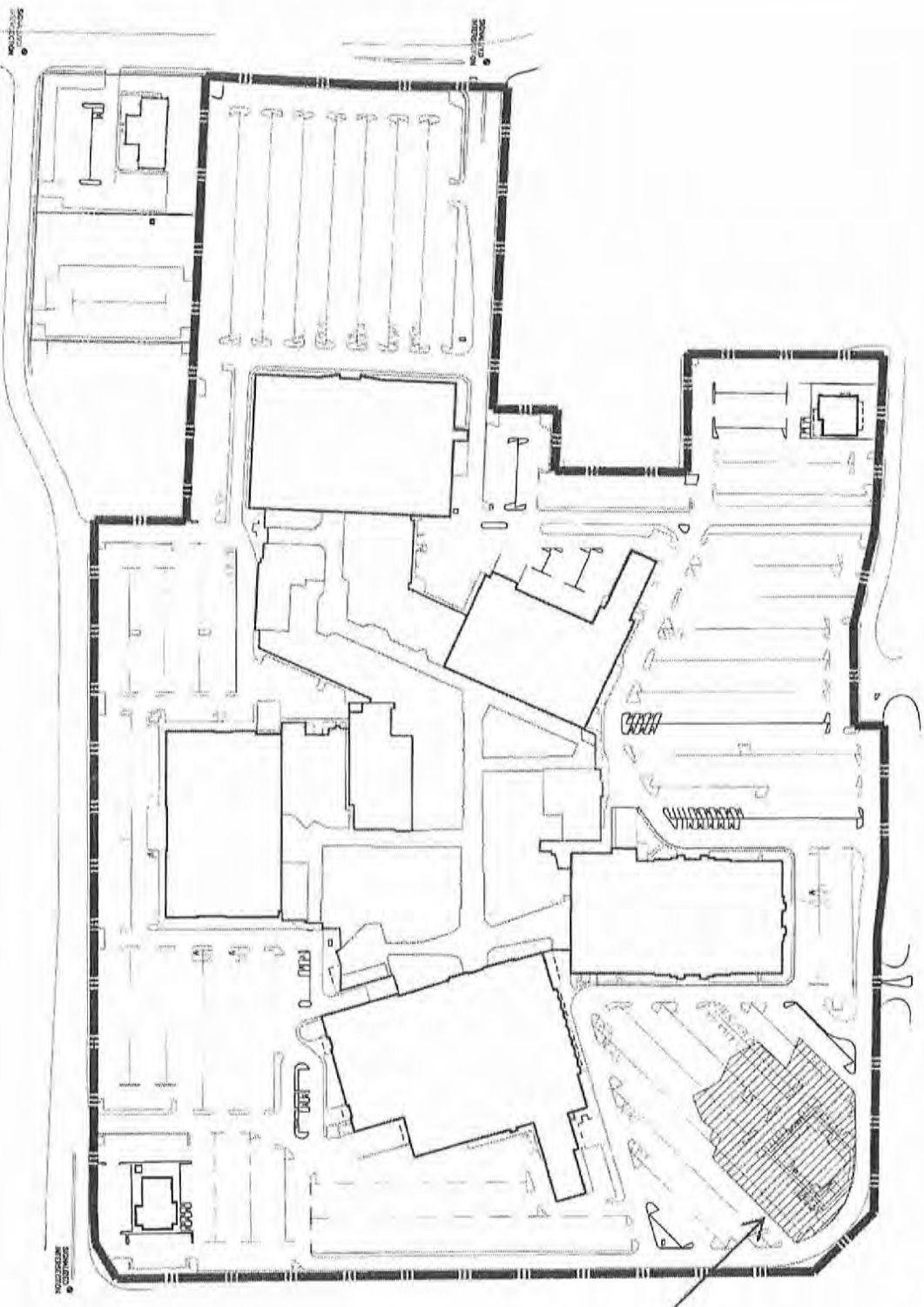
Exhibit "A-1"

Protected Area

[See the following one (1) attached page]

do

THIS SITE PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION OR ANY OTHER PURPOSE WITHOUT THE WRITTEN APPROVAL OF CBL & ASSOCIATES PROPERTIES, INC. ANY CHANGES TO THIS SITE PLAN MUST BE APPROVED BY CBL & ASSOCIATES PROPERTIES, INC. IN WRITING. THE SITE PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN APPROVAL OF CBL & ASSOCIATES PROPERTIES, INC. IN WRITING.



The "Protected Area"

31.573 4.1/1.1/2.2 1.1/1.1/1.1 1.1/1.1/1.1	EASTLAND MALL 1815 EAST EMORY STREET INDEPENDENCE, MO 64101 Phone: (316) 663-5261	SITE PLAN	CBL CBL & ASSOCIATES PROPERTIES, INC. CBL Center Suite 200, 3116 Howard Place, Independence, MO 64101-4800 © 2004 CBL & ASSOCIATES PROPERTIES, INC. All rights reserved.	Exhibit "A-1" Page 1 of 1
--	---	-------------------------	---	--

des



Applicants and each of them jointly and severally, including all partners, officers, directors, or majority stockholders, hereinafter named and whose signatures are affixed to this application, agree and acknowledge that they and each of them fully understand that any license issued hereunder may be revoked in accordance with the Ordinance of this City.

DATED this 24 day of September, 2018

A. Individual

Printed Name

Signature

B. Partnership

Business Name

Printed Name of Partner

Signature of Partner

Printed Name of Partner

Signature of Partner

Printed Name of Partner

Signature of Partner

Limited Liability Company

C. Corporation

Outback Steakhouse of Florida, LLC

Corporate Name

Joseph J. Kadow

Exec. Vice President of Company (Print Name)

[Redacted Signature]
Exec. Vice President of Company (Signature)

ATTEST:

Secretary

And the following officers, directors or majority stockholders:

David J. Deno, Executive VP



NOTARY ACKNOWLEDGEMENT

FLORIDA

STATE OF ~~XXXXXX~~)
) SS
COUNTY OF ~~XXXXXX~~)
HILLSBOROUGH

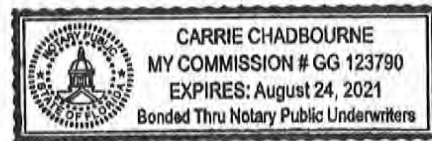
Being first duly sworn on their respective oaths say that they comprise of all the owners, partners, officers, directors, or majority stockholders of the above name applicant in accordance with definitions of the Bloomington City Code; that they and each of them have read and signed the foregoing application for license, know the contents thereof, and that all the statements made therein are true.

This application was acknowledged before me on this 24th day of September, 2018, who deposes and says that he/she has read the foregoing application subscribed by him/her, and that the matters stated herein are true to the best of his/her knowledge and belief.



Notary Public

My Commission Expires: August 24, 2021





Application for the Sunday Sale of Alcoholic Beverages

This application is being submitted as:

☒ A New Application ☐ Renewal (Change to Original Application)

To the Local Liquor Control Commissioner of the City of Bloomington, Mclean County, Illinois:

Outback Steakhouse of Florida, LLC

NAME OF APPLICANT

Hereinafter referred to as the "Applicant" represents to the Bloomington Liquor Commission the following:

1. A **CLASS RA LIQUOR LICENSE** is currently held by or is being applied for by the Applicant and it authorizes or will authorize the liquor sales on Monday-Saturday.
2. The Applicant herein requests a **CLASS S LICENSE** to authorize the operation of the Applicant's liquor establishment on Sundays in the same manner as is or will be authorized by and during the valid period of the license referred to in Paragraph 1 hereof.
3. The Applicant and each and every partner, officer, director, majority stockholder or agent thereof, agree and acknowledge the following:
 - (a) Any license issued hereunder may be revoked in accordance with the Ordinances of the City of Bloomington;
 - (b) All persons who are employed by or who have an ownership interest in the Applicant will testify under oath to all competent, relevant, and material questions propounded to any of them in any hearing conducted by the local Liquor Commissioner;
 - (c) Failure of any person to testify according to the provisions of subsection (b) above shall be sufficient reason for suspension or revocation of any license which may be issued pursuant to this Application; and
 - (d) The Applicant will furnish, upon request from the Liquor Commissioner, any books and/or records of its business operations which are relevant to the question of whether such Applicant qualifies or has qualified at any time for the basic license or for the license which may be issued pursuant to this Application.



DATED this 24 day of September, 2018

A. Individual

Printed Name

Signature

B. Partnership

Business Name

Printed Name of Partner

Signature of Partner

Printed Name of Partner

Signature of Partner

Printed Name of Partner

Signature of Partner

Limited Liability Company

C. Corporation

Outback Steakhouse of Florida, LLC

Corporate Name

Joseph J. Kadow

Exec. Vice President of Company (Print Name)

[Redacted Signature]
Exec. Vice President of Company (Signature)

ATTEST:

Secretary

And the following officers, directors or majority stockholders:

David J. Deno, Executive VP

[Redacted Signature]



NOTARY ACKNOWLEDGEMENT

FLORIDA
STATE OF ~~ILLINOIS~~)
) SS
COUNTY OF ~~COCKEY~~)
HILLSBOROUGH

Being first duly sworn on their respective oaths say that they comprise of all the owners, partners, officers, directors, or majority stockholders of the above name applicant in accordance with definitions of the Bloomington City Code; that they and each of them have read and signed the foregoing application for license, know the contents thereof, and that all the statements made therein are true.

This application was acknowledged before me on this 24th day of Septempber, 2018, who deposes and says that he/she has read the foregoing application subscribed by him/her, and that the matters stated herein are true to the best of his/her knowledge and belief.



Notary Public



My Commission Expires: August 24, 2021



PERSONAL FINANCIAL STATEMENT

Submitted to: Bloomington Liquor Control Commission

Section 1 - Individual Information <i>(Please type or print legibly)</i>	
Name:	
Address:	
City, State & Zip Code:	
Personal Phone Number:	
Position or Occupation:	
Length of Employment:	
Business Name:	
Business Address:	
City, State & Zip Code:	
Business Phone Number:	

Section 2 - Other Party Information <i>(Please type or print legibly)</i>	
Name:	Outback Steakhouse of Florida, LLC
Address:	
City, State & Zip Code:	Tampa, FL 33607
Personal Phone Number:	
Position or Occupation:	Owner/Applicant
Length of Employment:	08/27/87 (formed)
Business Name:	Outback Steakhouse
Business Address:	1637 E. Empire Street
City, State & Zip Code:	Bloomington, IL 61701
Business Phone Number:	(309) 663-0455

Section 3 - Statement of Financial Condition as of _____, 20____
(Please type or print legibly)

ASSETS (Do not include assets of doubtful value)	IN DOLLARS (Omit Cents)	LIABILITIES	IN DOLLARS (Omit Cents)
Cash on hand	\$	Notes Payable to Banks (See Schedule E)	\$
Cash in banks	\$	Notes Payable to Other Institutions (See Schedule E)	\$
U.S. Government & Marketable Securities (See Schedule A)	\$	Due To Brokers	\$
Nonmarketable Securities (See Schedule B)	\$	Amounts Payable to Others - Secured	\$
Securities Held by Broker in Margin Accounts	\$	Amounts Payable to Others - Unsecured	\$
Restricted, Control, Or Margin Account Stocks	\$	Accounts and Bills Due	\$
Real Estate Owned (See Schedule C)	\$	Unpaid Income Tax	\$
Accounts, Loans, and Notes Receivable	\$	Other Unpaid Income Tax	\$
Automobiles	\$	Real Estate Mortgages Payable (See Schedules C & E)	\$
Other Personal Property	\$	Other Debts (Car Payments, Credit Cards, Etc.) - Itemize	\$
Cash Surrender Value – Life Insurance (See Schedule D)	\$		
If Applicable Other Assets - Itemize (See Schedule F)	\$		
		Total Liabilities	\$
		Total Net Worth	\$
Total Assets:	\$	Total Liabilities & Net Worth	\$

Section 4 (Please type or print legibly)						
Annual Income for Year Ended 20	\$\$\$	Annual Expenditures	\$\$\$	Contingent Liabilities	Y / N (Circle)	Estimated Amounts
Salary, Bonuses & Commissions	\$	Mortgage/Rental Payments	\$	Do you have any?	Y / N	\$
Dividends & Interest	\$	Real Estate Taxes & Assessments	\$	Contingent Liabilities		\$
Real Estate Income	\$	Taxes (Federal, State, & Local)	\$	(As endorser, co- maker, or guarantor? on lease? on contracts?)	Y / N	\$
Other Income	\$	Other Contract Payments (Car Payments, Charge Cards, Etc.)	\$	Involvement in pending legal actions?	Y / N	-
(Alimony, Child Support or Separate Maintenance Income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation)		Alimony, Child Support, & Maintenance	\$	Other special debt or circumstances?	Y / N	\$
		Other Expenses	\$	Contested income tax liens?	Y / N	\$
				If "yes" to any questions please describe		
Total Income:	\$	Total Expenditures	\$	Total Contingent Liabilities		\$

(COMPLETE SCHEDULES AND SIGN)

SCHEDULE A U.S. Government & Marketable Securities				
Number of Shares or Face Value of Bonds	Description	In Name of	Are These Registered Pledged or Held by Others?	Market Value



SCHEDULE B
Non-Marketable Securities

Number of Shares or Face Value of Bonds	Description	In Name of	Are These Registered Pledged or Held by Others?	Market Value

SCHEDULE C
Residences and Other Real Estate (Partially or Wholly Owned)

Address & Type of Property	Title in Name of	% of Ownership	Date Acquired	Cost	Market Value	Monthly Payment	Mortgage Amount	Mortgage Maturity
Residences								
Residences								
Other:								
Other:								

SCHEDULE D
Life Insurance Carried, Including Group Insurance

Name of Insurance Company	Owner of Policy	Beneficiary & Relationship	Face Amount	Policy Loans	Cash Surrender Value

SCHEDULE E
Bank & Other Institutional Relationships

Name & Address of Creditor	Original Loan/Line Amount	Date of Loan	Maturity Date	Unsecured or Secured (List Collateral)	Amount Owed



SCHEDULE F
Business Ventures

List Name & Address of Any Business Venture in Which You are a Principal or Partner	Total Assets Listed in Section 3	Your % of Ownership	Your Position/ Title in the Business	Total Assets of Business	Line of Business	Years in Business
See Attached FORM 10-Q						

Officer of LLC

~~XXXXXXXXXX~~
INDIVIDUAL

Signed this 24 day of September, 20 18.

[Redacted]

Social Security Number

[Redacted]

Date of Birth

By: David J. Deno, Exec. VP

[Redacted]

Officer of LLC

~~XXXXXXXXXX~~
OTHER PARTY

Signed this 24 day of September, 20 18.

[Redacted]

Social Security Number

[Redacted]

Date of Birth

By: Joseph J. Kadow, Exec. VP

Printed Name

[Redacted]

Signature



Bloomington / Normal Food & Beverage Tax Registration Form

Illinois Business Tax (IBT) #:	
Date Business started at this location (Month\Day\Year):	12/12/18
Describe your type of Business:	Full Service Restaurant

DBA Business Name: Outback Steakhouse #1454	
Address: 1637 E. Empire Street, Bloomington, IL 61701	
Contact: Karen Michaelson	
Phone: [REDACTED]	Fax: [REDACTED]
Email: [REDACTED]	

Owner/Corporate Name: Outback Steakhouse of Florida, LLC (if different from above)	
Address: 2202 N. West Shore Blvd., 5th Floor, Tampa, FL 33607	
Contact: Karen Michaelson	
Phone: [REDACTED]	Fax: [REDACTED]
Email: SalesTax@BloominBrands.com	

☒ Please check here to have all correspondence mailed to corporate address instead of the physical address.

Type of Organization:	☐ Sole Proprietorship	☐ Partnership
	☐ Corporation	☒ LLC
	☐ Other _____	

Mail, Drop Off, Fax, or Email to: **Address:** City Hall
Finance Department
Room 207
109 E. Olive Street
Bloomington, IL 61702
Fax: 309-434-2463
Email: finance@cityblm.org
Phone: 309-434-2233

 Under penalties as provided by law, I declare that to the best of my knowledge and belief, the information on this form is true, correct and complete.

By: 
Signature of Officer Empowered to Sign

9/24/18
Date

Joseph J. Kadow, Exec. VP
Print Name and Title



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)
12/28/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis of Florida, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com
INSURED OSI Restaurant Partners, LLC, Et al. 2202 N West Shore Blvd., Ste. 500 Tampa, FL 33607	INSURER(S) AFFORDING COVERAGE INSURER A: Safety National Casualty Corporation INSURER B: ACE Property & Casualty Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: W4892588

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY		GL4058154	12/31/2017	12/31/2018	EACH OCCURRENCE \$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
						MED EXP (Any one person) \$
						PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$ 25,000,000
	☒ POLICY ☐ PRO-JECT ☐ LOC					PRODUCTS - COMP/OP AGG \$ 2,000,000
	OTHER:					\$
A	AUTOMOBILE LIABILITY		CAF4054317	12/31/2017	12/31/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☒ ANY AUTO					BODILY INJURY (Per person) \$
	☐ OWNED AUTOS ONLY	☐ SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	☐ HIRED AUTOS ONLY	☐ NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident) \$
B	☒ UMBRELLA LIAB	☒ OCCUR	XOO G27939326 003	12/31/2017	12/31/2018	EACH OCCURRENCE \$ 25,000,000
	☐ EXCESS LIAB	☐ CLAIMS-MADE				AGGREGATE \$ 25,000,000
	DED RETENTION \$					\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		LDS4054314	12/31/2017	12/31/2018	☒ PER STATUTE ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N ☐ No				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
						E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Liquor Liability		GL4058154	12/31/2017	12/31/2018	Each Occurrence 2,000,000.00
						Aggregate 25,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Outback Steakhouse Store # 1454; Store Address: 1409 N. Veterans Pkwy., Bloomington, IL 61701.

CERTIFICATE HOLDER1454 Liability
City of Bloomington
109 East Olive Street
Bloomington, IL 61702**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

SURETY RIDER

To be attached to and form a part of

Bond No. 103485425

dated
effective December 22, 1998
(MONTH-DAY-YEAR)

executed by Outback Steakhouse of Florida, LLC
(PRINCIPAL)

, as Principal,

and by Travelers Casualty and Surety Company of America

, as Surety,

in favor of City of Bloomington
(OBLIGEE)

In consideration of the mutual agreements herein contained the Principal and the Surety hereby consent to changing

The Principal address to:

1637 E. Empire Street
Bloomington, IL 61701

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly stated.

This rider
is effective December 12, 2018
(MONTH-DAY-YEAR)

Signed and Sealed September 21, 2018
(MONTH-DAY-YEAR)

Outback Steakhouse of Florida, LLC
(PRINCIPAL)

By: _____

(PRINCIPAL)

Joseph J. Kellaw, Exec. VP

Travelers Casualty and Surety Company of America
(SURETY)

By: _____

Sylvia M. Ogle
Sylvia M. Ogle, Attorney-in-Fact

TRAVELERS

Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"); and that the Companies do hereby make, constitute and appoint Sylvia M. Ogle of Atlanta, Georgia, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 3rd day of February, 2017.



State of Connecticut

City of Hartford ss

By: Robert L. Raney
 Robert L. Raney, Senior Vice President

On this the 3rd day of February, 2017, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Marie C. Tetreault
 Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 21st day of September, 2018.



Kevin E. Hughes
 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

For the quarterly period ended July 1, 2018

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission File Number: 001-35625



BLOOMIN' BRANDS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

20-8023465

(IRS Employer Identification No.)

2202 North West Shore Boulevard, Suite 500, Tampa, Florida 33607

(Address of principal executive offices) (Zip Code)

(813) 282-1225

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES ☒ NO ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ (Do not check if a smaller reporting company)
Smaller reporting company ☐ Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES ☐ NO ☒

As of July 31, 2018, 92,538,341 shares of common stock of the registrant were outstanding.

BLOOMIN' BRANDS, INC.**INDEX TO QUARTERLY REPORT ON FORM 10-Q**
For the Quarterly Period Ended July 1, 2018
(Unaudited)**TABLE OF CONTENTS**

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BLOOMIN' BRANDS, INC.

PART I: FINANCIAL INFORMATION

Item 1. Financial Statements

CONSOLIDATED BALANCE SHEETS (IN THOUSANDS, EXCEPT SHARE AND PER SHARE DATA, UNAUDITED)

	JULY 1, 2018	DECEMBER 31, 2017
ASSETS		
Current Assets		
Cash and cash equivalents		
Current portion of restricted cash and cash equivalents		
Inventories		
Other current assets, net		
Total current assets		
Property, fixtures and equipment, net		
Goodwill		
Intangible assets, net		
Deferred income tax assets, net		
Other assets, net		
Total assets		
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Accounts payable		
Accrued and other current liabilities		
Unearned revenue		
Current portion of long-term debt		
Total current liabilities		
Deferred rent		
Deferred income tax liabilities		
Long-term debt, net		
Deferred gain on sale-leaseback transactions, net		
Other long-term liabilities, net		
Total liabilities		
Commitments and contingencies (Note 13)		
Stockholders' Equity		
Bloomin' Brands Stockholders' Equity		
Preferred stock, \$0.01 par value, [REDACTED] shares authorized; no shares issued and outstanding as of July 1, 2018 and December 31, 2017		
Common stock, \$0.01 par value, [REDACTED] shares authorized; [REDACTED] and [REDACTED] shares issued and outstanding as of July 1, 2018 and December 31, 2017, respectively		
Additional paid-in capital		
Accumulated deficit		
Accumulated other comprehensive loss		
Total Bloomin' Brands stockholders' equity		
Noncontrolling interests		
Total stockholders' equity		
Total liabilities and stockholders' equity		

The accompanying notes are an integral part of these consolidated financial statements.

BLOOMIN' BRANDS, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE (LOSS) INCOME
(IN THOUSANDS, EXCEPT PER SHARE DATA, UNAUDITED)

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Revenues				
Restaurant sales				
Franchise and other revenues				
Total revenues				
Costs and expenses				
Cost of sales				
Labor and other related				
Other restaurant operating				
Depreciation and amortization				
General and administrative				
Provision for impaired assets and restaurant closings				
Total costs and expenses				
Income from operations				
Loss on extinguishment and modification of debt				
Other (expense) income, net				
Interest expense, net				
Income before (benefit) provision for income taxes				
(Benefit) provision for income taxes				
Net income				
Less: net income attributable to noncontrolling interests				
Net income attributable to Bloomin' Brands				
Net income				
Other comprehensive (loss) income:				
Foreign currency translation adjustment				
Unrealized gain (loss) on derivatives, net of tax				
Reclassification of adjustment for loss on derivatives included in Net income, net of tax				
Comprehensive (loss) income				
Less: comprehensive income attributable to noncontrolling interests				
Comprehensive (loss) income attributable to Bloomin' Brands				
Earnings per share:				
Basic				
Diluted				
Weighted average common shares outstanding:				
Basic				
Diluted				
Cash dividends declared per common share				

The accompanying notes are an integral part of these consolidated financial statements.

BLOOMIN' BRANDS, INC.

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(IN THOUSANDS, EXCEPT PER SHARE DATA, UNAUDITED)

BLOOMIN' BRANDS, INC.							
	COMMON STOCK		ADDITIONAL PAID-IN CAPITAL	ACCUM- ULATED DEFICIT	ACCUMULATED OTHER COMPREHENSIVE LOSS	NON-CONTROLLING INTERESTS	TOTAL
	SHARES	AMOUNT					
Balance, December 31, 2017							
Net income							
Other comprehensive (loss) income, net of tax							
Cash dividends declared, \$0.18 per common share							
Repurchase and retirement of common stock							
Stock-based compensation							
Common stock issued under stock plans (1)							
Change in the redemption value of redeemable interests							
Distributions to noncontrolling interests							
Contributions from noncontrolling interests							
Balance, July 1, 2018							

(CONTINUED...)

BLOOMIN' BRANDS, INC.

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY (IN THOUSANDS, EXCEPT PER SHARE DATA, UNAUDITED)

	BLOOMIN' BRANDS, INC.					NON- CONTROLLING INTERESTS	TOTAL
	COMMON STOCK		ADDITIONAL PAID-IN CAPITAL	ACCUM- ULATED DEFICIT	ACCUMULATED OTHER COMPREHENSIVE LOSS		
	SHARES	AMOUNT					
Balance, December 25, 2016							
Net income							
Other comprehensive income (loss), net of tax							
Cash dividends declared, \$0.16 per common share							
Repurchase and retirement of common stock							
Stock-based compensation							
Common stock issued under stock plans (1)							
Change in the redemption value of redeemable interests							
Purchase of noncontrolling interests, net of tax of \$45							
Distributions to noncontrolling interests							
Contributions from noncontrolling interests							
Cumulative-effect from a change in accounting principle							
Balance, June 25, 2017							

(1) Net of forfeitures and shares withheld for employee taxes.

The accompanying notes are an integral part of these consolidated financial statements.

BLOOMIN' BRANDS, INC.**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**
(DOLLARS IN THOUSANDS, UNAUDITED)

	TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017
Cash flows provided by operating activities:		
Net income		
Adjustments to reconcile Net income to cash provided by operating activities:		
Depreciation and amortization		
Amortization of deferred discounts and issuance costs		
Amortization of deferred gift card sales commissions		
Provision for impaired assets and restaurant closings		
Stock-based and other non-cash compensation expense		
Deferred income tax (benefit) expense		
Gain on sale of a business or subsidiary		
Loss on extinguishment and modification of debt		
Recognition of deferred gain on sale-leaseback transactions		
Other non-cash items, net		
Change in assets and liabilities		
Net cash provided by operating activities		
Cash flows used in investing activities:		
Proceeds from disposal of property, fixtures and equipment		
Proceeds from sale-leaseback transactions, net		
Proceeds from sale of a business, net of cash divested		
Capital expenditures		
Other investments, net		
Net cash used in investing activities		

(CONTINUED...)

BLOOMIN' BRANDS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(DOLLARS IN THOUSANDS, UNAUDITED)

	TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017
Cash flows used in financing activities:		
Proceeds from issuance of long-term debt, net		
Repayments of long-term debt		
Proceeds from borrowings on revolving credit facilities, net		
Repayments of borrowings on revolving credit facilities		
Proceeds from failed sale-leaseback transactions, net		
Proceeds from the exercise of share-based compensation		
Distributions to noncontrolling interests		
Contributions from noncontrolling interests		
Purchase of limited partnership and noncontrolling interests		
Repayments of partner deposits and accrued partner obligations		
Repurchase of common stock		
Cash dividends paid on common stock		
Net cash used in financing activities		
Effect of exchange rate changes on cash and cash equivalents		
Net decrease in cash, cash equivalents and restricted cash		
Cash, cash equivalents and restricted cash as of the beginning of the period		
Cash, cash equivalents and restricted cash as of the end of the period		
Supplemental disclosures of cash flow information:		
Cash paid for interest		
Cash paid for income taxes, net of refunds		
Supplemental disclosures of non-cash investing and financing activities:		
Increase (decrease) in liabilities from the acquisition of property, fixtures and equipment or capital leases		
Purchase of noncontrolling interest included in accrued and other current liabilities		

The accompanying notes are an integral part of these consolidated financial statements.

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)**

1. Description of the Business and Basis of Presentation

Description of the Business - Bloomin' Brands, Inc., through its subsidiaries ("Bloomin' Brands" or the "Company"), owns and operates casual, upscale casual and fine dining restaurants. The Company's restaurant portfolio has four concepts: Outback Steakhouse, Carrabba's Italian Grill, Bonefish Grill and Fleming's Prime Steakhouse & Wine Bar. Each of the Company's concepts has additional restaurants in which it has no direct investment and are operated under franchise agreements.

Basis of Presentation - The accompanying interim unaudited consolidated financial statements have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission. Accordingly, they do not include all the information and footnotes required by generally accepted accounting principles in the United States ("U.S. GAAP") for complete financial statements. In the opinion of the Company, all adjustments necessary for fair financial statement presentation for the periods presented have been included and are of a normal, recurring nature. The results of operations for interim periods are not necessarily indicative of the results to be expected for the full year. These financial statements should be read in conjunction with the audited financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2017.

Recently Adopted Financial Accounting Standards - On January 1, 2018, the Company elected to early adopt Accounting Standards Update ("ASU") No. 2017-04, "Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment," ("ASU No. 2017-04") on a prospective basis. ASU No. 2017-04 eliminates the second step of goodwill impairment, which requires a hypothetical purchase price allocation. Under ASU No. 2017-04, goodwill impairment is calculated as the amount a reporting unit's carrying value exceeds its calculated fair value. The adoption of ASU No. 2017-04 did not impact the Company's Consolidated Financial Statements. Goodwill and indefinite-lived intangible assets are tested for impairment annually, as of the first day of the second fiscal quarter, or whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

The Company performed its annual assessment for impairment of goodwill and other indefinite-lived intangible assets during the second quarters of 2018 and 2017. In connection with these assessments, the Company did not record any goodwill or indefinite-lived intangible impairment charges.

On January 1, 2018, the Company adopted ASU No. 2014-09 "Revenue Recognition (Topic 606), Revenue from Contracts with Customers" ("ASU No. 2014-09") using the full retrospective transition method. Under ASU No. 2014-09, revenue is recognized in an amount that reflects the consideration an entity expects to receive for the transfer of goods and services. The standard also requires additional disclosures about the nature, timing and uncertainty of revenue and cash flows arising from contracts with customers. Under the new standard, the Company recognizes gift card breakage proportional to redemptions, which are highest in the Company's first fiscal quarter. Previously, under the remote method, the majority of breakage revenue was recorded in the Company's fourth fiscal quarter corresponding with the timing of the original gift card sale. Advertising fees charged to franchisees, which were previously recorded as a reduction to Other restaurant operating expenses, are recognized as Franchise revenue. In addition, initial franchise and renewal fees are recognized over the term of the franchise agreements. In connection with adoption of ASU No. 2014-09, a cumulative effect adjustment of \$33.1 million, net of tax, was recorded as a credit to the ending balance of Accumulated deficit as of December 27, 2015.

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The following table includes a restatement of the Company's Consolidated Statement of Operations for the retrospective adoption of ASU No. 2014-09 during the periods indicated:

(dollars in thousands, except per share data)	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JUNE 25, 2017			JUNE 25, 2017		
	AS REPORTED	2014-09 IMPACT	AS RESTATED	AS REPORTED	2014-09 IMPACT	AS RESTATED
Revenues						
Restaurant sales						
Franchise and other revenues						
Total revenues						
Costs and expenses						
Other restaurant operating						
Income from operations						
Income before provision for income taxes						
Provision for income taxes						
Net income						
Net income attributable to Bloomin' Brands						
Basic earnings per share						
Diluted earnings per share						

The following table includes a restatement of the Company's Consolidated Balance Sheet as of December 31, 2017 for the retrospective adoption of ASU No. 2014-09:

(dollars in thousands)	DECEMBER 31, 2017		
	AS REPORTED	2014-09 IMPACT	AS RESTATED
ASSETS			
Deferred income tax assets, net			
Total assets			
LIABILITIES AND STOCKHOLDERS' EQUITY			
Unearned revenue			
Deferred gift card revenue			
Deferred loyalty revenue			
Deferred franchise fees - current			
Total Unearned revenue			
Total current liabilities			
Other long-term liabilities, net (1)			
Total liabilities			
Bloomin' Brands Stockholders' Equity			
Accumulated deficit			
Total Bloomin' Brands stockholders' equity			
Total stockholders' equity			
Total liabilities and stockholders' equity			

(1) Includes the non-current portion of deferred franchise fees.

See Note 2 - *Revenue Recognition* for required disclosures under ASU No. 2014-09.

BLOOMIN' BRANDS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) - Continued

Effective June 26, 2017, the Company adopted ASU No. 2016-18, "Statement of Cash Flows (Topic 230), Restricted Cash" ("ASU No. 2016-18"). ASU No. 2016-18 provides guidance on the presentation of restricted cash and restricted cash equivalents, which are now included with cash and cash equivalents when reconciling the beginning and ending cash amounts shown on the statements of cash flows. Using the retrospective transition method required under the standard, the Company has adjusted the presentation of its Condensed Consolidated Statements of Cash Flows for the period presented. The adoption of ASU No. 2016-18 did not have any other impact on the Company's Consolidated Financial Statements.

The following table provides additional details by financial statement line item of the restated presentation in the Company's Condensed Consolidated Statement of Cash Flows for the twenty-six weeks ended June 25, 2017:

	TWENTY-SIX WEEKS ENDED		
	JUNE 25, 2017		
(dollars in thousands)	AS REPORTED	2016-18 IMPACT	AS RESTATED
Cash flows used in investing activities:			
Decrease in restricted cash			
Increase in restricted cash			
Net cash used in investing activities			
Net decrease in cash, cash equivalents and restricted cash			
Cash, cash equivalents and restricted cash as of the beginning of the period			
Cash, cash equivalents and restricted cash as of the end of the period			

Recently Issued Financial Accounting Standards Not Yet Adopted - In February 2016, the Financial Accounting Standards Board ("FASB") issued ASU No. 2016-02: "Leases (Topic 842)" ("ASU No. 2016-02"). ASU No. 2016-02 requires the lease rights and obligations arising from lease contracts, including existing and new arrangements, to be recognized as assets and liabilities on the balance sheet. ASU No. 2016-02 is effective for the Company in 2019 and must be adopted using a modified retrospective approach. In preparation for adoption of ASU No. 2016-02, the Company has implemented a new lease accounting system. The Company is currently evaluating practical expedients and accounting policy elections, and assessing the overall financial statement impact. The Company expects the adoption of ASU No. 2016-02 to have a significant impact on its Consolidated Balance Sheets due to recognition of right-of-use assets and lease liabilities related to real estate and equipment under operating lease agreements, but will likely have an insignificant impact on its Consolidated Statement of Operations and Comprehensive Income. The Company's evaluation of ASU No. 2016-02 is ongoing and may identify additional impacts on its Consolidated Financial Statements and related disclosures.

In August 2017, the FASB issued ASU No. 2017-12, Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities ("ASU No. 2017-12") which provides guidance for reporting the economic results of hedging activities and to simplify the disclosures of risk exposures and hedging strategies. ASU No. 2017-12 will be effective for the Company in 2019, with early adoption permitted and is not expected to have a material impact on the Company's Consolidated Financial Statements and related disclosures.

Reclassifications - The Company reclassified certain items in the accompanying Consolidated Financial Statements for prior periods to be comparable with the classification for the current period.

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**
2. Revenue Recognition

The Company records food and beverage revenues, net of discounts and taxes, upon delivery to the customer. Franchise-related revenues are included in Franchise and other revenues in the Company's Consolidated Statements of Operations and Comprehensive (Loss) Income. Royalties, which are a percentage of net sales of the franchisee, are recognized as revenue in the period which the sales are reported to have occurred. The following table includes the categories of revenue included in the Company's Consolidated Statements of Operations and Comprehensive (Loss) Income for the periods indicated:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
		(Restated) (1)		(Restated) (1)
(dollars in thousands)				
Revenues				
Restaurant sales				
Franchise and other revenues:				
Franchise revenue				
Other revenue				
Total Franchise and other revenues				
Total revenues				

(1) See Note 1 - *Description of the Business and Basis of Presentation* for details of the impact of implementing ASU No. 2014-09.

The following table includes the disaggregation of Restaurant sales and Franchise revenue, by restaurant concept and major international market, for the periods indicated:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018		JULY 1, 2018	
	RESTAURANT SALES	FRANCHISE REVENUE	RESTAURANT SALES	FRANCHISE REVENUE
(dollars in thousands)				
U.S.				
Outback Steakhouse (1)				
Carrabba's Italian Grill (1)				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
Other				
U.S. Total				
International				
Outback Steakhouse-Brazil				
Other				
International Total				
Total				

BLOOMIN' BRANDS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) - Continued

	THIRTEEN WEEKS ENDED JUNE 25, 2017		TWENTY-SIX WEEKS ENDED JUNE 25, 2017	
	RESTAURANT SALES	FRANCHISE REVENUE	RESTAURANT SALES	FRANCHISE REVENUE
(dollars in thousands)				
U.S.				
Outback Steakhouse (1)				
Carrabba's Italian Grill (1)				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
U.S. Total				
International				
Outback Steakhouse-Brazil				
Other				
International Total				
Total				

- (1) In 2017, the Company sold 53 Outback Steakhouse restaurants and one Carrabba's Italian Grill restaurant, which are now operated as franchises.
(2) See Note 1 - *Description of the Business and Basis of Presentation* for details of the impact of implementing ASU No. 2014-09.

Gift Card Revenue - Proceeds from the sale of gift cards, which do not have expiration dates, are recorded as deferred revenue and recognized as revenue upon redemption by the customer. Gift cards sold at a discount are recorded as revenue upon redemption of the associated gift cards at an amount net of the related discount. Gift card breakage, the amount of gift cards which will not be redeemed, is recognized using estimates based on historical redemption patterns. If actual redemptions vary from the estimated breakage, gift card breakage income may differ from the amount recorded. The Company periodically updates its estimates used for breakage. Gift card sales that are accompanied by a bonus card to be used by the customer at a future visit result in a separate deferral of a portion of the original gift card sale. Revenue is recorded when the bonus card is redeemed at the estimated fair market value of the bonus card. Approximately 87% of the current deferred gift card revenue is expected to be recognized over the next 12 months.

Gift card sales commissions paid to third-party providers are initially capitalized and subsequently amortized to Other restaurant operating expenses based on historical gift card redemption patterns.

Advertising Fees - Advertising fees charged to franchisees are recognized as Franchise revenue in the Company's Consolidated Statements of Operations and Comprehensive (Loss) Income.

Franchise Fees - Initial franchise and renewal fees are recognized over the term of the franchise agreement and renewal period, respectively. The weighted average remaining term of franchise agreements and renewal periods was approximately 15 years as of July 1, 2018.

Loyalty Program - The Company maintains a customer loyalty program, Dine Rewards, in the U.S., where customers have the ability to earn a reward after a number of qualified visits. The Company has developed an estimated value of the partial reward earned from each qualified visit, which is recorded as deferred revenue. Each reward has a maximum value and must be redeemed within three months of earning such reward. The revenue associated with the fair value of the qualified visit is recognized upon the earlier of redemption or expiration of the reward. The Company applies the practical expedient to exclude disclosures regarding loyalty program remaining performance obligations which have original expected durations of one year or less.

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The following table includes a detail of assets and liabilities from contracts with customers included on the Company's Consolidated Balance Sheets as of the periods indicated:

(dollars in thousands)	JULY 1, 2018	DECEMBER 31, 2017
Other current assets, net		
Deferred gift card sales commissions		
Unearned revenue		
Deferred gift card revenue (1)		
Deferred loyalty revenue		
Deferred franchise fees - current (1)		
Total Unearned revenue		
Other long-term liabilities, net		
Deferred franchise fees - non-current (1)		

(1) See Note 1 - *Description of the Business and Basis of Presentation* for details of the impact of implementing ASU No. 2014-09 on the Company's Consolidated Balance Sheet as of December 31, 2017.

The following table is a rollforward of deferred gift card sales commissions for the periods indicated:

(dollars in thousands)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Balance, beginning of period				
Deferred gift card sales commissions amortization				
Deferred gift card sales commissions capitalization				
Other				
Balance, end of period				

The Company applies the portfolio approach practical expedient to account for gift card contracts and performance obligations. The following table is a rollforward of unearned gift card revenue for the periods indicated:

(dollars in thousands)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Balance, beginning of period				
Gift card sales				
Gift card redemptions				
Gift card breakage (1)				
Balance, end of period				

(1) See Note 1 - *Description of the Business and Basis of Presentation* for details of the impact of implementing ASU No. 2014-09 for the thirteen and twenty-six weeks ended June 25, 2017.

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**
3. Impairments and Exit Costs

The components of Provision for impaired assets and restaurant closings are as follows:

(dollars in thousands)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Impairment losses				
U.S.				
International				
Total impairment losses				
Restaurant closure expenses				
U.S.				
International				
Total restaurant closure expenses				
Provision for impaired assets and restaurant closings				

(dollars in thousands)	INCOME STATEMENT LOCATION	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
		JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Impairment, facility closure and other expenses (1)	Provision for impaired assets and restaurant closings				
Severance and other expenses	General and administrative				
Reversal of deferred rent liability	Other restaurant operating				
Total					

(1)

The remaining restaurant impairment and closing charges resulted primarily from the carrying value of a restaurant's assets exceeding its estimated fair market value, primarily due to locations identified for remodel, relocation or closure.

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

Projected Future Expenses and Cash Expenditures - The Company expects to incur additional charges for the Closure Initiatives through Q3 2019, including costs associated with lease obligations, employee terminations and other closure-related obligations. Following is a summary of remaining estimated pre-tax expense and future cash expenditures, by type, as of July 1, 2018:

<i>Estimated future expense (dollars in millions)</i>	CLOSURE INITIATIVES
Lease related liabilities, net of subleases	
Employee severance and other obligations	
Total estimated future expense	
Total estimated future cash expenditures (dollars in millions)	

Total future undiscounted cash expenditures for the Closure Initiatives, primarily related to lease liabilities, are expected to occur over the remaining lease terms with the final term ending in January 2029.

Accrued Facility Closure and Other Costs Rollforward - The following table summarizes the Company's accrual activity related to facility closure and other costs, primarily associated with the Closure Initiatives, during the twenty-six weeks ended July 1, 2018:

<i>(dollars in thousands)</i>	TWENTY-SIX WEEKS ENDED JULY 1, 2018
Balance, beginning of the period	
Charges	
Cash payments	
Adjustments	
Balance, end of the period (1)	

(1) [REDACTED]

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**
4. Earnings Per Share

The following table presents the computation of basic and diluted earnings per share:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)
(in thousands, except per share data)				
Net income attributable to Bloomin' Brands				
Basic weighted average common shares outstanding				
Effect of diluted securities:				
Stock options				
Nonvested restricted stock and restricted stock units				
Nonvested performance-based share units				
Diluted weighted average common shares outstanding				
Basic earnings per share				
Diluted earnings per share				

(1) See Note 1 - *Description of the Business and Basis of Presentation* for details of the Net income and Earnings per share impact of implementing ASU No. 2014-09.

Dilutive securities outstanding not included in the computation of earnings per share because their effect was antidilutive were as follows:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
(shares in thousands)				
Stock options				
Nonvested restricted stock and restricted stock units				
Nonvested performance-based share units				

5. Stock-based Compensation Plans

The Company recognized stock-based compensation expense as follows:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
(dollars in thousands)				
Stock options				
Restricted stock and restricted stock units				
Performance-based share units				

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The following table presents a summary of the Company's stock option activity:

(in thousands, except exercise price and contractual life)	OPTIONS	WEIGHTED-AVERAGE EXERCISE PRICE	WEIGHTED-AVERAGE REMAINING CONTRACTUAL LIFE (YEARS)	AGGREGATE INTRINSIC VALUE
Outstanding as of December 31, 2017				
Granted				
Exercised				
Forfeited or expired				
Outstanding as of July 1, 2018				
Exercisable as of July 1, 2018				

Assumptions used in the Black-Scholes option pricing model and the weighted-average fair value of option awards granted were as follows:

	TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017
Assumptions:		
Weighted-average risk-free interest rate (1)		
Dividend yield (2)		
Expected term (3)		
Weighted-average volatility (4)		
Weighted-average grant date fair value per option		

The following represents stock option compensation information for the periods indicated:

(dollars in thousands)	TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017
Intrinsic value of options exercised		
Excess tax benefits for tax deductions related to the exercise of stock options		
Cash received from option exercises, net of tax withholding		

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The following represents unrecognized stock compensation expense and the remaining weighted-average vesting period as of July 1, 2018:

	UNRECOGNIZED COMPENSATION EXPENSE (dollars in thousands)	REMAINING WEIGHTED- AVERAGE VESTING PERIOD (in years)
Stock options		
Restricted stock units		
Performance-based share units		

6. Other Current Assets, Net

Other current assets, net, consisted of the following:

(dollars in thousands)	JULY 1, 2018	DECEMBER 31, 2017
Prepaid expenses		
Accounts receivable - gift cards, net		
Accounts receivable - vendors, net		
Accounts receivable - franchisees, net		
Accounts receivable - other, net		
Deferred gift card sales commissions		
Assets held for sale		
Other current assets, net		

7. Accrued and Other Current Liabilities

Accrued and other current liabilities consisted of the following:

(dollars in thousands)	JULY 1, 2018	DECEMBER 31, 2017
Accrued payroll and other compensation		
Accrued insurance		
Other current liabilities		

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**
8. Long-term Debt, Net

Following is a summary of outstanding long-term debt:

(dollars in thousands)	JULY 1, 2018		DECEMBER 31, 2017	
	OUTSTANDING BALANCE	INTEREST RATE	OUTSTANDING BALANCE	INTEREST RATE
Senior Secured Credit Facility:				
Term loan A (1)				
Revolving credit facility (1)				
Total Senior Secured Credit Facility				
Financing obligations				
Capital lease obligations				
Other notes payable				
Less: unamortized debt discount and issuance costs				
Total debt, net				
Less: current portion of long-term debt				
Long-term debt, net				

(1) Represents the weighted-average interest rate for the respective period.

9. Stockholders' Equity

	NUMBER OF SHARES (in thousands)	AVERAGE REPURCHASE PRICE PER SHARE	AMOUNT (dollars in thousands)
First fiscal quarter			
Second fiscal quarter			
Total common stock repurchases			

Dividends - The Company declared and paid dividends per share during fiscal year 2018 as follows:

	DIVIDENDS PER SHARE	AMOUNT (dollars in thousands)
First fiscal quarter		
Second fiscal quarter		
Total cash dividends declared and paid		

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

Accumulated Other Comprehensive Loss - Following are the components of Accumulated other comprehensive loss:

(dollars in thousands)	JULY 1, 2018	DECEMBER 31, 2017
Foreign currency translation adjustment		
Unrealized gains (losses) on derivatives, net of tax		
Accumulated other comprehensive loss		

Following are the components of the Company's Other comprehensive (loss) income during the periods presented:

(dollars in thousands)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Foreign currency translation adjustment				
Unrealized gain (loss) on derivatives, net of tax (1)				
Reclassification of adjustment for loss on derivatives included in Net income, net of tax (2)				
Total unrealized gain on derivatives, net of tax				
Other comprehensive (loss) income attributable to Bloomin' Brands				

10. Derivative Instruments and Hedging Activities

The following table presents the fair value and classification of the Company's interest rate swaps:

(dollars in thousands)	JULY 1, 2018	DECEMBER 31, 2017	CONSOLIDATED BALANCE SHEET CLASSIFICATION
Interest rate swaps - asset			
Interest rate swaps - liability			
Total fair value of derivative instruments - assets (1)			
Interest rate swaps - liability (1)			

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The following table summarizes the effects of the interest rate swaps on Net income for the periods indicated:

(dollars in thousands)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Interest rate swap expense recognized in Interest expense, net (1)				
Income tax benefit recognized in Provision for income taxes				
Total effects of the interest rate swaps on Net income				

11. Fair Value Measurements

Fair value is the price that would be received for an asset or paid to transfer a liability, or the exit price, in an orderly transaction between market participants on the measurement date. Fair value is categorized into one of the following three levels based on the lowest level of significant input:

Level 1	Unadjusted quoted market prices in active markets for identical assets or liabilities
Level 2	Observable inputs available at measurement date other than quoted prices included in Level 1
Level 3	Unobservable inputs that cannot be corroborated by observable market data

Fair Value Measurements on a Recurring Basis - The following table summarizes the Company's financial assets and liabilities measured at fair value by hierarchy level on a recurring basis as of the dates indicated:

(dollars in thousands)	JULY 1, 2018			DECEMBER 31, 2017		
	TOTAL	LEVEL 1	LEVEL 2	TOTAL	LEVEL 1	LEVEL 2
Assets:						
Cash equivalents:						
Fixed income funds						
Money market funds						
Restricted cash equivalents:						
Money market funds						
Other current assets, net						
Derivative instruments - interest rate swaps						
Other assets, net:						
Derivative instruments - interest rate swaps						
Total asset recurring fair value measurements						
Liabilities:						
Accrued and other current liabilities:						
Derivative instruments - interest rate swaps						
Total liability recurring fair value measurements						

BLOOMIN' BRANDS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued

Fair value of each class of financial instrument is determined based on the following:

FINANCIAL INSTRUMENT	METHODS AND ASSUMPTIONS
Fixed income funds and Money market funds	Carrying value approximates fair value because maturities are less than three months.
Derivative instruments	The Company's derivative instruments include interest rate swaps. Fair value measurements are based on the contractual terms of the derivatives and use observable market-based inputs. The interest rate swaps are valued using a discounted cash flow analysis on the expected cash flows of each derivative using observable inputs including interest rate curves and credit spreads. The Company also considers its own nonperformance risk and the respective counterparty's nonperformance risk when performing fair value measurements. As of July 1, 2018 and December 31, 2017, the Company has determined that the credit valuation adjustments are not significant to the overall valuation of its derivatives.

Fair Value Measurements on a Nonrecurring Basis - Assets and liabilities that are measured at fair value on a nonrecurring basis relate primarily to property, fixtures and equipment, goodwill and other intangible assets, which are remeasured when carrying value exceeds fair value. The following table summarizes the Company's assets measured at fair value by hierarchy level on a nonrecurring basis:

[illegible]

(1) Carrying value approximates fair value with all assets measured using third-party market appraisals or purchase contracts (Level 2).

Interim Disclosures about Fair Value of Financial Instruments - The Company's non-derivative financial instruments consist of cash equivalents, restricted cash, accounts receivable, accounts payable and current and long-term debt. The fair values of cash equivalents, restricted cash, accounts receivable and accounts payable approximate their carrying amounts reported in the Consolidated Balance Sheets due to their short duration.

Debt is carried at amortized cost; however, the Company estimates the fair value of debt for disclosure purposes. The following table includes the carrying value and fair value of the Company's debt by hierarchy level as of the dates indicated:

	JULY 1, 2018			DECEMBER 31, 2017		
	CARRYING	FAIR VALUE		CARRYING	FAIR VALUE	
(dollars in thousands)	VALUE	LEVEL 2	LEVEL 3	VALUE	LEVEL 2	LEVEL 3
Senior Secured Credit Facility:						
Term loan A						
Revolving credit facility						
Other notes payable						

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

Fair value of debt is determined based on the following:

DEBT FACILITY	METHODS AND ASSUMPTIONS
Senior Secured Credit Facility	Quoted market prices in inactive markets.
Other notes payable	Discounted cash flow approach with inputs that primarily include cost of debt interest rates used to determine fair value.

12. Income Taxes

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Effective income tax rate				

The effective income tax rate for the thirteen and twenty-six weeks ended July 1, 2018 decreased by 31.4 and 23.3 percentage points as compared to the thirteen and twenty-six weeks ended June 25, 2017, respectively. The decrease is primarily due to the reduction in the U.S. federal corporate tax rate from 35% to 21% as part of the legislation enacted in December 2017 known as the Tax Cuts and Jobs Act (the "Tax Act"), lower forecasted pre-tax income and excess tax benefits from equity-based compensation arrangements recorded in 2018, partially offset by a domestic manufacturing deduction recorded in 2017.

The Company has a blended federal and state statutory rate of approximately 26%. The effective income tax rate for the thirteen and twenty-six weeks ended July 1, 2018 was lower than the statutory rate primarily due to the benefit of tax credits for FICA taxes on certain employees' tips and excess tax benefits from equity-based compensation arrangements.

The Company has applied guidance under SEC Staff Accounting Bulletin No. 118 which allows for a measurement period up to one year after the December 22, 2017 enactment date of the Tax Act to complete the accounting requirements. As of July 1, 2018, the Company made reasonable estimates of the effects of the Tax Act but has not completed its accounting for all tax effects. A provisional \$7.5 million net tax expense was recorded during 2017. With the exception of the retrospective adjustment for the January 2018 adoption of ASU No. 2014-09, no adjustments were made to these provisional amounts during the twenty-six weeks ended July 1, 2018. The Company is continuing to gather information and additional guidance is expected from the U.S. Treasury and state taxing authorities on the application of certain provisions of the Tax Act and will continue to make and refine its calculations as additional analysis is completed. The Company's estimates may also be affected as it gains a more thorough understanding of the tax law. These changes could be material to income tax expense. The Company expects to complete its analysis within the year measurement period.

BLOOMIN' BRANDS, INC.**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

In connection with its analysis of the impact of the Tax Act, the Company recorded a provisional net tax expense of \$7.5 million in December 2017, as described in the following table:

	FISCAL YEAR
(dollars in thousands)	2017
Transition Tax (provisional)	
Net impact on U.S. deferred tax assets and liabilities (provisional) (1)	
Net changes in deferred tax liability associated with anticipated repatriation taxes (provisional)	
Impact from the adoption of ASU No. 2014-09 (provisional)	

Items considered provisional include:

Reduction of U.S. Federal Corporate Income Tax Rate - The Tax Act reduced the corporate income tax rate to 21%, effective January 1, 2018. While the Company is able to make a reasonable estimate of the impact of the reduction in corporate rate on its deferred tax assets and liabilities, it may be affected by other analyses related to the Tax Act, including, but not limited to, its calculation of deemed repatriation of deferred foreign income and the state tax effect of adjustments made to federal temporary differences.

Deemed Repatriation Transition Tax - The Deemed Repatriation Transition Tax ("Transition Tax") is a tax on previously untaxed accumulated and current earnings and profits ("E&P") of the Company's foreign subsidiaries. To determine the amount of the Transition Tax, the Company must determine, in addition to other factors, the amount of post-1986 E&P of the relevant subsidiaries, as well as the amount of non-U.S. income taxes paid on such earnings. The Company is able to make a reasonable estimate of the Transition Tax and recorded a provisional amount. Due to the ability to utilize foreign tax credits in the calculation of the Transition Tax, the obligation primarily related to the estimated state impacts. However, the Company is continuing to gather additional information. Additional guidance from the U.S. Treasury and state taxing authorities on the application of certain provisions of the Tax Act is expected in the future.

Valuation Allowances - The Company must assess whether its valuation allowance analyses or deferred tax assets are affected by various aspects of the Tax Act (e.g., deemed repatriation of deferred foreign income, global intangible low-taxed income ("GILTI") inclusions and new categories of foreign tax credits). While the Company did record an additional valuation allowance against foreign tax credit carryforwards, the Company has recorded provisional amounts related to certain portions of the Tax Act and any corresponding determination of the need for a change in a valuation allowance is also provisional.

For tax years beginning after December 31, 2017, the Tax Act subjects a U.S. shareholder to tax on GILTI earned by certain foreign subsidiaries. The FASB Staff Q&A, Topic 740, No. 5, Accounting for Global Intangible Low-Taxed Income, states that an entity can make an accounting policy election to either recognize deferred taxes for temporary basis differences expected to reverse as GILTI in future years or provide for the tax expense related to GILTI in the year the tax is incurred. As of July 1, 2018, the Company has not yet determined its accounting policy with regard to GILTI, and does not expect GILTI in 2018.

13. Commitments and Contingencies

BLOOMIN' BRANDS, INC.
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The Company is subject to legal proceedings, claims and liabilities, such as liquor liability, slip and fall cases, wage-and-hour and other employment-related litigation, which arise in the ordinary course of business and are generally covered by insurance if they exceed specified retention or deductible amounts. In the opinion of management, the amount of ultimate liability with respect to those actions will not have a material adverse impact on the Company's financial position or results of operations and cash flows.

14. Segment Reporting

The Company has two reportable segments, U.S. and International, which reflects how the Company manages its business, reviews operating performance and allocates resources. The U.S. segment includes all brands operating in the U.S. while brands operating outside the U.S. are included in the International segment. Resources are allocated and performance is assessed by the Company's Chief Executive Officer ("CEO"), whom the Company has determined to be its Chief Operating Decision Maker ("CODM"). Following is a summary of reporting segments:

SEGMENT (1)	CONCEPT	GEOGRAPHIC LOCATION
U.S.	Outback Steakhouse Carrabba's Italian Grill Bonefish Grill Fleming's Prime Steakhouse & Wine Bar	United States of America
International	Outback Steakhouse Carrabba's Italian Grill (Abbraccio)	Brazil, Hong Kong, China Brazil

(1) Includes franchise locations.

Segment accounting policies are the same as those described in Note 2 - *Summary of Significant Accounting Policies* in the Company's Annual Report on Form 10-K for the year ended December 31, 2017. Revenues for all segments include only transactions with customers and exclude intersegment revenues. Excluded from net income from operations for U.S. and International are certain legal and corporate costs not directly related to the performance of the segments, stock-based compensation expenses and certain bonus expenses.

The following table is a summary of Total revenue by segment:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)
(dollars in thousands)				
Total revenues				
U.S.				
International				
Total revenues				

(1) See Note 1 - *Description of the Business and Basis of Presentation* for details of the impact of implementing ASU No. 2014-09.

BLOOMIN' BRANDS, INC.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED) - Continued**

The following table is a reconciliation of Segment income (loss) from operations to Income before (benefit) provision for income taxes:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)
(dollars in thousands)				
Segment income (loss) from operations				
U.S.				
International				
Total segment income from operations				
Unallocated corporate operating expense				
Total income from operations				
Loss on extinguishment and modification of debt				
Other (expense) income, net				
Interest expense, net				
Income before (benefit) provision for income taxes				

(1) See Note 1 - *Description of the Business and Basis of Presentation* for details of the impact of implementing ASU No. 2014-09.

The following table is a summary of Depreciation and amortization expense by segment:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
(dollars in thousands)				
Depreciation and amortization				
U.S.				
International				
Corporate				
Total depreciation and amortization				

Geographic Areas — International assets are defined as assets residing in a country other than the U.S. The following table details long-lived assets, excluding goodwill, intangible assets and deferred tax assets, by major geographic area:

	JULY 1, 2018	DECEMBER 31, 2017
(dollars in thousands)		
U.S.		
International		
Brazil		
Other		
Total assets		

BLOOMIN' BRANDS, INC.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Management's discussion and analysis of financial condition and results of operations should be read in conjunction with our unaudited consolidated financial statements and the related notes. Unless the context otherwise indicates, as used in this report, the term the "Company," "we," "us," "our" and other similar terms mean Bloomin' Brands, Inc. and its subsidiaries.

Cautionary Statement

This Quarterly Report on Form 10-Q (the "Report") includes statements that express our opinions, expectations, beliefs, plans, objectives, assumptions or projections regarding future events or future results and therefore are, or may be deemed to be, "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements can generally be identified by the use of forward-looking terminology, including the terms "believes," "estimates," "anticipates," "expects," "feels," "seeks," "forecasts," "projects," "intends," "plans," "may," "will," "should," "could" or "would" or, in each case, their negative or other variations or comparable terminology, although not all forward-looking statements are accompanied by such terms. These forward-looking statements include all matters that are not historical facts. They appear in a number of places throughout this Report and include statements regarding our intentions, beliefs or current expectations concerning, among other things, our results of operations, financial condition, liquidity, prospects, growth, strategies and the industry in which we operate.

By their nature, forward-looking statements involve risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. Although we base these forward-looking statements on assumptions that we believe are reasonable when made, we caution you that forward-looking statements are not guarantees of future performance and that our actual results of operations, financial condition and liquidity, and industry developments may differ materially from statements made in or suggested by the forward-looking statements contained in this Report. In addition, even if our results of operations, financial condition and liquidity, and industry developments are consistent with the forward-looking statements contained in this Report, those results or developments may not be indicative of results or developments in subsequent periods. Important factors that could cause actual results to differ materially from statements made or suggested by forward-looking statements include, but are not limited to, the following:

- (i) Consumer reactions to public health and food safety issues;
- (ii) Our ability to compete in the highly competitive restaurant industry with many well-established competitors and new market entrants;
- (iii) Minimum wage increases and additional mandated employee benefits;
- (iv) Economic conditions and their effects on consumer confidence and discretionary spending, consumer traffic, the cost and availability of credit and interest rates;
- (v) Fluctuations in the price and availability of commodities;
- (vi) Our ability to effectively respond to changes in patterns of consumer traffic, consumer tastes and dietary habits;
- (vii) Our ability to comply with governmental laws and regulations, the costs of compliance with such laws and regulations and the effects of changes to applicable laws and regulations, including tax laws and unanticipated liabilities;

BLOOMIN' BRANDS, INC.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

- (viii) Our ability to implement our expansion, remodeling and relocation plans due to uncertainty in locating and acquiring attractive sites on acceptable terms, obtaining required permits and approvals, recruiting and training necessary personnel, obtaining adequate financing and estimating the performance of newly opened, remodeled or relocated restaurants;
- (ix) Our ability to protect our information technology systems from interruption or security breach, including cyber security threats, and to protect consumer data and personal employee information;
- (x) The effects of international economic, political and social conditions and legal systems on our foreign operations and on foreign currency exchange rates;
- (xi) Our ability to preserve and grow the reputation and value of our brands, particularly in light of changes in consumer engagement with social media platforms;
- (xii) Any impairment in the carrying value of our goodwill or other intangible or long-lived assets and its effect on our financial condition and results of operations;
- (xiii) Strategic actions, including acquisitions and dispositions, and our success in implementing these initiatives or integrating any acquired or newly created businesses;
- (xiv) Seasonal and periodic fluctuations in our results and the effects of significant adverse weather conditions and other disasters or unforeseen events;
- (xv) The effects of our substantial leverage and restrictive covenants in our various credit facilities on our ability to raise additional capital to fund our operations, to make capital expenditures to invest in new or renovate restaurants and to react to changes in the economy or our industry, and our exposure to interest rate risk in connection with our variable-rate debt;
- (xvi) The adequacy of our cash flow and earnings and other conditions which may affect our ability to pay dividends and repurchase shares of our common stock; and
- (xvii) Such other factors as discussed in Part I, Item 1A. Risk Factors of our Annual Report on Form 10-K for the year ended December 31, 2017.

In light of these risks and uncertainties, we caution you not to place undue reliance on these forward-looking statements. Any forward-looking statement that we make in this Report speaks only as of the date of such statement, and we undertake no obligation to update any forward-looking statement or to publicly announce the results of any revision to any of those statements to reflect future events or developments. Comparisons of results for current and any prior periods are not intended to express any future trends or indications of future performance, unless specifically expressed as such, and should only be viewed as historical data.

BLOOMIN' BRANDS, INC.

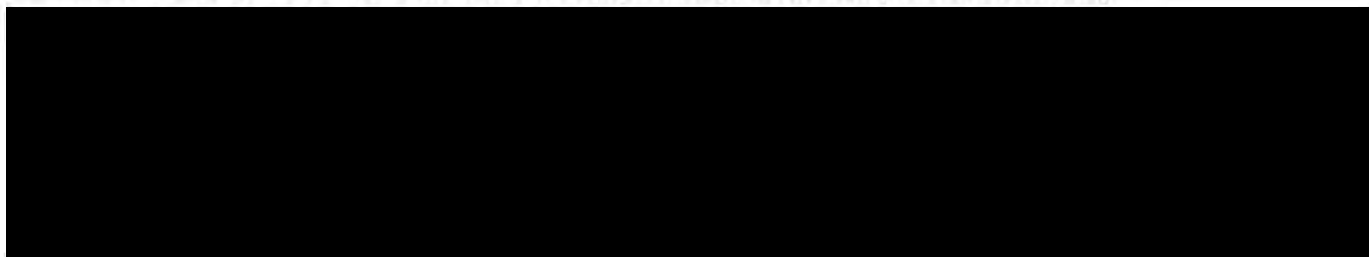
**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

Overview

We are one of the largest casual dining restaurant companies in the world with a portfolio of leading, differentiated restaurant concepts. As of July 1, 2018, we owned and operated 1,197 restaurants and franchised 293 restaurants across 48 states, Puerto Rico, Guam and 19 countries. We have four founder-inspired concepts: Outback Steakhouse, Carrabba's Italian Grill, Bonefish Grill and Fleming's Prime Steakhouse & Wine Bar.

Executive Summary

Our financial results for the thirteen weeks ended July 1, 2018 ("second quarter of 2018") include the following:



Impact of Political Unrest in Brazil

Recently, there has been a growing level of unrest in Brazil ahead of the upcoming presidential election, including a truckers strike during the second quarter of 2018 that resulted in lost operating days for many businesses, including our restaurants. We believe consumer confidence will resume the upward trend it has been on for the last few years following the October presidential election as we move into 2019.

Key Performance Indicators

Key measures that we use in evaluating our restaurants and assessing our business include the following:

- *Average restaurant unit volumes*—average sales (excluding gift card breakage) per restaurant to measure changes in customer traffic, pricing and development of the brand;
- *Comparable restaurant sales*—year-over-year comparison of sales volumes (excluding gift card breakage) for Company-owned restaurants that are open 18 months or more in order to remove the impact of new restaurant openings in comparing the operations of existing restaurants;
- *System-wide sales*—total restaurant sales volume for all Company-owned and franchise restaurants, regardless of ownership, to interpret the overall health of our brands;
- *Restaurant-level operating margin, Income from operations, Net income and Diluted earnings per share* — financial measures utilized to evaluate our operating performance.

Restaurant-level operating margin is widely regarded in the industry as a useful metric to evaluate restaurant level operating efficiency and performance of ongoing restaurant-level operations, and we use it for these purposes, overall and particularly within our two segments. Our restaurant-level operating margin is expressed

BLOOMIN' BRANDS, INC.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

as the percentage of our Restaurant sales that Cost of sales, Labor and other related and Other restaurant operating (including advertising expenses) represent, in each case as such items are reflected in our Consolidated Statement of Operations. The following categories of our revenue and operating expenses are not included in restaurant-level operating margin because we do not consider them reflective of operating performance at the restaurant-level within a period:

- (i) Franchise and other revenues which are earned primarily from franchise royalties and other non-food and beverage revenue streams, such as rental and sublease income.
- (ii) Depreciation and amortization which, although substantially all of which is related to restaurant-level assets, represent historical sunk costs rather than cash outlays for the restaurants.
- (iii) General and administrative expense which includes primarily non-restaurant-level costs associated with support of the restaurants and other activities at our corporate offices.
- (iv) Asset impairment charges and restaurant closing costs which are not reflective of ongoing restaurant performance in a period.

Restaurant-level operating margin excludes various expenses, as discussed above, that are essential to support the operations of our restaurants and may materially impact our Consolidated Statement of Operations. As a result, restaurant-level operating margin is not indicative of our consolidated results of operations and is presented exclusively as a supplement to, and not a substitute for, net income or income from operations. In addition, our presentation of restaurant operating margin may not be comparable to similarly titled measures used by other companies in our industry;

- *Adjusted restaurant-level operating margin, Adjusted income from operations, Adjusted net income and Adjusted diluted earnings per share*—non-GAAP financial measures utilized to evaluate our operating performance.

We believe that our use of non-GAAP financial measures permits investors to assess the operating performance of our business relative to our performance based on U.S. GAAP results and relative to other companies within the restaurant industry by isolating the effects of certain items that may vary from period to period without correlation to core operating performance or that vary widely among similar companies. However, our inclusion of these adjusted measures should not be construed as an indication that our future results will be unaffected by unusual or infrequent items or that the items for which we have made adjustments are unusual or infrequent or will not recur. We believe that the disclosure of these non-GAAP measures is useful to investors as they form part of the basis for how our management team and Board of Directors evaluate our operating performance, allocate resources and administer employee incentive plans; and

- *Customer satisfaction scores*—measurement of our customers' experiences in a variety of key areas.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Selected Operating Data

The table below presents the number of our restaurants in operation at the end of the periods indicated:

Number of restaurants (at end of the period):	JULY 1, 2018	JUNE 25, 2017
U.S.		
Outback Steakhouse		
Company-owned		
Franchised		
Total		
Carrabba's Italian Grill		
Company-owned		
Franchised		
Total		
Bonefish Grill		
Company-owned		
Franchised		
Total		
Fleming's Prime Steakhouse & Wine Bar		
Company-owned		
Express		
Company-owned		
U.S. Total		
International		
Company-owned		
Outback Steakhouse - Brazil (1)		
Other		
Franchised		
Outback Steakhouse - South Korea		
Other		
International Total		
System-wide total		

(1) The restaurant counts for Brazil are reported as of May 31, 2018 and 2017, respectively, to correspond with the balance sheet dates of this subsidiary.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Results of Operations

The following table sets forth, for the periods indicated, the percentages of certain items in our Consolidated Statements of Operations in relation to Total revenues or Restaurant sales, as indicated:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Revenues				
Restaurant sales				
Franchise and other revenues				
Total revenues				
Costs and expenses				
Cost of sales (1)				
Labor and other related (1)				
Other restaurant operating (1)				
Depreciation and amortization				
General and administrative				
Provision for impaired assets and restaurant closings				
Total costs and expenses				
Income from operations				
Loss on extinguishment and modification of debt				
Other (expense) income, net				
Interest expense, net				
Income before (benefit) provision for income taxes				
(Benefit) provision for income taxes				
Net income				
Less: net income attributable to noncontrolling interests				
Net income attributable to Bloomin' Brands				

RESTAURANT SALES

Following is a summary of the change in Restaurant sales for the thirteen and twenty-six weeks ended July 1, 2018:

(dollars in millions)		THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
For the periods ended June 25, 2017 (1)					
Change from:					
Divestiture of restaurants through refranchising transactions					
Effect of foreign currency translation					
Restaurant closings					
Restaurant openings (2)					
Comparable restaurant sales (2)					
For the periods ended July 1, 2018					

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

The decrease in Restaurant sales in the thirteen weeks ended July 1, 2018 was primarily attributable to: (i) domestic refranchising, (ii) the effect of foreign currency translation primarily due to the depreciation of the Brazil Real and (iii) the closing of 21 restaurants since March 26, 2017. The decrease in restaurant sales was partially offset by the opening of 40 new restaurants not included in our comparable restaurant sales base and higher U.S. comparable restaurant sales.

The decrease in Restaurant sales in the twenty-six weeks ended July 1, 2018 was primarily attributable to: (i) domestic refranchising, (ii) the closing of 58 restaurants since December 25, 2016, (iii) the one-week shift in the fiscal calendar and (iv) the effect of foreign currency translation primarily due to the depreciation of the Brazil Real. The decrease in restaurant sales was partially offset by the opening of 47 new restaurants not included in our comparable restaurant sales base and higher U.S. comparable restaurant sales.

The twenty-six weeks ended June 25, 2017 included several high-volume days between December 26th and December 31st and the twenty-six weeks ended July 1, 2018 excluded these high-volume days. This shift had an approximate \$19.0 million negative impact on Restaurant sales in 2018.

Average Restaurant Unit Volumes and Operating Weeks

Following is a summary of the average restaurant unit volumes and operating weeks:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
		(Restated) (1)		(Restated) (1)
Average restaurant unit volumes:				
U.S.				
Outback Steakhouse				
Carrabba's Italian Grill				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
International				
Outback Steakhouse - Brazil (2)				
Operating weeks:				
U.S.				
Outback Steakhouse				
Carrabba's Italian Grill				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
International				
Outback Steakhouse - Brazil				

- (1) Activity has been restated for the retrospective adoption of ASU No. 2014-09. See Note 1 - *Description of the Business and Basis of Presentation* of the Notes to Consolidated Financial Statements for details regarding the impact of implementing ASU No. 2014-09.
- (2) Translated at an average exchange rate of 3.43 and 3.16 for the thirteen weeks ended July 1, 2018 and June 25, 2017, respectively, and 3.34 and 3.19 for the twenty-six weeks ended July 1, 2018 and June 25, 2017, respectively.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Comparable Restaurant Sales, Traffic and Average Check Per Person Increases

Following is a summary of comparable restaurant sales, traffic and average check per person increases:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018 (1)	JUNE 25, 2017	JULY 1, 2018 (1)(2)	JUNE 25, 2017
Year over year percentage change:				
Comparable restaurant sales (stores open 18 months or more) (3):				
U.S.				
Outback Steakhouse				
Carrabba's Italian Grill				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
Combined U.S.				
International				
Outback Steakhouse - Brazil (4)				
Traffic:				
U.S.				
Outback Steakhouse				
Carrabba's Italian Grill				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
Combined U.S.				
International				
Outback Steakhouse - Brazil				
Average check per person increases (5):				
U.S.				
Outback Steakhouse				
Carrabba's Italian Grill				
Bonefish Grill				
Fleming's Prime Steakhouse & Wine Bar				
Combined U.S.				
International				
Outback Steakhouse - Brazil				

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Franchise and other revenues

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
(dollars in millions)		(Restated) (1)		(Restated) (1)
Franchise revenues (2)				
Other revenues				
Franchise and other revenues				

COSTS AND EXPENSES

Cost of sales

	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
(dollars in millions)						
Cost of sales						
% of Restaurant sales						

Cost of sales increased as a percentage of Restaurant sales in the thirteen weeks ended July 1, 2018 as compared to the thirteen weeks ended June 25, 2017 primarily due to 1.0% for commodity cost inflation. The increase was partially offset primarily by decreases as a percentage of Restaurant sales of 0.6% for changes in average check per person and 0.2% from the impact of certain cost saving initiatives.

Cost of sales increased as a percentage of Restaurant sales in the twenty-six weeks ended July 1, 2018 as compared to the twenty-six weeks ended June 25, 2017 primarily due to 0.9% for commodity cost inflation. The increase was offset primarily by decreases as a percentage of Restaurant sales of 0.7% for changes in average check per person and 0.2% from the impact of certain cost saving initiatives.

Labor and other related expenses

	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
(dollars in millions)						
Labor and other related						
% of Restaurant sales						

Labor and other related expenses increased as a percentage of Restaurant sales in the thirteen weeks ended July 1, 2018 as compared to the thirteen weeks ended June 25, 2017 primarily due to 0.8% from higher labor costs from wage rate increases and 0.3% from favorable resolution of certain legal contingencies in 2017. These increases were partially offset by decreases as a percentage of Restaurant sales of 0.3% from increases in average check per person and 0.3% from the impact of certain cost saving initiatives.

Labor and other related expenses increased as a percentage of Restaurant sales in the twenty-six weeks ended July 1, 2018 as compared to the twenty-six weeks ended June 25, 2017 primarily due to 0.9% from higher labor costs from wage rate increases. The increase was partially offset by decreases as a percentage of Restaurant sales of 0.4% from increases in average check per person and 0.3% from the impact of certain cost saving initiatives.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Other restaurant operating expenses

	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
(dollars in millions)		(Restated) (1)			(Restated) (1)	
Other restaurant operating						
% of Restaurant sales						

(1) See Note 1 of the Notes to Consolidated Financial Statements for details of the impact of implementing ASU No. 2014-09.

Other restaurant operating expenses decreased as a percentage of Restaurant sales in the thirteen weeks ended July 1, 2018 as compared to the thirteen weeks ended June 25, 2017 primarily due to: (i) 0.5% from decreases in advertising expense, (ii) 0.3% from the impact of certain cost saving initiatives and (iii) 0.2% from increases in average check per person. These decreases were partially offset by increases as a percentage of Restaurant sales of 0.2% from operating expense inflation.

Other restaurant operating expenses increased as a percentage of Restaurant sales in the twenty-six weeks ended July 1, 2018 as compared to the twenty-six weeks ended June 25, 2017 primarily due to 0.3% from operating expense inflation and 0.3% from the impact of the write-off of deferred rent liabilities in 2017. These increases were partially offset by decreases as a percentage of Restaurant sales of 0.3% from the impact of certain cost saving initiatives and 0.2% from decreases in advertising expense.

Depreciation and amortization

	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
(dollars in millions)						
Depreciation and amortization						

Depreciation and amortization expense increased in the thirteen and twenty-six weeks ended July 1, 2018 as compared to the thirteen and twenty-six weeks ended June 25, 2017 primarily due to additional depreciation expense related to restaurant openings and renovations, and technology projects, partially offset by the impact of domestic refranchising.

General and administrative

General and administrative expense includes salaries and benefits, management incentive programs, related payroll tax and benefits, other employee-related costs and professional services. Following is a summary of the change in general and administrative expense for the thirteen and twenty-six weeks ended July 1, 2018:

	THIRTEEN WEEKS ENDED	TWENTY-SIX WEEKS ENDED
(dollars in millions)		
For the periods ended June 25, 2017		
Change from:		
Incentive compensation		
Compensation, benefits and payroll tax		
Computer expense		
Severance		
Other		
For the periods ended July 1, 2018		

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Provision for impaired assets and restaurant closings

(dollars in millions)	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
Provision for impaired assets and restaurant closings						

During the thirteen and twenty-six weeks ended July 1, 2018, we recognized asset impairment and closure charges of \$6.9 million and \$9.2 million, respectively, related to the restructuring of certain international markets, including China.

The remaining restaurant impairment and closing charges resulted primarily from the carrying value of a restaurant's assets exceeding its estimated fair market value, primarily due to locations identified for remodel, relocation or closure.

See Note 3 - *Impairments and Exit Costs* of the Notes to Consolidated Financial Statements for further information.

Income from operations

(dollars in millions)	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	Change	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	Change
Income from operations						
% of Total revenues						

(1) See Note 1 of the Notes to Consolidated Financial Statements for details of the impact of implementing ASU No. 2014-09.

The decrease in income from operations generated in the thirteen weeks ended July 1, 2018 as compared to the thirteen weeks ended June 25, 2017 was primarily due to: (i) higher impairment charges and restaurant closing costs, primarily associated with international restructuring, (ii) higher labor costs from wage inflation, (iii) higher commodity costs and (iv) lower sales in Brazil. These decreases were partially offset by increases primarily due to: (i) increases in average check per person, (ii) the impact of certain cost saving initiatives and (iii) decreases in advertising expense.

The decrease in income from operations generated in the twenty-six weeks ended July 1, 2018 as compared to the twenty-six weeks ended June 25, 2017 was primarily due to: (i) higher labor costs from wage inflation, (ii) higher commodity costs and (iii) operating expense inflation. These decreases were partially offset by increases primarily due to: (i) increases in average check per person, (ii) the impact of certain cost saving initiatives, (iii) lower impairment charges and restaurant closing costs, primarily related to the Closure Initiatives in 2017 and (iv) increases in franchise and other revenues.

Other (expense) income, net

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Interest expense, net

(dollars in millions)	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
Interest expense, net						

The change in Interest expense, net primarily includes increases related to: (i) additional draws on our revolving credit facility, (ii) our May 2017 incremental term loan borrowing and (iii) higher interest rates. These increases were partially offset by: (i) lower interest from our derivative instruments and (ii) repayment of our PRP mortgage loan.

(Benefit) provision for income taxes

	THIRTEEN WEEKS ENDED			TWENTY-SIX WEEKS ENDED		
	JULY 1, 2018	JUNE 25, 2017	Change	JULY 1, 2018	JUNE 25, 2017	Change
Effective income tax rate						

The effective income tax rate for the thirteen and twenty-six weeks ended July 1, 2018 decreased primarily due to the reduction in the U.S. federal corporate tax rate from 35% to 21% as part of the Tax Act, lower forecasted pre-tax income and excess tax benefits from equity-based compensation arrangements recorded in 2018, partially offset by a domestic manufacturing deduction recorded in 2017.

SEGMENT PERFORMANCE

We have two reportable segments, U.S. and International, which reflects how we manage our business, review operating performance and allocate resources. The U.S. segment includes all brands operating in the U.S. while brands operating outside the U.S. are included in the International segment. Resources are allocated and performance is assessed by our CEO, whom we have determined to be our CODM. Following is a summary of reporting segments:

SEGMENT (1)	CONCEPT	GEOGRAPHIC LOCATION
U.S.	Outback Steakhouse Carrabba's Italian Grill Bonefish Grill Fleming's Prime Steakhouse & Wine Bar	United States of America
International	Outback Steakhouse Carrabba's Italian Grill (Abbraccio)	Brazil, Hong Kong, China Brazil

(1) Includes franchise locations.

Revenues for both segments include only transactions with customers and exclude intersegment revenues. Excluded from net income from operations for U.S. and International are legal and certain corporate costs not directly related to the performance of the segments, certain stock-based compensation expenses and certain bonus expenses.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Following is a reconciliation of segment income (loss) from operations to the consolidated operating results:

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)
(dollars in thousands)				
Segment income (loss) from operations				
U.S.				
International				
Total segment income from operations				
Unallocated corporate operating expense				
Total income from operations				
Loss on extinguishment and modification of debt				
Other (expense) income, net				
Interest expense, net				
Income before (benefit) provision for income taxes				

(1) See Note 1 of the Notes to Consolidated Financial Statements for details of the impact of implementing ASU No. 2014-09.

Restaurant-level operating margin is widely regarded in the industry as a useful metric to evaluate restaurant-level operating efficiency and performance of ongoing restaurant-level operations, and we use it for these purposes, overall and particularly within our two segments. See the *Overview-Key Performance Indicators* section of Management's Discussion and Analysis for additional details regarding the calculation of restaurant-level operating margin.

U.S. Segment

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)
(dollars in thousands)				
Revenues				
Restaurant sales				
Franchise and other revenues				
Total revenues				
Restaurant-level operating margin				
Income from operations				
Operating income margin				

(1) See Note 1 of the Notes to Consolidated Financial Statements for details of the impact of implementing ASU No. 2014-09.

BLOOMIN' BRANDS, INC.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

Restaurant sales

Following is a summary of the change in U.S. segment Restaurant sales for the thirteen and twenty-six weeks ended July 1, 2018:

(dollars in millions)	THIRTEEN WEEKS ENDED	TWENTY-SIX WEEKS ENDED
For the periods ended June 25, 2017 (1)		
Change from:		
Comparable restaurant sales (2)		
Restaurant openings (2)		
Divestiture of restaurants through refranchising transactions		
Restaurant closings		
For the periods ended July 1, 2018		

The increase in U.S. Restaurant sales in the thirteen weeks ended July 1, 2018 was primarily attributable to higher comparable restaurant sales and the opening of 15 new restaurants not included in our comparable restaurant sales base. These increases in restaurant sales were partially offset by the refranchising of certain Company-owned restaurants and the closing of nine restaurants since March 26, 2017.

The decrease in U.S. Restaurant sales in the twenty-six weeks ended July 1, 2018 was primarily attributable to the refranchising of certain Company-owned restaurants, the closing of 46 restaurants since December 25, 2016 and the one-week shift in the fiscal calendar. The decrease in restaurant sales was partially offset by higher comparable restaurant sales and the opening of 15 new restaurants not included in our comparable restaurant sales base.

Income from operations

The increase in U.S. income from operations generated in the thirteen weeks ended July 1, 2018 as compared to the thirteen weeks ended June 25, 2017, was primarily due to: (i) increases in average check per person, (ii) the impact of certain cost saving initiatives and (iii) decreases in advertising expense. These increases were partially offset by decreases primarily due to higher labor costs from wage inflation and higher commodity costs.

The increase in U.S. income from operations generated in the twenty-six weeks ended July 1, 2018 as compared to the twenty-six weeks ended June 25, 2017, was primarily due to: (i) increases in average check per person, (ii) lower impairment charges and restaurant closing costs, primarily related to the Closure Initiatives in 2017, (iii) the impact of certain cost saving initiatives and (iv) increases in franchise and other revenues. These increases were partially offset by decreases primarily due to: (i) higher labor costs from wage inflation, (ii) higher commodity costs and (iii) operating expense inflation.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

International Segment

	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)	JULY 1, 2018	JUNE 25, 2017 (Restated) (1)
(dollars in thousands)				
Revenues				
Restaurant sales				
Franchise and other revenues				
Total revenues				
Restaurant-level operating margin				
(Loss) income from operations				
Operating (loss) income margin				

(1) See Note 1 of the Notes to Consolidated Financial Statements for details of the impact of implementing ASU No. 2014-09.

Restaurant sales

Following is a summary of the change in International segment Restaurant sales for the thirteen and twenty-six weeks ended July 1, 2018:

(dollars in millions)	THIRTEEN WEEKS ENDED	TWENTY-SIX WEEKS ENDED
For the periods ended June 25, 2017		
Change from:		
Effect of foreign currency translation		
Comparable restaurant sales		
Restaurant closings		
Restaurant openings		
For the periods ended July 1, 2018		

The decrease in Restaurant sales in the thirteen weeks ended July 1, 2018 was primarily attributable to: (i) the effect of foreign currency translation of the Brazil Real relative to the U.S. dollar, (ii) lower comparable restaurant sales and (iii) the closing of 12 restaurants since March 26, 2017, partially offset by the opening of 25 new restaurants not included in our comparable restaurant sales base.

The slight increase in Restaurant sales in the twenty-six weeks ended July 1, 2018 was primarily attributable to the opening of 32 new restaurants not included in our comparable restaurant sales base partially offset by: (i) the effect of foreign currency translation of the Brazil Real relative to the U.S. dollar, (ii) lower comparable restaurant sales and (iii) the closing of 12 restaurants since December 25, 2016.

Income from operations

The decrease in International income from operations in the thirteen weeks ended July 1, 2018 as compared to the thirteen weeks ended June 25, 2017 was primarily due to: (i) certain impairment charges and restaurant closing costs, (ii) lower sales in Brazil, (iii) labor, operating expense and commodity inflation, (iv) favorable resolution of certain legal contingencies in 2017 and (v) changes in product mix. These decreases were partially offset by increases in average check per person.

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

The decrease in International income from operations in the twenty-six weeks ended July 1, 2018 as compared to the twenty-six weeks ended June 25, 2017 was primarily due to: (i) certain impairment charges and restaurant closing costs, (ii) labor, operating expense and commodity inflation, (iii) changes in product mix and (iv) increases in advertising expense. These decreases were partially offset by increases in average check per person.

Non-GAAP Financial Measures

System-Wide Sales - System-wide sales is a non-GAAP financial measure that includes sales of all restaurants operating under our brand names, whether we own them or not. Management uses this information to make decisions about future plans for the development of additional restaurants and new concepts, as well as evaluation of current operations. System-wide sales comprise sales of Company-owned and franchised restaurants. For a summary of sales of Company-owned restaurants, refer to Note 2 - *Revenue Recognition* of the Notes to Consolidated Financial Statements.

The following table provides a summary of sales of franchised restaurants, which are not included in our consolidated financial results, and our income from the royalties and/or service fees that franchisees pay us based generally on a percentage of sales. The following table does not represent our sales and is presented only as an indicator of changes in the restaurant system, which management believes is important information regarding the health of our restaurant concepts and in determining our royalties and/or service fees.

FRANCHISE SALES (1) (dollars in millions)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
U.S.				
Outback Steakhouse (2)				
Carrabba's Italian Grill (2)				
Bonefish Grill				
U.S. Total				
International				
Outback Steakhouse-South Korea				
Other				
International Total				
Total franchise sales (1)				
Income from franchise sales (3)				

(1) Franchise sales are not included in Total revenues in the Consolidated Statements of Operations and Comprehensive (Loss) Income.

(2) In Q2 2017, we sold 53 Outback Steakhouse restaurants and one Carrabba's Italian Grill restaurant, which are now operated as franchises.

(3) Represents franchise royalties and initial franchise fees included in the Consolidated Statements of Operations and Comprehensive (Loss) Income in Franchise and other revenues.

BLOOMIN' BRANDS, INC.
**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**
Adjusted restaurant-level operating margin

The following table shows the percentages of certain operating cost financial statement line items in relation to Restaurant sales:

	THIRTEEN WEEKS ENDED			
	JULY 1, 2018		JUNE 25, 2017	
	U.S. GAAP	ADJUSTED (1)	U.S. GAAP	ADJUSTED (1)
Restaurant sales				
Cost of sales				
Labor and other related				
Other restaurant operating				
Restaurant-level operating margin				

	TWENTY-SIX WEEKS ENDED			
	JULY 1, 2018		JUNE 25, 2017	
	U.S. GAAP	ADJUSTED (1)	U.S. GAAP	ADJUSTED (1)
Restaurant sales				
Cost of sales				
Labor and other related				
Other restaurant operating				
Restaurant-level operating margin				

- (1) Includes adjustments recorded in Other restaurant operating for the following activities, as described in the *Adjusted income from operations*, *Adjusted net income* and *Adjusted diluted earnings per share* table below:

(dollars in millions)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Restaurant and asset impairments and closing costs				
Restaurant relocations and related costs				

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Adjusted income from operations, Adjusted net income and Adjusted diluted earnings per share

(in thousands, except per share data)	THIRTEEN WEEKS ENDED		TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017	JULY 1, 2018	JUNE 25, 2017
Income from operations				
<i>Operating income margin</i>				
Adjustments:				
Restaurant and asset impairments and closing costs (1)				
Restaurant relocations and related costs (2)				
Legal and contingent matters				
Severance (3)				
Transaction-related expenses (4)				
Total income from operations adjustments				
Adjusted income from operations				
<i>Adjusted operating income margin</i>				
Net income attributable to Bloomin' Brands				
Adjustments:				
Income from operations adjustments				
Gain on disposal of business and other costs (5)				
Loss on extinguishment and modification of debt				
Total adjustments, before income taxes				
Adjustment to (benefit) provision for income taxes (6)				
Net adjustments				
Adjusted net income				
Diluted earnings per share				
Adjusted diluted earnings per share				
Diluted weighted average common shares outstanding				

Liquidity and Capital Resources

LIQUIDITY

Our liquidity sources consist of cash flow from our operations, cash and cash equivalents and credit capacity under our credit facilities. We expect to use cash primarily for general operating expenses, share repurchases and dividend payments, remodeling or relocating older restaurants, principal and interest payments on our debt, development of new restaurants and new markets, obligations related to our deferred compensation plans and investments in technology.

BLOOMIN' BRANDS, INC.**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

We believe that our expected liquidity sources are adequate to fund debt service requirements, lease obligations, capital expenditures and working capital obligations for at least the next 12 months. However, our ability to continue to meet these requirements and obligations will depend on, among other things, our ability to achieve anticipated levels of revenue and cash flow and our ability to manage costs and working capital successfully.

We previously considered the earnings in our non-U.S. subsidiaries to be indefinitely reinvested and, accordingly, recorded no deferred income taxes. Given the Tax Act's significant changes and potential opportunities to repatriate cash free of U.S. federal tax, we continue to evaluate our current permanent reinvestment assertions. This evaluation includes the repatriation of historical earnings (2017 and prior) that have been previously taxed under the Tax Act. See Note 12 - *Income Taxes* of the Notes to Consolidated Financial Statements for further information regarding the Tax Act.

(dollars in thousands)

Balance as of December 31, 2017

2018 new debt

2018 payments

Balance as of July 1, 2018

SENIOR SECURED CREDIT FACILITY**TERM LOAN A****REVOLVING FACILITY****TOTAL CREDIT
FACILITIES**

BLOOMIN' BRANDS, INC.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

We continue to evaluate whether we will make further payments of our outstanding debt ahead of scheduled maturities. Following is a summary of our outstanding credit facilities as of the dates indicated:

(dollars in thousands)	INTEREST RATE JULY 1, 2018 (1)	ORIGINAL FACILITY	PRINCIPAL MATURITY DATE	OUTSTANDING	
				JULY 1, 2018	DECEMBER 31, 2017
Term loan A					
Revolving credit facility					
Total Senior secured credit facility					

(1) Represents the weighted-average interest rate.

We are currently exploring options to address the May 2019 maturity of our interest rate swap agreements.

Debt Covenants - Our Credit Agreement contains various financial and non-financial covenants. A violation of these covenants could negatively impact our liquidity by restricting our ability to borrow under the revolving credit facility and cause an acceleration of the amounts due under the credit facilities. See Note 12 - *Long-term Debt, Net* in our Annual Report on Form 10-K for the year ended December 31, 2017 for further information.

As of July 1, 2018 and December 31, 2017, we were in compliance with our debt covenants. We believe that we will remain in compliance with our debt covenants during the next 12 months.

SUMMARY OF CASH FLOWS

The following table presents a summary of our cash flows provided by (used in) operating, investing and financing activities for the periods indicated:

(dollars in thousands)	TWENTY-SIX WEEKS ENDED	
	JULY 1, 2018	JUNE 25, 2017
Net cash provided by operating activities		
Net cash used in investing activities		
Net cash used in financing activities		
Effect of exchange rate changes on cash and cash equivalents		
Net decrease in cash, cash equivalents and restricted cash		

Operating activities - Net cash provided by operating activities decreased during the twenty-six weeks ended July 1, 2018, as compared to the twenty-six weeks ended June 25, 2017 primarily due to decreases from: (i) the timing of collections of gift card receivables, (ii) an increase in incentive compensation payments, (iii) the timing of payments on accounts payable and other accrual payments and (iv) higher payments for inventory. These decreases were partially offset by lower income tax payments.

Investing activities - Net cash used in investing activities for the twenty-six weeks ended July 1, 2018 consisted of capital expenditures, partially offset by proceeds from the disposal of property, fixtures and equipment and proceeds from sale-leaseback transactions.

BLOOMIN' BRANDS, INC.**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

Net cash used in investing activities for the twenty-six weeks ended June 25, 2017 consisted primarily of capital expenditures, partially offset by proceeds from sale-leaseback transactions and proceeds from franchising transactions.

Financing activities - Net cash used in financing activities for the twenty-six weeks ended July 1, 2018 was primarily attributable to the following: (i) the repurchase of common stock, (ii) payment of cash dividends on our common stock, (iii) the repayment of long-term debt and (iv) repayments of partner deposits and accrued partner obligations. Net cash used in financing activities was partially offset by proceeds from the exercise of stock options and drawdowns on our revolving credit facility, net of repayments.

Net cash used in financing activities for the twenty-six weeks ended June 25, 2017 was primarily attributable to the following: (i) the repurchase of common stock, (ii) repayments on our PRP Mortgage Loan, (iii) payments on our revolving credit facility, net of drawdowns, (iv) payment of cash dividends on our common stock and (v) repayments of partner deposits and accrued partner obligations. Net cash used in financing activities was partially offset by proceeds from: (i) net proceeds from the incremental Term loan A-2 and (ii) the sale of a property that did not qualify for sale-leaseback accounting.

FINANCIAL CONDITION

Following is a summary of our current assets, current liabilities and working capital (deficit):

(dollars in thousands)	JULY 1, 2018	DECEMBER 31, 2017
Current assets		
Current liabilities		
Working capital (deficit)		

DIVIDENDS AND SHARE REPURCHASES

Dividends - In July 2018, the Board declared a quarterly cash dividend of \$0.09 per share, payable on August 22, 2018. Future dividend payments are dependent on our earnings, financial condition, capital expenditure requirements, surplus and other factors that the Board considers relevant.

BLOOMIN' BRANDS, INC.**MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**

Following is a summary of our dividends and share repurchases from December 29, 2014 through July 1, 2018:

(dollars in thousands)	DIVIDENDS PAID	SHARE REPURCHASES		TOTAL
		REPURCHASE PROGRAMS	SETTLEMENT OF TAXES RELATED TO EQUITY AWARDS	
Fiscal year 2015				
Fiscal year 2016				
Fiscal year 2017				
First fiscal quarter 2018				
Second fiscal quarter 2018				
Total				

Recently Issued Financial Accounting Standards

For a description of recently issued Financial Accounting Standards, see Note 1 - *Description of the Business and Basis of Presentation* of the Notes to the Consolidated Financial Statements of this Quarterly Report on Form 10-Q.

BLOOMIN' BRANDS, INC.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

We are exposed to market risk from changes in interest rates, changes in foreign currency exchange rates and changes in commodity prices. We believe that there have been no material changes in our market risk since December 31, 2017, except as set forth below. See Part II, Item 7A., "Quantitative and Qualitative Disclosures about Market Risk," in our Annual Report on Form 10-K for the year ended December 31, 2017 for further information regarding market risk.

Foreign Currency Exchange Rate Risk

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We have established and maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial and Administrative Officer, as appropriate to allow timely decisions regarding required disclosure. We carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial and Administrative Officer, of the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Chief Financial and Administrative Officer concluded that our disclosure controls and procedures were effective as of July 1, 2018.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting during the thirteen weeks ended July 1, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

BLOOMIN' BRANDS, INC.**PART II: OTHER INFORMATION****Item 1. Legal Proceedings**

For a description of our legal proceedings, see Note 13 - *Commitments and Contingencies*, of the Notes to the Consolidated Financial Statements of this Quarterly Report on Form 10-Q.

Item 1A. Risk Factors

In addition to the other information discussed in this report, please consider the factors described in Part I, Item 1A., "Risk Factors" in our 2017 Form 10-K which could materially affect our business, financial condition or future results. There have not been any material changes to the risk factors described in our 2017 Form 10-K, but these are not the only risks facing our Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may adversely affect our business, financial condition or operating results.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

There were no sales of equity securities during the second quarter of 2018 that were not registered under the Securities Act of 1933.

The following table provides information regarding our purchases of common stock during the thirteen weeks ended July 1, 2018:

REPORTING PERIOD	TOTAL NUMBER OF SHARES PURCHASED	AVERAGE PRICE PAID PER SHARE	TOTAL NUMBER OF SHARES PURCHASED AS PART OF PUBLICLY ANNOUNCED PLANS OR PROGRAMS	APPROXIMATE DOLLAR VALUE OF SHARES THAT MAY YET BE PURCHASED UNDER THE PLANS OR PROGRAMS (1)
April 2, 2018 through April 29, 2018				
April 30, 2018 through May 27, 2018				
May 28, 2018 through July 1, 2018				
Total				

BLOOMIN' BRANDS, INC.

Item 6. Exhibits

EXHIBIT NUMBER	DESCRIPTION OF EXHIBITS	FILINGS REFERENCED FOR INCORPORATION BY REFERENCE
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith
31.2	Certification of Chief Financial and Administrative Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (1)	Filed herewith
32.2	Certification of Chief Financial and Administrative Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (1)	Filed herewith
101.INS	XBRL Instance Document	Filed herewith
101.SCH	XBRL Taxonomy Extension Schema Document	Filed herewith
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	Filed herewith
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	Filed herewith
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	Filed herewith
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	Filed herewith

(1) These certifications are not deemed to be “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section. These certifications will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates them by reference.

BLOOMIN' BRANDS, INC.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: August 2, 2018

BLOOMIN' BRANDS, INC.
(Registrant)

By: /s/ David J. Deno

David J. Deno
Executive Vice President and Chief Financial and
Administrative Officer
(Principal Financial and Accounting Officer)

[Remainder of page intentionally left blank]

CERTIFICATION

I, Elizabeth A. Smith, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Bloomin' Brands, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 2, 2018

/s/ Elizabeth A. Smith

Elizabeth A. Smith

Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, David J. Deno, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Bloomin' Brands, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 2, 2018

/s/ David J. Deno

David J. Deno

Executive Vice President and Chief Financial and Administrative Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE
SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Bloomin' Brands, Inc. (the "Company") on Form 10-Q for the quarter ended July 1, 2018 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Elizabeth A. Smith, Chief Executive Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the dates and periods covered by the Report.

Date: August 2, 2018

/s/ Elizabeth A. Smith

Elizabeth A. Smith

Chief Executive Officer

(Principal Executive Officer)

A signed original of this written statement required by Section 906 has been provided to, and will be retained by, Bloomin' Brands, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE
SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Bloomin' Brands, Inc. (the "Company") on Form 10-Q for the quarter ended July 1, 2018 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David J. Deno, Executive Vice President and Chief Financial and Administrative Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the dates and periods covered by the Report.

Date: August 2, 2018

/s/ David J. Deno

David J. Deno

Executive Vice President and Chief Financial and Administrative Officer
(Principal Financial Officer)

A signed original of this written statement required by Section 906 has been provided to, and will be retained by, Bloomin' Brands, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.



FLORIDA DEPARTMENT OF STATE
Division of Corporations

July 6, 2007

ELY HERNANDEZ
2202 N. WESTSHORE BLVD
5TH FLOOR
TAMPA, FL 33607

Re: [REDACTED]

The Certificate of Conversion and Articles of Organization were filed June 14, 2007, with an organizational date deemed effective August 27, 1987, for OUTBACK STEAKHOUSE OF FLORIDA, LLC, the resulting Florida Limited Liability Company.

The certification you requested is enclosed. A limited liability company annual report will be due this office between January 1 and May 1 of the year following the calendar year of the file date. A Federal Employer Identification (FEI) number may be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4.

Should you have any further questions concerning this matter, please feel free to call (850) 245-6051, the Registration Filing Section.

RUSSELL L HUNT
Document Specialist
Division of Corporations

State of Florida



Department of State

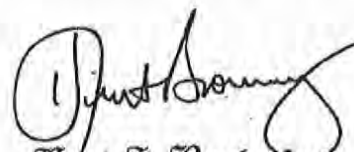
I certify the attached is a true and correct copy of the Certificate of Conversion and Articles of Organization, filed on June 14, 2007, with an organizational date deemed effective August 27, 1987, for OUTBACK STEAKHOUSE OF FLORIDA, LLC, the resulting Florida Limited Liability Company, as shown by the records of this office.

The document number of this entity is [REDACTED]

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Sixth day of July, 2007



CR2EO22 (01-07)


Kurt S. Browning
Secretary of State

State of Florida



Department of State

I certify from the records of this office that OUTBACK STEAKHOUSE OF FLORIDA, LLC, is a limited liability company organized under the laws of the State of Florida, filed on June 14, 2007, effective August 27, 1987.

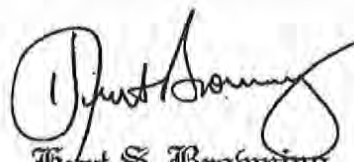
The document number of this company is [REDACTED]

I further certify that said company has paid all fees due this office through December 31, 2007, and its status is active.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Sixth day of July, 2007



CR2EO22 (01-07)


Kurt S. Browning
Secretary of State

**Certificate of Conversion
For
Outback Steakhouse of Florida, Inc.
Into
Outback Steakhouse of Florida, LLC**

This Certificate of Conversion and attached Articles of Organization are submitted to convert Outback Steakhouse of Florida, Inc., into a limited liability company in accordance with s. 608.439, Florida Statutes.

Outback Steakhouse of Florida, Inc., is a corporation first incorporated under the laws of Florida on August 27, 1987, and remains unchanged as of the date of this Certificate.

The name of the Florida limited liability company as set forth in the attached Articles of Organization is Outback Steakhouse of Florida, LLC.

* Signed this 14th day of JUNE, 2007.

JOSEPH J. [REDACTED] Authorized Representative

* The corporation was converted in compliance with ss. 607-1112-607.1115, FS, and a plan of conversion was approved by the corporation's board of directors and its shareholders in accordance with Chapter 607, FS. The principal address of the resulting Florida limited liability company will be 2202 N. West Shore Blvd., 5th Floor, Tampa, Florida 33607. The resulting Florida limited liability company will pay shareholders of the corporation with appraisal rights (if applicable) pursuant to ss. 607.1301-607.1333, Florida Statutes.

FILED
07 JUN 14 PM 2:42
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**ARTICLES OF ORGANIZATION
FOR
OUTBACK STEAKHOUSE OF FLORIDA, LLC**

ARTICLE I – Name

The name of the Limited Liability Company is: Outback Steakhouse of Florida, LLC

ARTICLE II – Address

The principal office's mailing and street address of the Limited Liability Company is:

2202 N. West Shore Blvd., 5th Floor
Tampa, FL 33607

**ARTICLE III – Registered Agent, Registered Office
and Registered Agent's Signature**

The name and the Florida street address of the registered agent are:

Joseph J. Kadow
2202 N. West Shore Blvd., 5th Floor
Tampa, FL 33607

Having been named as registered agent and to accept service of process for the above-stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent as provided for in Chapter 608, F.S.

Registered Agent's Signature

ARTICLE IV – Manager(s) or Managing Member(s)

The name and address for the sole Managing Member are as follows:

OSI Restaurant Partners, LLC
2202 N. West Shore Blvd., 5th Floor
Tampa, FL 33607

The effective date shall be the date of filing.

**SOLE MANAGING MEMBER:
OSI RESTAURANT PARTNERS, LLC**

By: _____
Joseph J. Kadow, Authorized
Representative

FILED
07 JUN 14 PM 2:42
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

OPERATING AGREEMENT

THIS OPERATING AGREEMENT (this "Agreement") of Outback Steakhouse of Florida, LLC, a Florida limited liability company (the "Company") is entered into as of the _____ day of _____, 2007, by the Company and OSI Restaurant Partners, LLC, a Delaware limited liability company, as a member (the "Member").

The Member in order to form a limited liability company pursuant to and in accordance with the Florida Limited Liability Company Act, as amended from time to time (Florida Statutes, Chapter 608) (the "Act"), hereby agrees with the Company as follows:

Section 1. Formation, etc.

The Company was originally formed as a Florida corporation. The Company was converted from a Florida corporation into a Florida limited liability company pursuant to the Act by the filing of the Certificate of Conversion (as defined below) with the Department of State of Florida on _____, 2007 (the "Effective Date"). The rights, duties and liabilities of the Member shall be determined pursuant to the Act and this Agreement. To the extent that the provisions of this Agreement pertaining to such rights, duties, liabilities or any other matters herein vary from, supplant or supplement those provisions of the Act pertaining to such matters, then this Agreement shall, to the fullest extent permitted by the Act, control. By execution hereof, the member is admitted as a member of the Company and shall acquire a limited liability interest in the Company, effective as of the Effective Date.

Section 2. Name.

The name of the limited liability company shall be Outback Steakhouse of Florida, LLC.

Section 3. Member.

The name and the business, residence or mailing addresses of the Member is as follows:

<u>Name</u>	<u>Address</u>
OSI Restaurant Partners, LLC	2202 North West Shore Boulevard Suite 500 Tampa, Florida 33607

Section 4. Registered Office/Registered Agent.

The address of the registered office of the Company in the State of Florida, and the name and address of the registered agent of the Company for service of process on the Company in the State of Florida, is c/o CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.

Section 5. Certificate of Conversion.

Each of the Member and Joseph J. Kadow is hereby designated as an authorized person within the meaning of the Act to execute, deliver and file the certificate of conversion of the

Company (the "Certificate of Conversion"), and to execute, deliver and file any amendments or restatements of the Certificate or any certificate of cancellation of the Certificate.

Section 6. Purpose/Powers.

The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing. The Company shall have the power and authority to do any and all acts necessary or convenient to or in furtherance of said purposes, including all power and authority, statutory or otherwise, possessed by, or which may be conferred upon, limited liability companies under the laws of the State of Florida.

Section 7. Management.

Management, operation and policy of the Company shall be vested exclusively in the Member, and there shall be no "manager" within the meaning of the Act. The Member, acting through its duly authorized agents, is authorized and empowered on behalf and in the name of the Company to perform all acts and engage in all activities and transactions which it may in its sole discretion deem necessary or advisable in order to cause the Company to carry out its purpose and exercise the powers granted to the Company hereunder and under the Act. The Member is an agent of the Company and the actions of such Member in such capacity shall be binding on the Company without liability to the Member so acting.

Section 8. Agents.

The Member by written instrument signed by the Member shall have the power to appoint agents to act for the Company with such titles as the Member deems appropriate and to delegate to such agents such of the powers as are held by the Member hereunder as the Member may determine. The Member by written instrument signed by the Member may, in the sole discretion of the Member, ratify any act previously taken by an agent acting on behalf of the Company. Except as provided in this Section 8, the Member shall be the sole person with the power to bind the Company.

Section 9. Reliance by Third Parties.

Any person or entity dealing with the Company or the Member may rely upon a certificate signed by the Member as to: (a) the identity of the Member, (b) the existence or non-existence of any fact or facts which constitute a condition precedent to acts by the Member or are in any other manner germane to the affairs of the Company, (c) the persons who or entities which are authorized to execute and deliver any instrument or document of or on behalf of the Company or (d) any act or failure to act by the Company or as to any other matter whatsoever involving the Company or the Member.

Section 10. Capital Contributions.

The Member has contributed \$100.00 in cash, as its initial capital contribution to the Company. The Member may make, but shall not be required to make, additional capital contributions to the Company.

Section 11. Units; Member Interest Certificate.

The entire interest of the Member in the capital and profits of the Company, including the right of the Member to any and all benefits to which the Member may be entitled as provided in this Agreement and the Act, together with the obligations of the Member to comply with all the terms and provisions of this Agreement (the Member's "Interest") shall be divided into 100 Units. The Member shall receive a certificate stating the number of Units held by the Member in such form as shall, in conformity with law and this Agreement, be prescribed from time to time by the Member (a "Member Interest Certificate"), and the Company shall maintain a record of the ownership of Interests which shall be amended from time to time to reflect transfers of ownership of Interests.

Section 12. Interest as Securities.

The Member's Interest shall constitute a "security" within the meaning of, and governed by, (i) Article 8 of the Uniform Commercial Code (including Section 102(a)(15) thereof) as in effect from time to time in the State of Florida, and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995. Notwithstanding any provision of this Agreement to the contrary, to the extent that any provision of this Agreement is inconsistent with any non-waivable provision of Article 8 of the Uniform Commercial Code as in effect in the State of Florida (Florida Statutes, Sections 678.0111, et seq.) (the "UCC"), such provision of Article 8 of the UCC shall control.

Section 13. Taxation.

It is the intent of the Member that since the Company has a single member, the Company shall be disregarded as an entity separate from the Member for federal tax purposes.

Section 14. Allocation of Profits and Losses.

The Company's profits and losses shall be allocated to the Member.

Section 15. Distributions.

Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member.

Section 16. Dissolution.

The Company shall have perpetual existence unless it shall be dissolved and its affairs shall have been wound up upon (a) the election of the Member, which shall be evidenced by a writing signed by the Member, or (b) the entry of a decree of judicial dissolution under Section 608.441(3) of the Act. For the avoidance of doubt, none of the events described in Section 608.4237 of the Act shall cause the Member to cease to be a member of the Company.

Section 17. Indemnification.

To the fullest extent permitted bylaw, the Company shall indemnify, defend and hold harmless the Member, the Member's officers, directors, partners, members, shareholders, employees, accountants, counsel and agents, and the employees, officers, accountants, counsel and agents of the Company (all indemnified persons being referred to as "Indemnified Persons" for purposes of this Section 17), from any liability, loss or damage incurred by the Indemnified Person by reason of any act performed or omitted to be performed by the Indemnified Person in connection with the business of the Company and from liabilities or obligations of the Company imposed on such Indemnified Person by virtue of such Indemnified Person's position with the Company, including reasonable attorney's fees and costs and any amounts expended in the settlement of any such claims of liability, loss or damage.

Section 18. Assignments.

The Member may assign its limited liability company interest to any person, which person shall become a Member upon the transfer of the Member Interest Certificate and the recording of such transfer in the records of the company.

Section 19. Amendments.

This Agreement may be amended or restated in writing from time to time by the Member.

Section 20. Liability of Member.

The Member shall not have any liability for any obligations or liabilities of the Company.

Section 21. Governing Law.

This Agreement shall be governed by, and construed under, the laws of the State of Florida, all rights and remedies being governed by said laws.

Section 22. Entire Operating Agreement.

This Agreement constitutes the entire "operating agreement" of the Company for purposes of the Act, and it shall supersede all prior agreements and understandings pertaining thereto. For the avoidance of doubt, this Agreement shall not be deemed amended or modified by any oral statements or undertakings or any course of dealing or similar principles of contract law.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Agreement as of the date and year first above written.

OUTBACK STEAKHOUSE OF FLORIDA, LLC

By: 
Joseph J. Kadow, a Duly Authorized Person

OSI RESTAURANT PARTNERS, LLC

By: 
Joseph J. Kadow, a Duly Authorized Person

Premises Address: 1637 E. Empire Street
Bloomington, IL 61701

Lease

between

EASTLAND MALL, LLC

("Landlord")

and

OUTBACK STEAKHOUSE OF FLORIDA, LLC

("Tenant")



CONFIDENTIAL

Bloomington, IL OBS 1454 (Rel)

dm

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THIS LEASE (this "Lease") is made and entered into by and between Eastland Mall, LLC, a Delaware limited liability company ("Landlord") and Outback Steakhouse of Florida, LLC, a Florida limited liability company ("Tenant"). This Lease is effective on the date (the "Effective Date") that this Lease is fully executed (including the initialing of all changes made after the first party's execution) by both Landlord and Tenant; provided that if a fully executed original of this Lease is not in the possession of both Landlord and Tenant within two (2) business days following the date that would otherwise be the Effective Date, then the Effective Date shall be the date that a fully executed original of this Lease has been delivered to the last of Landlord and Tenant.

ARTICLE I - GRANT AND TERM

1.1 **GRANT.** In consideration of the rents, covenants and agreements set forth herein, Landlord hereby leases and conveys to Tenant and Tenant hereby rents from Landlord the following described leased premises (the "Premises"):

A. **Description of Premises.** The "Premises" (which includes only the building pad, Service Area, waiting area and Patio Area, if applicable) contains approximately 7,000 square feet of land, together with a building to be constructed by Tenant of approximately 6,539 square feet (but not to exceed 7,000 square feet) (the "Building"). The Premises is located at Eastland Mall (the "Shopping Center"), in Bloomington, Illinois. The Shopping Center is depicted on the site plan (the "Site Plan") attached to this Lease as Exhibit "A". The approximate boundaries of both the Shopping Center and the Premises are shown on pages 1 and 3 of the Site Plan Exhibit "A," respectively. A legal description of the Shopping Center is attached to this Lease as Exhibit "A-1".

B. **Appurtenant Easements and Use Rights.** Landlord hereby grants and conveys to Tenant the following additional rights, each as a right and easement appurtenant to the Premises, to use without fee or charge (except as may be specifically set forth in this Lease) (the "Appurtenant Use Rights"):

(a) **Common Areas.** Tenant and its subtenants and their respective agents, customers, employees, contractors and invitees shall have the non-exclusive right, in common with Landlord and other tenants of the Shopping Center, to use all common hallways, stairways, walkways, driveways and access areas (including curb cuts), sidewalks, service areas, delivery areas, parking areas, and other areas in the Shopping Center as shown on the Site Plan or as designated by Landlord or otherwise available for the common use of tenants of the Shopping Center (the "Common Areas") for their normal and intended purposes. For clarification, the Common Areas include the parking around Tenant's Building.

(b) **Governing Documents.** Tenant acknowledges that the Shopping Center, and therefore this Lease, is subject to all matters of record affecting the Shopping Center in the public records of McLean County, Illinois as of August 23, 2017, the effective date of that certain Commitment for Title Insurance issued by Fidelity National Title Insurance Company, Commitment No. [REDACTED] (collectively, the "Governing Documents"). Notwithstanding the foregoing, Landlord acknowledges that Tenant has not agreed to assume any liability or perform any obligation under any Governing Documents, except to the extent that such performance is satisfied by Tenant's performance of its express obligations under this Lease.

Landlord agrees not to amend or consent to an amendment of the Governing Documents (or grant any consent under the Governing Documents), which would constitute an Adverse Amendment, without the consent of Tenant, such consent not to be unreasonably withheld, delayed or conditioned. For purposes of this paragraph an "Adverse Amendment" means an amendment which (i) would result in the imposition of (or an increase in) any cost or expense to be incurred by Tenant, (ii) in some material adverse respect (as reasonably determined by Tenant), would increase Tenant's obligations or contravene, hinder or impair any of Tenant's rights under this Lease, (iii) would result in any additional restrictions on the use of or requirements on the use or operation of the Premises, or (iv) would, in some material respect (as reasonably determined by Tenant), adversely impact the visibility of the Premises, access to the Premises, the parking serving the Premises or the operation of Tenant's business. Landlord shall obtain any required approvals under the Governing Documents of Tenant's Plans as set forth in Section 5.1A below, Tenant's Staging Area, Support Installations, Take-Away Spaces, initial alterations, signage, Patio Area, Valet Parking and Tenant's intended conduct of business in the Premises. Landlord shall comply with all aspects of the Governing Documents imposing obligations on Landlord to the extent that such obligations have a material impact on Tenant's use of the Premises or Shopping Center and shall enforce the terms of the Governing Documents

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as necessary to assure Tenant of any and all rights inuring to the benefit of Tenant under the Governing Documents for the use of the Shopping Center, the exercise by Tenant of its rights under this Lease or the obligations of Landlord under this Lease.

(c) Staging Area. Tenant shall have the right to utilize that portion of the Premises and/or Common Areas (as shown on the Site Plan) as is reasonably required in connection with improvements, alterations or renovations to the Premises (the "Staging Area"), subject to compliance with and obtaining any approvals required under the Governing Documents; provided, however, Landlord shall be responsible for obtaining any necessary approvals for the Staging Area as may be required under the Governing Documents. Other than as may be located within the Premises or as shown on the Site Plan, the area to be utilized by Tenant under this Subsection shall be located so as not to unreasonably interfere with the business operations of other tenants within the Shopping Center and shall be subject to Landlord's prior reasonable approval. Landlord has approved the area identified as the "Staging Area" on page 3 of the Site Plan on Exhibit "A" for Tenant's use in connection with Tenant's initial build-out of the Premises and the initial hiring of employees, which may include the use of a hiring trailer to be located within the Staging Area (or another location on the Shopping Center to be proposed by Tenant and reasonably approved by Landlord and subject to compliance with and obtaining any approvals required under the Governing Documents). Following its use by Tenant, Tenant shall remove all of its construction materials and hiring trailer (if applicable) from the Staging Area and repair any damage caused to the Staging Area by its use.

(d) Utility Lines and Equipment. If during the Term of this Lease, Tenant needs access to or needs to install utility lines or connections for Tenant's use in the Common Areas (collectively, the "Support Installations"), Tenant shall notify Landlord and obtain Landlord's reasonable approval over the schedule and location, except as approved in Tenant's Plans as part of the original construction, to perform such Support Installations; provided that (i) the location of and plans for any Support Installations installed by Tenant in the Common Areas shall be subject to Landlord's prior reasonable approval and (ii) Tenant shall exercise such rights in a manner so as to avoid any unreasonable interference with the business operations of Landlord and other tenants of the Shopping Center.

(e) Signage Rights. Tenant shall have the right to install and maintain Tenant's Signage (as defined in Subsection 5.2F).

(f) Patio Area. Tenant shall have the exclusive right to the use of the area identified on Exhibit "A" or such other area as may be proposed by Tenant and reasonably approved by Landlord as an exterior patio area (the "Patio Area") for customer seating and the service of food and beverages customarily served in Tenant's restaurant operation, subject to compliance with and obtaining any approvals required under the Governing Documents. In the event Tenant elects to construct, furnish and use the Patio Area for customer seating and the service of food and beverages, Tenant will comply with the following in its use of the Patio Area: (i) Tenant shall be responsible to secure all permits and approvals of all governmental authorities required for the use and operation of the Patio Area; (ii) Tenant's liability insurance provided for in Section 7.1 will cover occurrences within the Patio Area; (iii) Tenant shall maintain the Patio Area in a reasonably clean and attractive condition and shall repair any damage to the Patio Area caused by its use; and (iv) except as provided for above, and for the payment of any Base Rent or CAM Payments (for which amounts the Patio Area shall not be considered part of the Premises) the Patio Area shall be deemed part of the Premises and shall be subject to all of the requirements and obligations of the Lease, including but not limited to, the insurance and indemnity provisions. Landlord acknowledges that Tenant does not plan to construct the Patio Area as part of Tenant's Work for the initial construction of the Premises, but Tenant reserves the right to do so in the future, subject to the terms and conditions of this paragraph.

(g) Take-Away Spaces. Subject to compliance with the Governing Documents, Tenant shall have the right to designate and utilize up to six (6) non-exclusive parking spaces (the "Take-Away Spaces") within the parking area contained within the Common Areas for Tenant's "take out" parking. The Take-Away Spaces shall be in the location shown on the Site Plan as designated on page 2 of the Site Plan on Exhibit "A" for "take out" parking. Tenant shall have the further right, at its sole cost and expense, to install and maintain professionally fabricated signs for its Take-Away Spaces with a design reasonably approved in writing by Landlord.

(h) Service Areas. Tenant shall have the right to use: (i) a reasonably convenient and serviceable area located on the Premises as shown on page 3 of the Site Plan on Exhibit "A" (the "Service Area") for the installation and maintenance of a trash dumpster ("Dumpster") by Tenant (and in no event shall Landlord have any right to relocate such Service Area without the prior written consent of Tenant), and (ii) the Service Area or locations to be proposed by Tenant and reasonably approved by Landlord, which Tenant may utilize for the pick-up, drop-off and storage of linens, the wood used in connection with its food preparation, and other items used in connection with the operation of the Premises. Tenant shall maintain any Service Area in a reasonably clean and attractive condition given its location and use. Landlord and Tenant acknowledge and agree that Tenant shall, at Tenant's sole cost and expense, install a dumpster enclosure within the Service Area in accordance with Tenant's Plans, with adequate screening, and with materials in like appearance and like quality as the materials used for the other buildings in the Shopping Center.

(i) Protected Access. To the extent not already provided in the Governing Documents, Landlord shall obtain and enforce access easements over those drives cross-hatched and designated as the "Protected Access" on page 2 of the Site Plan on Exhibit "A" so that Tenant shall have access over, across and through such areas throughout the Term of this Lease.

(j) Valet Parking. Subject to any Governing Documents affecting the Shopping Center and the prohibited uses listed on Exhibit "A-7" attached hereto and made a part hereof, Tenant may establish and operate a valet parking service (the "Valet Service") for the Premises. Subject to any Governing Documents affecting the Shopping Center and the prohibited uses listed on Exhibit "A-7" attached hereto, Tenant may, but is not required to, charge its customers, visitors or invitees a fee for the Valet Service. In connection with the Valet Service, Tenant shall have the right to establish a valet drop-off and pick-up area (the "Valet Station") within the Common Areas reasonably proximate to the Premises and in a location approved by Landlord. Any improvements installed in connection with the Valet Station shall be subject to Landlord's prior approval. Landlord agrees to provide for Tenant's non-exclusive use, in connection with the Valet Service, a reasonably convenient and adequate parking area consisting of at least fifty (50) contiguous (or reasonably proximate) parking spaces (the "Valet Parking Area") within the Shopping Center and to otherwise reasonably cooperate with Tenant in connection with the establishment and operation of the Valet Service. The Valet Parking Area shall initially be in the location labeled "Valet Parking" indicated on page 2 of the Site Plan on Exhibit "A". Landlord shall have the right to relocate the Valet Parking Area to another reasonably convenient portion of the Shopping Center, as may be required for the efficient use and operation of the Common Areas. Tenant will operate (or require the third party operator to operate) the Valet Service in a high quality manner consistent with the class and character of a polished, first-class full-service casual restaurant and in a manner that does not unreasonably interfere with the vehicular traffic or parking in other areas of the Shopping Center. The Valet Parking Area may be designated and marked with cones or other temporary objects which may be put in place no earlier than one (1) hour before the opening of the Premises.

1.2 QUIET ENJOYMENT. On and subject to the terms, covenants and conditions of this Lease, Landlord warrants and covenants that from and after Landlord's acquisition of the Shopping Center Tenant shall peacefully and quietly have, hold and enjoy the Premises for the entire Term of this Lease. Landlord shall have no right to relocate Tenant.

1.3 TERM. The term of this Lease shall consist of the Preliminary Term, the Initial Term, and any "Renewal Term" for which a Renewal Option has been exercised by Tenant, as such terms are hereinafter defined (collectively, the "Term").

A. Preliminary Term. The preliminary term of this Lease shall be the period commencing on the Effective Date and ending upon the commencement of the Initial Term (the "Preliminary Term").

B. Tender Date. Landlord shall tender to Tenant exclusive possession of the Premises, with the portion of Landlord's Work (as defined in Section 5.1) designated in Section 5.1A as the "Pre-Tender Work" completed on or before the date that is sixty (60) days after the later of (i) the date that Tenant receives Landlord's notice of the date on which Landlord anticipates so tendering exclusive possession of the Premises to Tenant (the "Anticipated Delivery Notice"), which Anticipated Delivery Notice shall not be delivered later than April 1, 2018 (the "Anticipated Delivery Notice Deadline"), or (ii) the date of Tenant's written waiver (or earlier expiration) of the Tenant Contingencies set forth in Subsection 1.5A below (such later date shall be the "Anticipated Tender Date").

The date that exclusive possession of the Premises is actually tendered to Tenant and accepted by Tenant, with the Pre-Tender Work completed, is referred to in this Lease as the "Tender Date". Landlord anticipates that the Pre-Tender Work shall be completed on or before June 1, 2018; however, Tenant shall not be obligated to accept possession of the Premises, and in no event shall the Tender Date be deemed to have occurred, prior to and until (1) the date that Landlord's Pre-Tender Work has been completed in accordance with Landlord's Approved Plans and (2) the date of Tenant's written waiver (or earlier expiration) of the Tenant Contingencies set forth in Subsection 1.5A below, except for any aspects of the Permits and Approvals or Planning Commission Approval-Tenant (as defined in Subsections 1.5A(b) and 1.5A(c), respectively) relating to events or conditions that can only occur or be satisfied in the jurisdiction where the Premises is located after Tenant has accepted possession of the Premises, including, as examples only and without limitation, a certificate of occupancy or a liquor license. Notwithstanding anything to the contrary set forth herein, in no event shall Tenant be required to accept delivery of the Premises for the period running from November 1 in any year through March 31 in the following year, and in the event the Tender Date occurs during such time, Tenant shall have the right to refuse delivery until the following April 1 in Tenant's sole discretion.

C. **Outside Tender Date.** In the event that the Tender Date does not occur on or before February 1, 2019 (the "Outside Tender Date"), and such failure continues for more than ten (10) additional days following written notice to Landlord from Tenant of such failure, Tenant shall have the following remedy, as its sole remedy for such failure, subject to Force Majeure Events and any Tenant Delay, Tenant shall be entitled to a rent abatement against Base Rent under the Lease in an amount equal to one (1) day of Base Rent for each day of the delay (the "Delay Penalty"), provided, however, in no event shall such abatement accrue for a period of more than one hundred eighty (180) days (i.e., in no event shall Tenant be entitled to a rent abatement in excess of one hundred eighty (180) days pursuant to this Section 1.3.C.) (the "Delay Penalty Cap"). In the event that the Tender Date does not occur on or before one hundred eighty (180) days following the Outside Tender Date, and such failure continues for more than ten (10) additional days following written notice to Landlord from Tenant of such failure, Tenant shall have the following remedy, as its sole remedy for such failure, subject to Force Majeure Events and any Tenant Delay, Tenant shall have the option to terminate this Lease (following which Tenant shall have no further liability hereunder) ("Delay Termination") and recover from Landlord all reasonable and documented out-of-pocket costs and expenses incurred by Tenant in connection with this Lease or the Premises, subject to a cap of \$125,000.00 ("Delay Reimbursement"); or if, but only if, Landlord's failure to tender is a willful act, or Landlord has acted in bad faith, seek specific performance or damages, as permitted under applicable law ("Additional Delay Remedies"). The foregoing remedies are in addition to any rights or remedies that Tenant may have under Section 5.1, as a result of a failure of Landlord to timely complete the Landlord's Work and deliver possession of the Premises to Tenant and shall survive the termination of this Lease. The Outside Tender Date shall be extended to the extent of any delay in the Tender Date directly caused by Tenant or its contractors, other than delays caused by the enforcement of Tenant's rights or Landlord's obligations under this Lease (a "Tenant Delay").

D. **Commencement Date and Initial Term.** The initial term of this Lease (the "Initial Term") shall commence on the date that is the earlier of: (a) one hundred eighty (180) days after the later of (i) the Tender Date and (ii) Tenant's written waiver (or the earlier expiration) of all the contingencies set forth in Section 1.5 hereunder (collectively, the "Tenant Contingencies"); or (b) the date Tenant first opens for business to the general public (the "Commencement Date"). The Initial Term shall end at the expiration of the tenth (10th) Lease Year, subject to Tenant's Renewal Options, as defined in Section 1.3E.

E. **Renewal Options.** Tenant shall have four (4) option periods of five (5) years each to extend the Term of this Lease (each, a "Renewal Option") provided (i) written notice of the exercise of an option is given to Landlord at least one hundred eighty (180) days prior to the conclusion of the Term, or the end of the applicable Renewal Option if it is exercised, and (ii) Tenant is not in default under the terms of this Lease beyond applicable notice and cure periods at the time of exercise of this option. If the option to extend is exercised, the Base Rent for the extended Term shall be as set forth in the Base Rent Schedule attached hereto as Exhibit "B". Each Renewal Option exercised by Tenant shall be a "Renewal Term."

F. **Lease Year.** For purposes of this Lease, a "Lease Year" shall mean each successive twelve (12) calendar month period during the Initial Term or any Renewal Term commencing on the Commencement Date; provided, however, that if the Commencement Date is a day other than the first day of a

calendar month, then the first Lease Year shall include the partial calendar month during which the Commencement Date falls and the following twelve (12) full calendar months.

G. **Confirmation of Commencement Date.** Following the Commencement Date, Tenant will prepare and deliver to Landlord a term commencement and expiration agreement in the form attached hereto as Exhibit "A-6" (the "Term Commencement and Expiration Agreement"), which agreement shall contain the actual square footage of the Premises, the actual square footage of the Building and the actual square footage of the Shopping Center. The parties agree to execute and deliver the Term Commencement and Expiration Agreement within thirty (30) days following the Commencement Date.

1.4 **CERTAIN TENANT PROTECTIONS.**

A. **Prohibited Changes.** The proposed design, layout and configuration of the Premises and the curb cuts, access roads and parking areas within the "Protected Area" designated on page 1 of the Site Plan on Exhibit "A" is a material consideration for Tenant entering into this Lease. Landlord shall be permitted to stage construction of other buildings in the Shopping Center, except in Tenant's Staging Area, the Protected Area, or the Protected Access. Unless approved in writing by Tenant, no change, alteration or addition shall be made to the Protected Area. Tenant may withhold such approval if Tenant reasonably believes such change, alteration or addition to the Protected Area would adversely impact (i) its business being conducted in the Premises; (ii) the visibility of, access to, or parking for the Premises; or (iii) Tenant's use and enjoyment of the Premises or Protected Area.

B. **Permitted Changes.** Section 1.4A. above does not restrict: (i) Landlord's ability to perform necessary maintenance and repairs within the Protected Area; (ii) Landlord's ability to make changes or alterations required to comply with applicable laws or codes of general application and unrelated to any act or request of Landlord or any other tenant or occupant (for example, the designation of handicapped parking spaces); (iii) Landlord's ability to make minor de minimis changes within the Protected Area, including, for example: replacement or minor reconfiguration of curbing, installation or replacement of landscaping, the installation of convenience facilities such as mail boxes, bike racks, benches and cart corrals, or the installation of light poles or directional signage; or (iv) within the Protected Area, the build-out or reconfiguration of interior tenant spaces, or the renovation of, or other changes to the facade of any building that does not expand the building or interfere with the access to or the visibility of the Premises; provided that all work permitted under this Subsection within the Protected Area shall be conducted in a manner so as not to adversely impact the appearance of, visibility of or access to the Premises and shall be accomplished at such times and in such manner so as to minimize interference with Tenant's (or its employees' and invitees') use of or access to the Premises or Protected Area.

Section 1.4A above does not restrict any other party from making changes, alterations, repairs, additions and eliminations to the portions of the Shopping Center that are located outside of the Protected Area. The owners of the Shopping Center may from time to time to make changes, alterations, repairs, additions, and eliminations in and to the buildings and structures (excluding the Premises) and the Common Areas in the Shopping Center which are outside of the Protected Area, to install seating, kiosks, planting areas, and vending devices in such areas, including public areas, and Common Areas, to erect any new or additional buildings or kiosks in any part of the Shopping Center (outside the Protected Area), make changes in the roadways which are outside the Protected Area; relocate the various buildings, parking areas, and other Common Areas; enlarge or reduce the Shopping Center (outside the Protected Area) by addition(s) to the Shopping Center (outside the Protected Area) of land and/or buildings or by the diminution thereof; vary, alter, remodel, renovate, relocate, revise, eliminate, and/or modify the following: the color scheme throughout the Shopping Center (excluding the Premises), canopies and columns in the Common Areas and on the exterior of the Shopping Center buildings (excluding the Premises), the exterior facade of the Shopping Center (excluding the Premises), the Shopping Center logo and name, and exterior identification in the Shopping Center.

C. **Reserved Parking.** Landlord shall not designate or reserve (or allow to be designated or reserved) any portion of the parking area in the Protected Area for the exclusive use of any tenants of the Shopping Center or any other person, except for handicapped and other spaces that must be designed for a particular use under applicable law. In addition, Landlord shall not permit any portion of the parking area in the Shopping Center to be used for the storage of vehicles.

D. **Prohibited Uses.** In recognition (i) that the availability of adequate parking is critical to the success of Tenant's business, and that certain uses create extraordinary demands for the parking capacity at the Shopping Center; (ii) of Landlord's and Tenant's agreement that certain uses are inconsistent with the desired class and character of the Shopping Center; and (iii) of Landlord's agreement to provide to Tenant an exclusive for Tenant's use, Landlord and Tenant have agreed to the use restrictions set out below.

(a) [Intentionally deleted.]

(b) **High Intensity Parking Use.** Landlord covenants and agrees that it will not operate or permit any other tenant or occupant to operate any of the following in any portion of the Protected Area: (i) a movie theater, auditorium or other place of public assembly; (ii) school or other place of instruction; (iii) bowling alley or skating rink; (iv) book store in excess of 10,000 square feet; (v) grocery store; (vi) pool hall; (vii) video store; (viii) children's or family entertainment complex or facility; (ix) game room, arcade or other establishment featuring simulator, video, virtual reality, or other games; (x) health club or gym, martial arts, yoga, aerobics or fitness studio, provided that this does not prohibit a physical therapy facility under 2,000 square feet where patrons exercise under the supervision of licensed physical therapists, or a health and fitness facility under 2,000 square feet that features supervised exercise and weight loss or weight management services as its primary business, provided that neither may have group classes or sessions of any kind after 5:00 p.m.; (xi) medical clinic; (xii) governmental offices providing on-site services to the general public; (xiii) church, mosque, synagogue or other place of worship; (xiv) night clubs, dance clubs and other similar establishments (including, but not limited to, those catering to teenagers), even where no alcoholic beverages are sold; or (xv) any other use that (without variance) under applicable code requires more than four (4) parking spaces per 1,000 square feet.

(c) **Other Prohibited Uses.** Landlord covenants and agrees that it will not operate or permit any other tenant or occupant to operate any of the following in any portion of the Shopping Center: (i) an adult entertainment facility, including, but not limited to, an adult bookstore, adult video store, nude or semi-nude entertainment facility, massage parlor, strip show, lingerie exhibition or shop (excluding a Victoria's Secret or similar high quality national retailer), establishment for the sale, rental, display, viewing or exhibition of pornographic or "adult only" materials (including, without limitation, magazines, books, movies, videos and photographs), so called "gentlemen's" club or facility, or any establishment for the sale of items or paraphernalia that are intended to be or commonly are utilized in connection with the use of illegal drugs, provided that this item does not prohibit the sale or rental of "adult" videos or books in connection with a full line national video or book store or the operation of a business providing bonafide massage therapy; (ii) a telemarketing or similar operation; (iii) off-track betting, bingo or other gaming (on-site or via internet or other electronic access) establishment; (iv) a flea market or second hand store; (v) any use which is a public or private nuisance, any use which produces noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness, any use which produces obnoxious odors (excluding typical restaurant odors), any use which produces an excessive quantity of dust, dirt, or fly ash, any use which produces fire, explosion or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks, any use which produces noxious, toxic, caustic or corrosive fuel or gas, any industrial, distillation, refining, smelting, recycling, agriculture, manufacturing, assembling, drilling, mining or subsurface operations; (vi) any mobile home or trailer court, junk yard, stock yard or animal raising operation; provided that this item shall not prohibit pet shops or veterinary offices located at least 150 feet from the Premises; (vii) any place of gathering for temporary or day labor; (viii) any collection, dumping or storage of garbage, junk, recyclable materials or refuse, other than that produced in connection with the businesses being operated within, or the operation of, the Shopping Center and disposed of in enclosed receptacles intended for such purpose; or (ix) any cemetery, crematorium, mausoleum, mortuary, funeral parlor or similar service establishment.

(d) **Exclusive.** Landlord covenants and agrees that Tenant shall have the exclusive right and Landlord will not operate or permit nor allow any of its related entities to operate or permit any other tenant or occupant to operate any Table Service Steakhouse Restaurant (as hereinafter defined) (the "Steakhouse Restaurant Exclusive") in any portion of the Restricted Area identified on page 4 of the Site Plan on Exhibit "A" (the "Restricted Area"). A "Table Service Steakhouse Restaurant" shall mean any restaurant with table service (as defined in Subsection 4.1A) and where the sale of steak, prime rib and beef collectively constitute twenty-five percent (25%) or more of its entrée items or twenty-five percent (25%) or more of its entrée sales computed on a dollar basis.

(e) Landlord's Violation of Exclusive. Upon breach of the aforesaid covenants and agreements by Landlord (which breach is subject to the Rogue Tenant protection in Section 1.4D(g) below), Tenant shall have all remedies available at law and in equity (including, but not limited to the right to seek injunctive relief) and for the first twenty-four (24) months of such breach Rent payable hereunder shall be reduced by fifty percent (50%) for so long as such violation shall continue (the "Rent Reduction Remedy"). In the event such breach and the Rent Reduction Remedy continues for a period of twenty-four (24) months (the "Fish or Cut Bait Deadline"), Tenant shall have a one-time right to terminate this Lease within thirty (30) days of the end of the Fish or Cut Bait Deadline by providing Landlord with thirty (30) days' prior written notice; provided, however, such termination shall be void and of no effect if the breach ceases prior to the last day of such thirty (30) day notice period. In the event Tenant elects not to terminate this Lease in accordance with the immediately preceding sentence, the Rent Reduction Remedy shall cease as to such breach and Tenant shall thereafter commence paying the full amount of Rent payable hereunder and this Lease shall continue after the Fish or Cut Bait Deadline. At all times, Tenant shall have the right to pursue any other remedies available at law or in equity (including, but not limited to the right to seek injunctive relief) (the "Lawsuit"). In the event Tenant files a Lawsuit against Landlord, as of the date the Lawsuit is filed Tenant shall commence paying the full amount of Rent payable hereunder.

(f) Existing Tenants. The use restrictions set out in Subsections (b), (c) and (d) above (the "Use Restrictions") shall not apply to any tenant under any lease which exists as of the Effective Date (each, as it may be renewed or extended, an "Existing Lease") to the extent that uses prohibited by the Use Restrictions are permitted (without the approval or consent of Landlord) under an Existing Lease, including renewals provided for therein. To the extent that Landlord has the ability to withhold approval or consent, under an Existing Lease, to or in connection with any change of use which would allow a use which is prohibited by the Use Restrictions, Landlord agrees to withhold such approval or consent. Subject to the terms of this Subsection as to Existing Leases, Landlord covenants, represents and warrants to Tenant that all future tenants and occupants of the portion of the Shopping Center owned by Landlord shall be bound by the Use Restrictions.

(g) Rogue Tenant. Notwithstanding the foregoing, in the event another tenant in a portion of the Shopping Center owned by Landlord utilizes its premises for a use in violation of a Use Restriction, and such use is in violation of such tenant's own lease agreement (a "Rogue Tenant"), then such use by the Rogue Tenant shall not constitute a default by Landlord under this Section, so long as Landlord is diligently attempting to enforce the prohibitions against the prohibited use contained in the Rogue Tenant's lease, including, without limitation, the institution and prosecution of a lawsuit to enjoin the violation (but Landlord shall not be obligated to appeal a trial court determination that the restrictive covenant is not, in whole or in part, enforceable against the Rogue Tenant). In the event that a court of competent jurisdiction determines that the restrictive covenant is not enforceable against the Rogue Tenant, then Landlord's failure to enforce the restrictive covenant against the Rogue Tenant shall not be a default by Landlord hereunder; provided that such inability to enforce the restrictive covenant is not the result of a waiver or other act or omission of Landlord, which rendered an otherwise enforceable restrictive covenant not enforceable. This Subsection is intended to protect Landlord in situations where a Rogue Tenant violates its lease causing a violation hereunder and Landlord is diligently attempting to bring the Rogue Tenant into compliance with its lease and thus comply with the Use Restrictions. So long as Landlord is in compliance with this Subsection, the violation of any of the Use Restrictions that falls within the scope of this Subsection shall not trigger any default on the part of Landlord or remedy in favor of Tenant.

(h) Excluded Restaurants. The exclusives contained in this Section 1.4 D, do not apply to any single tenant or occupant (i) that may offer the incidental sale of beef or sandwiches on its menu, (ii) operating as a fast food, fast casual or other counter service restaurants or (iii) that has a primary focus on hamburgers. In addition to the foregoing, a table service restaurant serving steak or prime rib with an average meal ticket 2 times the then current average ticket of all tickets at the Premises per person, per meal ("Average Meal Receipt") shall not be affected by the exclusives contained in Section 1.4D and shall not be deemed to be a Table Service Steakhouse Restaurant.

(i) Anchor Tenants Excluded. Anchor Tenants shall not be subject to the Steakhouse Restaurant Exclusive. For purposes of this item, an "Anchor Tenant" means a tenant whose rentable square footage exceeds forty thousand (40,000) contiguous square feet operated as an integrated use.

(j) Varied Menu Theme Restaurants. The Steakhouse Restaurant Exclusive shall not be deemed to prohibit Varied Menu Theme Restaurants. For purposes of this item a "Varied Menu Theme Restaurant" means a sit-down, table service restaurant selling a diverse variety of appetizers, entrees, and desserts which does not emphasize or feature a particular food type (such as, but not limited to, steaks), nor emphasize or feature a particular cuisine (such as, but not limited to, Mexican, Italian, Asian, Japanese, or Chinese). Examples of existing Varied Menu Theme Restaurants include, as they are currently operated, Applebee's, T.G.I. Friday's, Bennigan's, Chili's, Houlihan's, Perkins, J Alexander's, Firebirds Wood Fired Grill, Houston's aka Hillstone, Cheesecake Factory, Cheddar's, BJ's Brewhouse, Black Finn Ameripub, and Ruby Tuesday's. Similarly, Tenant's agreement not to duplicate another restaurant existing in the Shopping Center if Tenant changes its operating format, as provided for under Section 4.1, shall not apply to Varied Menu Theme Restaurants.

(k) Notice of Violation. At least ten (10) days prior to sending a default notice under Section 9.3 as a result of a purported violation of this Section 1.4D, Tenant shall send written notice to Landlord stating the violating use and why Tenant believes that the use violates this Section, in order to allow Landlord an opportunity to provide to Tenant information as to why (i) there is no violation of this Section 1.4D, or (ii) the violation falls under Section 1.4D(g) above, dealing with Rogue Tenants.

(l) Expiration of Exclusives. Excluding Permitted Closures, as defined in Section 4.5E, the Steakhouse Restaurant Exclusive shall expire automatically if the Table Service Steakhouse Restaurant being operated at the Premises closes for more than ninety (90) consecutive days, unless there is a good faith intent to reopen and the reopening is being pursued with reasonable diligence or in the event the closure is due to repairs for casualty or renovations being performed on the Premises.

E. Third Party Use Rights. Landlord agrees (i) not to grant any right to use the parking areas within the portion of the Shopping Center owned by Landlord to, or in favor of, any property or business not a tenant or occupant of building area within such portion of the Shopping Center or building area owned by Landlord or Landlord's affiliates and (ii) not to allow the use of the Common Areas for tent sales, carnivals, truck or other mobile vehicle based sales, rallies or other similar events that disrupt the use of portions of the Common Areas.

1.5 CONTINGENCIES.

A. The following are the Tenant Contingencies under this Lease:

(a) Inspection. Tenant shall have a period of sixty (60) days from the Effective Date (the "Inspection Period") in which to conduct such non-invasive (except for soil borings for a geotechnical report only) physical studies, inspections or investigations on-site at the Premises, including but not limited to soil and environmental inspections (the "Inspections"), as Tenant deems necessary or desirable to confirm the suitability and desirability of the Premises for Tenant's Intended Use (as defined in Subsection 1.5B). Tenant shall have the right to conduct invasive physical studies, inspections or investigations on-site at the Premises upon Landlord's prior written approval, which Landlord may withhold in Landlord's sole discretion. For purposes of this Section 1.5A(a), Landlord hereby grants to Tenant and its agents and consultants full right of entry upon the Premises. Tenant's indemnity under Section 7.3 shall apply during the Inspection Period. The obligations of Tenant under this Lease are expressly conditioned upon Tenant being satisfied, in its sole and absolute discretion, with the results of the Inspections. If Tenant is not satisfied with the results from the Inspections, in Tenant's sole and absolute discretion, then Tenant may terminate this Lease by written notice to Landlord on or before the fifth (5th) business day following the end of the Inspection Period whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination).

(b) Permits and Approvals. Tenant shall use due diligence and commercially reasonable efforts (consistent with Tenant's normal business practices) to obtain, at its sole cost and expense, all building permits and any other approvals, licenses and permits (including, without limitation, a building permit, and an alcoholic beverage license to sell beer, wine and liquor and all permits required for installation and operation of its signs and, if Tenant elects to use the Patio Area, permits required for its Patio Area), as may be required from all government authorities, utility companies or other entities or approving parties (including those under the Governing Documents, if any) for the construction of Tenant's improvements and operation of the Premises for use as a full service restaurant with a bar area together with a number of parking spaces reasonably available for Tenant's use

equal to the greater of (i) one hundred twenty-five (125) parking spaces or (ii) the minimum number of parking spaces required by code and the Governing Documents dedicated to Tenant's Intended Use and consistent with the type and design customarily constructed by Tenant in its Outback Steakhouse restaurant chain (the "Intended Use") (collectively, the "Permits and Approvals"). In no event shall "commercially reasonable efforts" require Tenant to file an appeal from the decision by the authority denying Tenant's application for issuance of a permit. All Permits and Approvals must be in a form, have a substance and be on and subject only to terms and conditions acceptable to Tenant in its sole, but not arbitrary, business judgment, and in no event shall Tenant be required to accept any approval, license or permit that is in a form, has a substance or is subject to conditions not acceptable to Tenant in its sole, but not arbitrary, business judgment. Tenant shall file for the Permits and Approvals within one hundred (100) days from the later of: (i) the Landlord Plan Approval Date (as hereinafter defined); or (ii) expiration of the Inspection Period (the "Permits and Approvals Application Deadline"). Provided Tenant applied for the Permits and Approvals before the Permits and Approvals Application Deadline, in the event Tenant is unable to obtain the Permits and Approvals after the exercise of commercially reasonable efforts to obtain such on terms and conditions satisfactory to Tenant within one hundred sixty (160) days from the later of: (i) Landlord's receipt of Landlord's Permits; or (ii) Landlord and Tenant obtaining Planning Commission approval of Landlord's Plans and Tenant's Intended Use; or (iii) the date Tenant filed for the Permits and Approvals (the "Permit Period"), then the Permit Period shall be automatically extended for thirty (30) days (the "Extended Permit Period"). In the event Tenant is unable to obtain the Permits and Approvals by the Extended Permit Period after the exercise of commercially reasonable efforts to obtain such on terms and conditions satisfactory to Tenant, Landlord shall have the right, but not the obligation, upon written notice to Tenant, to extend the Extended Permit Period for an additional ninety (90) days so that Landlord can try to cause the permit(s) in question to be issued to Tenant on terms reasonably satisfactory to Tenant, provided (i) there shall be no change to any plans or specifications submitted to such agency or authority; and (ii) Tenant's costs to obtain its Permits and Approvals and/or to develop the Premises with Tenant's Work do not increase. If Landlord elects to extend the Extended Permit Period and is unable to cause the permit(s) in question to be issued to Tenant as set forth in the immediately preceding sentence by the end of such additional ninety (90) day period, then either Landlord or Tenant shall have the right and option to terminate this Lease by written notice to the other party delivered on or before the date which is five (5) business days after the end of such additional ninety (90) day period, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). If Landlord elects not to extend the Extended Permit Period, Landlord shall so notify Tenant and Tenant shall have, provided Tenant timely filed for the Permits and Approvals and took commercially reasonable efforts to obtain such, the unilateral right and option to terminate this Lease by written notice to Landlord delivered on or before the date which is five (5) business days after Tenant's receipt of Landlord's notice, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). Landlord agrees to use commercially reasonable efforts to assist Tenant in obtaining the Permits and Approvals, but shall not be required to incur any third party costs in connection with such assistance.

(c) **Planning Commission Approval-Tenant.** Tenant shall use due diligence and commercially reasonable efforts (consistent with Tenant's normal business practices) to obtain, at its sole cost and expense, approval by the appropriate planning commission authority in Bloomington, Illinois ("Planning Commission") for the Intended Use ("Planning Commission Approval-Tenant"). In no event shall "commercially reasonable efforts" require Tenant to file an appeal from the Planning Commission denying Tenant's application for approval. All approvals of the Planning Commission must be in a form, have a substance and be on and subject only to terms and conditions acceptable to Tenant in its sole, but not arbitrary, business judgment, and in no event shall Tenant be required to accept any approval that is in a form, has a substance or is subject to conditions not acceptable to Tenant in its sole, but not arbitrary, business judgment. Tenant shall file for the Planning Commission Approval-Tenant within one hundred twenty (120) days after the Effective Date of this Lease (the "Application Date"). In the event Tenant is unable to obtain the approval of the Planning Commission after the exercise of commercially reasonable efforts to obtain such on terms and conditions satisfactory to Tenant within ninety (90) days from the Application Date ("Planning Commission Approval-Tenant Period"), Landlord shall have the right, but not the obligation, upon written notice to Tenant, to (for up to an additional ninety (90) days) try to cause the Planning Commission to issue approvals to Tenant on terms reasonably satisfactory to Tenant, provided (i) there shall be no change to any plans or specifications; and (ii) Tenant's costs to obtain approval of the Planning Commission and/or to develop the Premises with Tenant's Work do not increase. If Landlord elects to extend the Planning Commission Approval-Tenant Period and is unable to cause the Planning Commission to issue approvals to Tenant as set forth in

the immediately preceding sentence by the end of such additional ninety (90) day period, then either Landlord or Tenant shall have the right and option to terminate this Lease by written notice to the other party delivered on or before the date which is five (5) business days after the end of such additional ninety (90) day period, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). If Landlord elects not to extend the Planning Commission Approval-Tenant Period, Landlord shall so notify Tenant and Tenant shall have the unilateral right and option to terminate this Lease by written notice to Landlord delivered on or before the date which is five (5) business days after Tenant's receipt of Landlord's notice, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). Landlord agrees to use commercially reasonable efforts to assist Tenant in obtaining the approval of the Planning Commission, but shall not be required to incur any third party costs in connection with such assistance.

(d) **Current Mortgage.** Landlord represents and warrants that the Shopping Center shall not be subject to a mortgage or deed of trust encumbering the Premises on the Effective Date.

1.6 **SURRENDER OF PREMISES.** Upon the expiration of the Term or earlier termination of this Lease (the "Surrender Date"), Tenant shall surrender the Premises in a structurally sound and broom clean condition, with the plumbing and electric fixtures and HVAC system in working condition, subject to (i) reasonable wear and tear, unless this Lease is terminated as a result of casualty or condemnation; (ii) alterations, additions and improvements made pursuant to the terms of or otherwise permitted under this Lease; and (iii) items which are the responsibility of Landlord or which result from Landlord's failure to comply with its obligations under this Lease, Tenant shall surrender all keys for the Premises to Landlord. On or prior to the Surrender Date, Tenant shall remove from the Premises its trade fixtures, furniture, equipment and other personal property, including, but not limited to, all bars, booths, decorative light fixtures, stoves, ovens and other restaurant equipment ("Tenant's Personal Property"). The base building plumbing, electric and HVAC systems (other than any proprietary, specialty or supplemental fixtures or equipment) are not part of Tenant's Personal Property and shall remain at the Premises. Tenant agrees to repair any damage to the Premises caused by the removal of Tenant's Personal Property. Any of Tenant's Personal Property which Tenant has failed to remove from the Premises on or prior to the Surrender Date shall become the property of Landlord and may be disposed of by Landlord as Landlord deems appropriate at no cost to Tenant.

1.7 **HOLDING OVER.** This Lease and the tenancy created by this Lease shall expire and terminate at the expiration of the Term, without the necessity of any additional notice from Landlord to Tenant or from Tenant to Landlord and Tenant hereby waives notice and agrees that Landlord shall be entitled to summary recovery of the Premises. If Tenant remains in possession of the Premises after the expiration of the Term, without the consent of Landlord, the Term will not be extended and Tenant will be occupying the Premises under a tenancy at will, under all the terms, covenants and conditions of this Lease, except that Rent for the holdover period will be calculated on a daily basis, at a rate equal to one hundred fifty percent (150%) of Base Rent due for the last month of the Term divided by thirty (30) and shall be due and payable to Landlord periodically upon demand. If Tenant remains in possession of the Premises after the expiration of the Term with the consent of Landlord, the Term will be extended as a month to month tenancy, under all the terms, covenants and conditions of this Lease, and monthly Base Rent will continue at the monthly Base Rent due for the last month of the Term.

ARTICLE II - RENT

2.1 **BASE RENT.** Tenant agrees to pay to Landlord in equal monthly installments, the annual rent (the "Base Rent") as set forth in the Base Rent Schedule attached hereto as Exhibit "B". Base Rent shall be due and payable each month, in advance, on the first day of each calendar month without demand, setoff, or deduction, except as otherwise set out in this Lease or as provided under applicable law or by court order, to Landlord at the address set forth herein, or as otherwise designated by subsequent written notice.

2.2 **ADDITIONAL RENT.** Tenant shall pay as additional rent Tenant's applicable share of certain costs and expenses, as more fully set forth in this Section (the "Additional Rent"). Additional Rent shall also include all other sums and charges required to be paid by Tenant to Landlord pursuant to the terms of this Lease.

A. Real Estate Taxes.

(a) Definition, Payment by Landlord and Calculation. The term "Real Estate Taxes" as used herein means all real property taxes and assessments (general, special or otherwise) that are levied or assessed against the Premises by any lawful governmental authority for each calendar year or portion thereof commencing on the Commencement Date. Within thirty (30) days after receipt of a statement from Landlord, along with a copy of the applicable Real Estate Tax bill, Tenant shall pay to Landlord the amount of the Real Estate Taxes and all other assessments assessed against the Premises for each tax year included within the Term of this Lease. Landlord shall be obligated to remit all Real Estate Taxes and all other taxes and assessments assessed against the Premises (except for taxes on the personal property of individual tenants which are paid by such tenants) to the applicable taxing authority before delinquent. The amount of Real Estate Taxes shall be calculated as if: (i) Landlord elected the longest installment payment plan available from the taxing authority for non-recurring taxes and assessments and only those installments coming due during the Initial Term or any Renewal Term of this Lease shall be included in Real Estate Taxes, and (ii) Landlord had taken advantage of the maximum available discount available for early payment of Real Estate Taxes. Real Estate Taxes are to be prorated for any tax year only a portion of which is included within the Initial Term or any Renewal Term.

(b) Contest of Real Estate Taxes. Tenant shall have the right to contest Real Estate Taxes on the Premises and Landlord shall provide reasonable cooperation at no cost to Landlord. Landlord agrees that it will furnish to Tenant any and all correspondence from the taxing authority regarding real property taxes and assessments within fifteen (15) days of receipt of same by Landlord so that Tenant will be able to contest any such amounts in a timely manner.

(c) Exclusions from Real Estate Taxes. The following are specifically excluded from Real Estate Taxes: penalties or interest or other charges for late payments of Real Estate Taxes, any income, excess profits, gross receipts, margin, estate, single business, inheritance, succession, transfer, franchise, corporate, capital or other tax or assessment levied or assessed against Landlord or the Rent payable under this Lease, or any connection, capacity, turn-on, impact or other similar fees, assessments or charges incurred in connection with the initial construction or any subsequent improvements or renovation of or to the Shopping Center (excluding such fees applicable to the Premises which shall be paid as set forth in Section 3.2 herein) and any increase in Real Estate Taxes solely attributable to any transfer or change in ownership. All unpaid, unassessed or other Real Estate Taxes, including, but not limited to so called "rollback taxes", which relate to the period prior to the Commencement Date (collectively, "Pre-Commencement Date Taxes") shall not be included in Real Estate Taxes payable by Tenant under this Lease. In the event of a conflict or inconsistency between this Subsection and Subsection (a) above this Subsection controls. Tenant agrees that it will be responsible to pay such taxes as are required to be paid by Tenant under the law at any time during the Term of this Lease or to the extent any such gross receipts or margin taxes are included as ad valorem real property taxes.

B. Tenant's Share of Real Estate Taxes. Tenant shall pay, as Additional Rent, Tenant's share of Real Estate Taxes (Tenant's "Tax Share") affecting the tax lot of which the Premises are a part ("Tax Lot") within thirty (30) days after Tenant's receipt of Landlord's tax bill for the period. Tenant's Tax Share shall be equal to the Real Estate Taxes attributable to the land constituting the Premises, plus the Real Estate Taxes assessed against the improvements on the Premises ("Tenant's Building") as determined by computation of the land and improvement assessment contained on the applicable tax bill. If there is no separate assessment for the Tenant's Building and it is not otherwise ascertainable with reasonable certainty, Tenant's Tax Share attributable to the Tenant's Building shall be equal to the product of (w) the Real Estate Taxes attributable to all improvements contained on the applicable tax bill and (x) a fraction, the numerator of which shall be the aggregate number of square feet of floor area within the Tenant's Building, and the denominator of which shall be the aggregate number of square feet of floor area within all the buildings located within the Tax Lot. If any building within the Tax Lot is assessed at an amount materially greater or lesser than the building assessment on a square footage basis due to the nature of the structure and/or its contents, Tenant's Tax Share shall be equitably adjusted as appropriate. Tenant's Tax Share of the Real Estate Taxes attributable to the land shall be equal to the product of (w) the Real Estate Taxes attributable to all land contained on the applicable tax bill and (x) a fraction, the numerator of which shall be the aggregate number of square feet of floor area within the Tenant's Building, and the denominator of which shall be the aggregate number of square feet of floor area within all the buildings located within the Tax Lot.

C. **Taxes on Tenant's Personal Property.** Tenant shall be responsible for and shall pay directly to the taxing authority and before delinquency all municipal, county, state and federal personal property taxes assessed during the Term of this Lease against Tenant's personal property at or used in connection with the Premises.

D. **Operating Expense Payments.** In consideration for Landlord's performance of its obligations in accordance with Section 6.2 hereunder, Tenant shall pay Landlord, as Additional Rent, the following sums (the "Operating Expense Payments"):

(a) The sum equal to Four and 00/100 Dollars (\$4.00) per square foot of the Building per year commencing on the Commencement Date (hereinafter called the "CAM Payment"). The CAM Payment shall increase each anniversary of the Commencement Date by three percent (3%) of the amount of the CAM Payment for the prior Lease Year.

(b) Intentionally deleted.

Tenant shall have no other obligation to pay the cost of performance by Landlord of its obligations under Section 6.2 hereof or for the maintenance and repair of the common access driveways serving the Shopping Center, nor shall Tenant be under any obligation to pay to Landlord or reimburse to Landlord the cost of any amounts assessed against Landlord, the Premises, the Building or the Shopping Center under the Governing Documents.

E. **Monthly Installments.** Tenant shall pay, in equal monthly installments, together with its installment of monthly Base Rent, the Operating Expense Payments for each calendar year. Tenant's initial monthly CAM Payment is Two Thousand One Hundred Sixty-Five and 67/100 Dollars (\$2,165.67), subject to adjustment based on actual square footage of the Building. Tenant's share of Operating Expense Payments shall increase annually as provided in Section 2.2(D) above.

2.3 **PERCENTAGE RENT.**

A. **Percentage Rent: Payment.** Tenant shall pay as "Percentage Rent" hereunder an amount equal to two and one-half percent (2.5%) of Gross Sales (as hereinafter defined) derived from the Premises during each such Lease Year in excess of the applicable "Percentage Rent Breakpoints" as set out on **Exhibit "B"** (the "Percentage Rent"). The Percentage Rent shall be payable annually within sixty (60) days after the end of each Lease Year. The Percentage Rent is in addition to the Base Rent and the Additional Rent.

B. **Gross Sales.** The term "Gross Sales" shall mean the aggregate amount of all sales (whether for cash, on credit or otherwise) of all goods, merchandise, food, beverages and services, made in or from the Premises. Gross Sales shall not include any federal, state, municipal or other sales, use, luxury, value added, retailer's excise or any other taxes paid or accrued by Tenant or any permitted subtenant, licensee or concessionaire on sales to customers, irrespective of whether such taxes are collected from customers or absorbed by Tenant or any permitted subtenant, licensee or concessionaire; amounts charged to Tenant or any permitted subtenant, licensee or concessionaire by credit or charge card companies for processing fees; receipts relating to any Valet Service; proceeds of discounted sales to employees of Tenant or its affiliates or any permitted subtenant, licensee or concessionaire, provided such proceeds do not exceed an amount equal to three percent (3%) of Gross Sales in any single Lease Year on a non-cumulative basis; proceeds of insurance policies received by Tenant or any permitted subtenant, licensee or concessionaire; the exchange or transfer of merchandise between stores or warehouses of Tenant or any permitted subtenant, licensee or concessionaire, or their respective affiliates (including any parent, subsidiary or controlling corporation), when such exchange is made solely for the convenient operation of the business of Tenant or such subtenant, licensee or concessionaire and not for the purpose of consummating a sale made in or from the Premises; gratuities and service charges which are included on customer's bills and which are passed directly through to the service employees without diminution or deduction by Tenant or any permitted subtenant, licensee or concessionaire; proceeds from gift certificate or similar voucher sales (but Gross Sales shall include gift certificates redeemed at the Premises when treated as a sale at the Premises pursuant to Tenant's bookkeeping practices); proceeds from sales of fixtures which are not a part of the stock in trade of Tenant or any permitted subtenant, licensee or concessionaire; receipts from vending machines or pay telephones; any cash or credit refunds, but only to the extent that the merchandise sold or some part thereof was originally included in Gross

Sales; sales for which no monetary compensation is received and such sales are recorded for control purposes only; sales where the proceeds are given to, or used for charity, public relations or non-profit organizations in an amount not to exceed three percent (3%) of Gross Sales in any single Lease Year on a non-cumulative basis; returns to shippers, manufacturers, wholesalers or distributors, for credit; interest or carrying charges; bad debts written off by Tenant for income tax purposes in an amount not to exceed two percent (2%) of Gross Sales in any single Lease Year on a non-cumulative basis, provided that if later collected, the amount shall be included in Gross Sales in the year in which collected; and bulk sales of inventory not in the regular course of business.

C. **Reports and Records.** Tenant shall deliver to Landlord: (a) on or before the twentieth (20th) day following each calendar month during the Term (including the twentieth (20th) day of the month following the end of the Term of the Lease) a written statement (utilizing Tenant's standard form prepared in accordance with reasonable accounting practices) signed by an authorized representative of Tenant showing the amount of Gross Sales for such calendar month (including in its first report the amount of Gross Sales of the fractional calendar month, if any, at the commencement of the Term); and (b) within sixty (60) days after the close of each Lease Year and after the termination of the Lease, a written statement of Gross Sales for the preceding Lease Year, such annual statement to be certified by an authorized representative of Tenant. If Tenant shall fail to deliver such certified annual statement to Landlord within said sixty (60) day period, Landlord, after notice and the expiration of a twenty (20) day cure period, shall have the right thereafter to employ an independent certified public accountant to examine at Tenant's corporate offices Tenant's Records (as defined in Subsection 2.3D below), as may be necessary to certify the amount of Tenant's Gross Sales for such Lease Year, and, if such audit shall disclose a liability in such Lease Year for Percentage Rent in excess of the Percentage Rent previously paid for such Lease Year, Tenant shall pay to Landlord the reasonable cost of such audit, as Additional Rent, upon demand.

D. **Inspection.** Tenant shall keep and preserve for at least three (3) years following each Lease Year, original or duplicate books and records as would ordinarily be examined by an auditor to determine and verify Gross Sales ("Tenant's Records"). Tenant's Records shall be kept in a single location at Tenant's corporate offices. Upon fifteen (15) business days' notice to Tenant, given not more than twice during any Lease Year, Landlord, its agents or accountants, shall have the right during business hours to make any examination or audit of Tenant's Records which Landlord may reasonably desire. If such audit shall disclose a liability in any Lease Year for Percentage Rent in excess of the Percentage Rent previously paid for such Lease Year, Tenant shall promptly pay such liability. Should any such liability for Percentage Rent equal or exceed four percent (4%) of the Percentage Rent previously paid for such Lease Year, Tenant shall, in addition, promptly pay the out of pocket cost of audit (provided Landlord's auditor did not charge Landlord based on a commission) and interest at the Default Rate (as defined in Subsection 9.6B below) on all additional Percentage Rent then payable, accruing from the date such additional Percentage Rent should have been paid.

E. **Confidentiality.** Landlord agrees to treat all information relating to Tenant's Gross Sales and/or obtained from Tenant's Records as confidential and not to disclose, divulge or disseminate the information relating to the Gross Sales or the contents of Tenant's Records to any other person, except to the limited extent necessary if required by law, if requested by Landlord's lender or a prospective purchaser of the Shopping Center but only if such lender or purchaser agrees in writing to treat such information as confidential, or in connection with a dispute between Landlord and Tenant over the Percentage Rent due hereunder, or to Landlord's attorneys, accountants and other professional advisors who agree in writing to treat such information as confidential, who are subject to a client confidentiality doctrine or who, as stated in Section 16.8 hereof, need to know in the performance of their services to Landlord.

2.4 **SALES AND SIMILAR TAXES ON RENT.** Tenant shall pay to Landlord all sales, excise, rental and use taxes imposed by law on the monthly Base Rent, and Additional Rent provided for in this Lease, which are customarily paid by tenants in the state in which the Premises are located.

2.5 **COMMENCEMENT AND PRORATION OF RENT.** Tenant's obligation to pay Base Rent, and the Real Estate Taxes assessed against the Premises and Operating Expense Payments (sometimes collectively referred to in this Lease as "Rent") shall not commence until the Commencement Date. When any Rent due hereunder is calculated based upon a period (e.g., a month, calendar year, or tax year), only a portion of which falls within the Initial Term or any Renewal Term, the amount will be prorated based upon the number of days in such period that fall within the Initial Term or any Renewal Term compared to the total number of days in such period.

2.6 **PLACE FOR PAYMENT OF RENT.** Base Rent and the Additional Rent provided for in this Lease shall be sent by Tenant to Landlord at the address set out in Section 16.1 or to such other address as Landlord may designate to Tenant by at least twenty (20) days prior written notice to Tenant.

ARTICLE III - UTILITIES

3.1 **UTILITY SERVICE.** Following Landlord's installation of the utilities required by Landlord's Work, Tenant shall contract in its own name with the utility provider for electric service, gas service, cable television service, water, sewer and telephone service and for any other utilities used by Tenant in the Premises (collectively the "Tenant Paid Utilities"). This Section is not intended to impact in any way Landlord's obligation to provide utility lines, connections and other facilities to the Premises as provided for in Article V or Landlord's maintenance and repair obligations under Article VI. In addition, Landlord shall, as a part of Landlord's Work to be completed by the Tender Date, cause the Tenant Paid Utilities to be separately metered (or sub-metered).

3.2 **IMPACT FEES.**

A. **Impact Fees and Turn-On Fees.** The local governmental, quasi-governmental or utility authority may require the payment of certain fees for the use or assumed use of existing or future utility facilities, infrastructure and services (collectively, "Infrastructure"). These fees are generally levied to pay for the usage of a share of Infrastructure, to pay for the impact of a user on the Infrastructure, or to pay to connect to the Infrastructure; these fees are generally only payable once for each use (i.e., not once for each user) and are commonly referred to as impact, connection or capacity fees (collectively, "Impact Fees"). In addition to Impact Fees, certain fees may be levied to pay for the time and expense to program or turn on a public utility service to a building or structure for each new customer; these fees are generally payable for each new customer occupying the building or structure and are commonly referred to as turn-on fees ("Turn-On Fees").

B. **Payment of Turn-On Fees and Impact Fees.** Tenant shall be responsible for payment of all Turn-On Fees and Impact Fees relating to the Premises, but not any other development relative to the Shopping Center. In the event Tenant fails to pay all the Turn-On Fees and Impact Fees as provided for above, Landlord shall have the option, but not the obligation, upon three (3) business days' written notice to Tenant, to pay the Turn-On Fees and Impact Fees. In the event that Landlord pays the Turn-On and Impact Fees, Tenant agrees to reimburse Landlord within thirty (30) days following its receipt of a demand for payment from Landlord accompanied by evidence of the amount of Turn-On Fees and Impact Fees paid, plus Interest as defined in Section 9.6.B herein.

ARTICLE IV - USE AND OPERATION

4.1 **USE OF LEASED PREMISES.**

A. **Permitted Use.** The Premises shall be used by Tenant for the purpose of a table service restaurant and all uses ancillary thereto (which may include, at Tenant's option, all or any number of the following: a bar area, take-out and delivery services, the sale of alcoholic beverages, ancillary merchandise sales or live entertainment), operating initially under the trade name Outback Steakhouse (the "Intended Use"), or a use involved with a Concept Change (as defined in Subsection 4.1C below), provided such use is consistent with a first class regional shopping center or the then class and character of the Shopping Center (the "Permitted Use"). For purposes of this Lease, a "table service" restaurant shall mean any restaurant where (i) food or drink orders are taken from customers at or from the customers' table; (ii) a check is delivered to customers at the customers' table; or (iii) food or drinks are delivered to customers at the customers' table.

B. **Initial Permitted Use.** Tenant intends to initially open at the Premises for the Intended Use, but Tenant has the right to change the restaurant operating format at the Premises as provided in the following Subsection.

C. **Change in Operating Concept.** Tenant hereby reserves the right to change, from time to time, its restaurant concept (a "Concept Change") and/or restaurant operating format at the Premises, so long as

(i) the restaurant is part of a chain having at least twenty (20) restaurant units (excluding fast food); (ii) Tenant does not operate a restaurant which duplicates the predominant or primary featured food type (such as, but not limited to, steaks [i.e., a steakhouse] or seafood) or ethnic cuisine (such as, but not limited to, Mexican, Asian, Japanese, or Chinese) of a restaurant existing in the Shopping Center at the time of Tenant's Concept Change Notice (as defined below); and (iii) Tenant does not operate a restaurant which violates one of the exclusives (the "Existing Exclusives") or "Restricted Uses" currently existing in favor of another tenant of the Shopping Center to the extent then still in effect. The Existing Prohibited Uses and Existing Exclusives are listed on Exhibit "A-7". Duplication of a primary featured food concept will only be deemed to exist if both restaurants would be generally identified by the public as having the same predominant or primary featured food type or ethnic cuisine. Examples of restaurants which have a predominant or primary featured food type or ethnic cuisine include restaurants clearly identifiable as Italian restaurants, Mexican restaurants, French restaurants, seafood restaurants, and steakhouses. Varied Menu Theme Restaurants (as defined in Subsection 1.4D(j)) do not have a predominant or primary featured food type or ethnic cuisine.

D. **Concept Change Notice.** At least sixty (60) days prior to a Concept Change, Tenant will provide written notice to Landlord (a "Concept Change Notice") of the Concept Change. In no event will changes to an existing restaurant format (for example menu modifications) be deemed to be a Concept Change; a Concept Change is intended to include only a change from one restaurant concept to another (for example, from a steakhouse to an Italian restaurant). Landlord shall within thirty (30) days of its receipt of a Concept Change Notice notify Tenant if the proposed use would violate Section 4.1C above. If the proposed use is a restaurant concept owned under the parent company Bloomin' Brands, Inc. ("Bloomin' Brands") and if Landlord fails to respond within said 30-day period as to such Bloomin' Brands restaurant concept, the proposed use shall be deemed not to violate Section 4.1C above.

E. **Operation.** While in operation, Tenant shall operate its business in an efficient, high class and reputable manner. While Tenant shall have the right to cease operations at the Premises, Tenant will continue (regardless of whether or not it is operating) to fulfill its obligations under this Lease, including the payment of Rent and the performance of Tenant's maintenance obligations. Under and subject to certain conditions, Landlord has a recapture right under Section 4.5 if Tenant ceases to operate at the Premises. Tenant shall open as an Outback Steakhouse no later than ninety (90) days after the Commencement Date (the "Outside Opening Date"), subject to Permitted Closures. Notwithstanding anything to the contrary set forth herein, in no event shall Tenant be required to open initially from the Premises for the period running from November 1 in any year through February 15 in the following year, and in the event the Commencement Date or the Outside Opening Date occurs during such time, Tenant shall have the right to delay initially opening until the following February 16 in Tenant's sole discretion, and in the event of such delay, the Commencement Date and the Outside Opening Date shall be delayed to the actual date of opening, but not later than such February 16.

4.2 **RULES RELATING TO TENANT'S OPERATION.**

A. **Use of the Premises.** Tenant agrees (i) to keep the Premises (including, without limitation, the Building located on or constructed on the Premises) neat, clean, sanitary and reasonably free from dirt, rubbish, insects and pests at all times; (ii) not to operate an incinerator or burn trash or garbage within the Premises; (iii) not to use or maintain the Premises in such a manner as to constitute an actionable legal nuisance against Landlord, or which produces noise, vibrations or odors (other than typical restaurant odors and noises) that violate the quiet enjoyment of other tenants of the Shopping Center; (iv) not to commit or permit waste of the Premises; and (v) to maintain the inside of the Building at a temperature sufficiently high to prevent freezing of water pipes and fixtures inside the Building.

B. **Use Restrictions.** Tenant agrees (i) not to solicit business in the parking area or the Common Areas, or distribute handbills or other advertising material upon automobiles parked in the parking area ("Solicitations") and Landlord agrees to use commercially reasonable efforts to avoid Solicitations by others within the Common Areas; (ii) to keep the areas as to which Tenant has an exclusive use right pursuant to its Appurtenant Use Rights, in a neat, clean, and sanitary condition, given the applicable use; and (iii) not to store or keep trash and garbage or property of Tenant in the Common Areas, except pursuant to the Appurtenant Use Rights and except within the area designated as the "Service Area" on Exhibit "A" and only in receptacles of the size, design and color from time to time reasonably agreed upon by Landlord and Tenant.

C. Satellite Equipment. Tenant shall have the right to install a satellite dish or antenna and other voice or data transmission and receiving devices and related facilities (collectively, the "Satellite Equipment") on the roof of the Building. In connection with the Satellite Equipment, Tenant agrees as follows: (i) the location of the Satellite Equipment shall be subject to Landlord's reasonable approval; and (ii) Tenant will operate the Satellite Equipment in compliance with applicable Laws (as defined in Subsection 4.3A) and Tenant will be responsible for obtaining any permits and licenses required for the operation of the Satellite Equipment. Tenant also agrees to take commercially reasonable steps to insure that its operation of the Satellite Equipment will not interfere with other similar equipment operated by Landlord or other tenants of the Shopping Center, and Landlord agrees to take commercially reasonable steps to ensure that the other similar equipment operated by Landlord or other tenants in the portion of the Shopping Center owned by Landlord will not interfere with the operations of the Satellite Equipment.

D. Music System. Tenant may install and operate a music and intercom system on the exterior of the Building (the "Music System"). In connection with the Music System, Tenant agrees that: (i) the Music System will be operated only at reasonable volume levels so as not to unreasonably disturb other tenants and occupants of the Shopping Center and (ii) songs with lyrics generally considered offensive will not be played from the Music System; provided that Tenant shall take such measures as are necessary to assure that any such system, to the extent that it can be heard outside the Premises, is limited to the Patio Area, if any, and appurtenant waiting areas and is operated in such a manner as to avoid any unreasonable disturbance of other tenants, occupants and customers of the Shopping Center.

E. Live Music. Tenant shall have the right to have live music performances within the interior of the Building during business hours, provided that such performances shall be limited to reasonable volume levels so as not to unreasonably disturb other tenants and occupants of the Shopping Center.

F. Additional Rules. All additional rules and regulations previously provided to, and accepted by, Tenant (as evidenced on Exhibit "F" hereto) are hereby made a part of this Lease. Landlord may adopt, add to, amend or supplement rules and regulations for the orderly use and operation of the Common Areas, so long as the rules and regulations are reasonable, apply uniformly to all tenants of the Shopping Center, do not conflict with this Lease, do not cause Tenant to incur material additional costs, and do not unreasonably interfere with the operation of Tenant's business. Any such rules and regulations, amendments or supplements shall be delivered to Tenant in writing at least thirty (30) days prior to their effective date. Notwithstanding anything to the contrary herein, in the event of a conflict between any rules or regulations and the provisions of this Lease, the provisions of this Lease shall control.

4.3 GOVERNMENTAL LAWS AND REGULATIONS.

A. Compliance by Tenant. Tenant shall, at its expense, obtain all licenses and permits required for, and comply with all Federal, State and local laws, ordinances, codes, orders and regulations (collectively, "Laws") relating to (i) Tenant's business operations within the Premises (including the Patio Area, if any); (ii) any work performed by Tenant; and (iii) the areas to be maintained or repaired by Tenant under this Lease.

B. Compliance by Landlord. Landlord shall comply with all Laws relating to (i) any work performed by Landlord, and (ii) the areas to be maintained or repaired by Landlord under this Lease. Landlord represents and warrants to Tenant that it has not received any notice of any violation of Laws with respect to the Shopping Center and that, to the best of its knowledge, the real property comprising the Shopping Center is in compliance with all Laws.

C. Fines and Penalties. Each of Landlord and Tenant shall be responsible for and defend the other against any penalties or fines imposed and any related claims asserted as a result of its violation of applicable Laws.

4.4 LIENS.

A. **Tenant Liens.** Tenant shall have no power or authority to subject Landlord's interest in the Premises or any other portion of the Shopping Center to any construction, mechanic's or materialmen's liens of any kind (each, a "Construction Lien"). If any Construction Lien is filed against Landlord's interest in the Premises or any other portion of the Shopping Center as a result of work performed by Tenant or materials or services provided to Tenant, Tenant shall, within thirty (30) days of a demand from Landlord discharge the Construction Lien by payment, transferring the lien to a bond or other security, or by such other method as may be available under applicable Laws.

B. **Landlord Liens.** Landlord shall have no power or authority to subject Tenant's interest in the Premises or Tenant's Personal Property to any Construction Lien. If any Construction Lien is filed against Tenant's interest in the Premises or Tenant's Personal Property as a result of work performed by Landlord or materials or services provided to Landlord, Landlord shall, within thirty (30) days of a demand from Tenant discharge the Construction Lien by payment, transferring the lien to a bond or other security, or by such other method as may be available under applicable Laws.

C. **Failure to Discharge.** If either Landlord or Tenant fails to comply with its lien discharge obligations under this Section, the other may discharge the subject Construction Lien(s) and the reasonable costs and expenses incurred in connection therewith shall be due from the other party to the discharging party within ten (10) days of demand for payment accompanied by reasonable evidence of the cost and expenses incurred to accomplish such discharge.

4.5 RECAPTURE FOR FAILURE TO OPERATE.

A. **Right of Recapture.** In the event that Tenant ceases to operate in the Premises for more than thirty (30) consecutive days (a "Closure"), Tenant shall, on or before the ninetieth (90th) day after the Closure, provide written notice to Landlord (a "Closure Notice") that either (i) the Closure is temporary and Tenant (or an assignee or subtenant to whom this Lease may be assigned or the Premises sublet without Landlord's consent pursuant to Section 8.3 of this Lease) intends to reopen in the Premises (a "Temporary Closing"); or (ii) Tenant intends to attempt to assign this Lease or to sublet the Premises to a third party which requires Landlord's consent pursuant to Section 8.3 of this Lease or such Closure is not temporary (a "Permanent Closing"). At the time of delivering the Closure Notice, Tenant shall include with such Closure Notice Tenant's good faith determination of the Recapture Payment as defined below. If (a) Tenant gives the notice of a Temporary Closing and the Premises has still not reopened by the date which is two hundred forty (240) days from the Closure Notice, provided that Tenant shall be granted two (2) successive extension periods of thirty (30) days each so long as Tenant (or an assignee or subtenant to whom the Premises may have been assigned or sublet) has commenced the renovation or remodeling of the Premises and is in good faith pursuing the same to completion (the "Reopening Period"), (b) Tenant gives notice of a Permanent Closing, or (c) Tenant fails to give the Closure Notice, in any such event, Landlord shall have the right (the "Recapture Right") to terminate Tenant's interest in this Lease in accordance with the provisions set out below.

B. **Exercise of Recapture Right.** Landlord shall exercise the Recapture Right by written notice to Tenant (the "Exercise Notice") given within sixty (60) days of (i) Landlord's receipt of the Closure Notice in the event of a Permanent Closing, or (ii) the end of the Reopening Period in the event of a Temporary Closing, or (iii) Tenant's failure to deliver the Closure Notice when required hereunder and the continuation of such failure for ten (10) days following written notice from Landlord to Tenant of such failure, whichever is applicable. If Landlord fails to exercise the Recapture Right as set forth herein, this Lease shall continue in full force and effect and Landlord shall have no further rights under this Section 4.5, as to such Closure.

C. **Amount of Recapture Payment.** For purposes of this Lease the "Recapture Payment" is equal to the unamortized costs of Tenant's Building constructed or made by or on behalf of Tenant at or in connection with the Premises prior to the Closure ("Tenant's Improvements"), excluding, however, any furniture, fixtures, equipment and other personal property that Tenant is entitled to remove at the expiration of the term of this Lease. For purposes of the foregoing (i) costs shall include all hard construction costs and expenses (excluding soft

costs) incurred by Tenant with respect to Tenant's Improvements, and (ii) such costs shall be amortized on a straight-line basis over fifteen (15) years.

D. **Termination of Lease.** Unless Landlord withdraws its exercise of the Recapture Right as provided for above, Landlord shall pay the Recapture Payment to Tenant on or before the thirtieth (30th) day following the final determination of the Recapture Payment pursuant to Section C above. The date that Tenant receives the Recapture Payment shall be referred to as the Recapture Date. In the event that Landlord fails to make the Recapture Payment as and when required, Tenant shall provide written notice to Landlord of such failure, and, in the event that Landlord has not cured the failure within ten (10) days from Tenant's notice, there shall be an abatement of all Rent under this Lease from the date the Recapture Payment is due until the Recapture Date and, at any time prior to Tenant's receipt of the Recapture Payment, Tenant, at its option, may, by written notice to Landlord, terminate the Recapture Right, in which event this Lease shall continue, Rent shall recommence as of the first day of the calendar month following Tenant's notice, and Landlord shall have no further rights under this Section 4.5, which shall be deemed stricken from this Lease. Unless Tenant elects its option to terminate the Recapture Right as provided for in the preceding sentence, this Lease shall terminate on the Recapture Date and (subject to the preceding sentence) Rent shall be prorated as of the Recapture Date. Tenant agrees to remove its proprietary signage and any of its personal property which this Lease requires be removed upon the expiration of the Term of this Lease prior to the thirtieth (30th) day following its receipt of the Recapture Payment. Tenant may also remove all other property of Tenant that this Lease allows Tenant to remove upon the expiration of the Term of this Lease. Following the Recapture Date neither Landlord nor Tenant shall have any further liability under this Lease, except for (i) obligations which accrued prior to the Recapture Date and (ii) Tenant's obligation to repair any damage to the Premises caused by the removal of its property as provided for above.

E. **Permitted Closures.** For purposes of this Section, the following shall be "Permitted Closures" and shall not constitute a "Closure" or count toward the Reopening Period: (i) any period during which the normal operation of business at the Premises is not practical as a result of damage by fire or other casualty or any other force majeure; (ii) any period during which the normal operation of business at the Premises is not practical as a result of a taking by eminent domain or other governmental action; (iii) reasonable periods for remodeling, alterations and repairs, including related permitting time; and (iv) any closure or delay in reopening resulting from Landlord's failure to comply with its obligations under this Lease, beyond any applicable notice and cure period.

F. **Interpretation.** Time is of the essence as to all time periods in this Section. This Lease does not have an operating covenant and this Section sets out Landlord's sole remedies for a failure of Tenant to operate at the Premises.

ARTICLE V - IMPROVEMENTS

5.1 **LANDLORD'S WORK.** The following work (collectively "Landlord's Work") shall be done by Landlord exclusively, at Landlord's sole cost and expense in accordance with plans and specifications as agreed to in writing by both Landlord and Tenant ("Landlord's Approved Plans") in a good and workmanlike manner and in compliance with all "Applicable Laws" (defined as all laws, statutes, ordinances, building codes and rules and regulations applicable to performance of Landlord's Work) using all new, first-class quality equipment and materials:

A. **Pre-Tender Work.** The following Landlord's Work shall be completed prior to the Tender Date (the "Pre-Tender Work"):

(a) **Landlord's Approved Plans.** Within sixty (60) days of the Effective Date, Landlord shall submit to Tenant plans and specifications for all of Landlord's Work (including, but not limited to, engineering plans, utility plans, site plan, grading and drainage plans, landscaping and irrigation plans, and site photometric plans) for development of the Premises substantially in accordance with the Site Plan attached hereto as Exhibit "A" ("Landlord's Preliminary Plans"). Landlord's Preliminary Plans shall include a written copy of all plans and specifications, as well as an electronic copy of all plans and specifications. Landlord and Tenant will act in a good faith and responsive manner to agree upon plans and specifications for the Landlord's Work. The plans and specifications as agreed upon by Landlord and Tenant are referred to in this Lease as "Landlord's Approved Plans" and the date the plans and specifications are approved by Landlord and Tenant is referred to in this Lease as

the "Landlord Plan Approval Date". To facilitate the agreement upon Landlord's Approved Plans, Tenant and Landlord agree to respond to any plans and specifications, or comments thereto, submitted to such party within ten (10) business days following its receipt of any plans and specifications, or comments. If any plans and specifications are not approved, the response will contain specific comments outlining the changes requested to obtain approval.

(b) Landlord's Permits and Third Party Approvals.

(i) Third Party Approvals. If the Permitted Use and/or Tenant's Plans require the consent or approval of certain third parties (the "Third Party Approvals"), including, without limitation, those required under the Governing Documents, other than the applicable governmental authorities, Landlord shall be responsible for obtaining the Third Party Approvals at Landlord's sole expense and cost. Within thirty (30) days after the Effective Date, Landlord shall submit the Permitted Use and Tenant's Plans for the Third Party Approvals. Landlord shall provide to Tenant evidence of the Third Party Approvals, which evidence must be reasonably satisfactory to Tenant. In the event Landlord is unable to obtain the Third Party Approvals by the Anticipated Delivery Notice Deadline (the "Third Party Approvals Date"), Landlord shall have the right and option by written notice to Tenant delivered before the Third Party Approvals Date to have an additional ninety (90) days to obtain the Third Party Approvals (the "Extended Third Party Approvals Date"). In the event Landlord is unable to obtain the Third Party Approvals by the Third Party Approvals Date, unless timely extended by Landlord, in which event by the Extended Third Party Approvals Date, Landlord shall have the option to terminate this Lease upon written notice to Tenant delivered within five (5) business days after the Third Party Approvals Date or the Extended Third Party Approvals Date, whichever is applicable, whereupon this Lease shall be of no further force and effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive termination). In the event Tenant does not receive reasonably satisfactory evidence that Landlord has obtained the Third Party Approvals by the Third Party Approvals Date, unless timely extended by Landlord, in which event by the Extended Third Party Approvals Date, Tenant shall have the option to either: (a) provide Landlord with such additional time as reasonably determined by Tenant to obtain the Third Party Approvals; or (b) terminate this Lease upon written notice to Landlord delivered within five (5) business days after the Third Party Approvals Date or the Extended Third Party Approvals Date, whichever is applicable. In the event Landlord or Tenant terminates this Lease due to Landlord's failure or inability to obtain the Third Party Approvals by the Third Party Approvals Date or Extended Third Party Approvals Date, as applicable, this Lease shall be of no further force and effect and Tenant shall recover from Landlord all reasonable and documented out-of-pocket costs and expenses incurred by Tenant in connection with this Lease or the Premises, subject to a cap of \$125,000.00 (which reimbursement shall survive termination) and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive termination).

(ii) Permits. Landlord shall submit Landlord's Approved Plans to the appropriate governmental authorities within ten (10) days from the Landlord Plan Approval Date, and diligently and in good faith pursue the receipt of all permits and approvals for Landlord's Work ("Landlord's Permits"). If Landlord is unable to obtain Landlord's Permits within one hundred fifty (150) days from the Landlord Plan Approval Date (the "Landlord Permit Period"), then the Landlord Permit Period shall be automatically extended for thirty (30) days (the "Extended Landlord Permit Period"). In the event Landlord is unable to obtain Landlord's Permits before the end of the Extended Landlord Permit Period, Tenant shall have the right, but not the obligation, upon written notice to Landlord, to extend the Extended Landlord Permit Period for an additional ninety (90) days so that Tenant can try to cause the permit(s) in question to be issued to Landlord on terms reasonably satisfactory to Landlord, provided (i) there shall be no change to any plans or specifications submitted to such agency or authority without Landlord's prior written consent; and (ii) Landlord's costs to obtain Landlord's Permits and/or to complete Landlord's Work do not increase. If Tenant elects to extend the Extended Landlord Permit Period and is unable to cause the permit(s) in question to be issued to Landlord as set forth in the immediately preceding sentence by the end of such additional ninety (90) day period, then either Landlord or Tenant shall have the right and option to terminate this Lease by written notice to the other party delivered on or before the date which is five (5) business days after the end of such additional ninety (90) day period, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). If Tenant elects not to extend the Extended Landlord Permit Period, Tenant shall so notify Landlord and Landlord shall have the unilateral right and option to terminate this Lease by written notice to Tenant delivered on or before the date which is five (5) business days after Landlord's receipt of Tenant's notice, whereupon this

Lease shall be of no further force or effect and Tenant shall recover from Landlord all reasonable and documented out-of-pocket costs and expenses incurred by Tenant in connection with this Lease or the Premises, subject to a cap of \$125,000.00 (which reimbursement shall survive termination) and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive termination). Tenant agrees to use commercially reasonable efforts to assist Landlord in obtaining Landlord's Permits, but shall not be required to incur any third party costs in connection with such assistance. The date upon which Landlord obtains Landlord's Permits and notifies Tenant in writing shall be the "Landlord's Permit Date".

(c) Work Letter – Pre-Tender Work. Landlord shall have completed (or caused to be completed) all of Landlord's Work specified on the Work Letter attached hereto as Exhibit "A-3" (the "Work Letter") under the heading "PRE-TENDER LANDLORD'S WORK" (the "Work Letter – Pre-Tender Work") in compliance with the Work Letter. Upon receipt of notice from Landlord that the Work Letter – Pre-Tender Work is complete and delivery by Landlord of the Pad/Site Certification form attached hereto as Exhibit "A-4" completed by Landlord's geotechnical engineer, Tenant shall have the right to inspect the Premises and the Work Letter – Pre-Tender Work and to provide written notice to Landlord of any deficiency or failure of Landlord to complete the Work Letter – Pre-Tender Work in accordance with the terms of this Lease. Landlord and Tenant shall jointly inspect the Premises within ten (10) business days of Tenant's receipt of such notice at which time Landlord and Tenant shall enter into the Delivery and Acceptance of the Premises Agreement in the form attached hereto as Exhibit "A-5".

(d) Planning Commission Approval-Landlord. Landlord shall use due diligence and commercially reasonable efforts (consistent with Landlord's normal business practices) to obtain, at its sole cost and expense, approval of the Planning Commission for Landlord's Work ("Planning Commission Approval-Landlord"). In no event shall "commercially reasonable efforts" require Landlord to file an appeal from the Planning Commission denying Landlord's application for approval. If Landlord is unable to obtain Planning Commission Approval-Landlord within one hundred twenty (120) days of the expiration of the Inspection Period (the "Planning Commission Approval-Landlord Period"), Tenant shall have the right, but not the obligation, upon written notice to Landlord, to extend the Planning Commission Approval-Landlord Period for an additional ninety (90) days so that Tenant can try to cause the approvals in question to be issued to Landlord on terms reasonably satisfactory to Landlord, provided (i) there shall be no change to any plans or specifications without Landlord's prior written consent; and (ii) Landlord's costs to obtain the approvals and/or to complete Landlord's Work do not increase. If Tenant elects to extend the Planning Commission Approval-Landlord Period and is unable to cause the approvals in question to be issued to Landlord as set forth in the immediately preceding sentence by the end of such additional ninety (90) day period, then either Landlord or Tenant shall have the right and option to terminate this Lease by written notice to the other party delivered on or before the date which is five (5) business days after the end of such additional ninety (90) day period, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). If Tenant elects not to extend the Planning Commission Approval-Landlord Period, Tenant shall so notify Landlord and Landlord shall have the unilateral right and option to terminate this Lease by written notice to Tenant delivered on or before the date which is five (5) business days after Landlord's receipt of Tenant's notice, whereupon this Lease shall be of no further force or effect and Tenant and Landlord shall be released from all obligations hereunder (except those that expressly survive a termination). Tenant agrees to use commercially reasonable efforts to assist Landlord in obtaining Planning Commission Approval-Landlord, but shall not be required to incur any third party costs in connection with such assistance.

B. Post-Tender Work. Landlord shall complete (or cause to be completed) the portion of Landlord's Work specified on the Work Letter under the heading "POST-TENDER LANDLORD'S WORK" (the "Work Letter – Post-Tender Work") in compliance with the Work Letter. In the event any of the Work Letter – Post-Tender Work is not completed within forty-five (45) days after the Tender Date (subject to Force Majeure Events and any Tenant Delay) and such failure continues for more than ten (10) additional days following written notice to Landlord from Tenant of such failure (the "Post-Tender Work Deadline"), Tenant shall be entitled to the Delay Penalty and Additional Delay Remedies described in Section 1.3C above. Notwithstanding any provisions to the contrary, if Landlord shall fail to complete (or cause to be completed) multiple portions of the Work Letter – Post-Tender Work by the Post-Tender Work Deadline, Tenant shall only be entitled to a single Delay Penalty as provided above, and Tenant shall not be entitled to "stack" or multiply any Delay Penalty as provided above.

C. **Insurance.** Landlord agrees, at Landlord's expense, to obtain and maintain in force during the period of time in which Landlord is completing Landlord's Work, public liability insurance and worker's compensation insurance adequate to fully protect Tenant as well as Landlord from and against any and all liability for death or injury to person, or damage to property arising out of or by reason of Landlord's Work.

D. **Failure to Complete Work.** In addition to all other remedies described in this Lease, if Landlord fails to complete any of Landlord's Work, or it is reasonably anticipated that Landlord will not complete any of Landlord's Work by the date Tenant anticipates obtaining a certificate of occupancy or other applicable permit or approval to open at the Premises (an "Occupancy Certificate") and such failure is reasonably anticipated to result in Tenant being unable to obtain an unconditional Occupancy Certificate, Tenant shall have the right, but not the obligation, upon five (5) days' written notice to Landlord, to complete Landlord's Work (or a portion thereof as is needed to obtain an unconditional Occupancy Certificate); provided that Tenant agrees not to exercise its right to complete Landlord's Work so long as Landlord is using all available commercially reasonable measures (specifically including overtime labor, the replacement of a non-performing contractor, and alternative {even if more expensive} sources of required materials and other needed items) to complete the Landlord's Work in a manner so that the issuance of the Occupancy Certificate for the Premises is not delayed, or, if a delay cannot be avoided, the delay will be as short as possible. Landlord agrees to reimburse Tenant of all reasonable out-of-pocket costs and expenses incurred in connection with the completion of Landlord's Work, within thirty (30) days following its receipt of a demand for payment from Tenant accompanied by evidence of the amount incurred.

E. **Defects in Landlord's Work.** If repairs or additional work is required as a result of any defects in the Landlord's Work or the Premises (a "Construction Defect") that Tenant discovers within one (1) year after the Tender Date, Tenant will provide notice of the Construction Defect to Landlord. Landlord agrees to use all commercially reasonable efforts to complete the repairs or work required to correct the Construction Defect as quickly as is reasonably possible, provided that if, at any time, the Construction Defect will delay the completion of Tenant's Work or the opening of the Premises for business, Tenant may itself complete the repairs or work required to correct the Construction Defect. Landlord agrees to reimburse Tenant of all costs and expenses incurred in connection with the correction of the Construction Defect, within thirty (30) days following its receipt of a demand for payment from Tenant accompanied by evidence of the amount incurred.

F. **Delayed Rent Commencement.** Notwithstanding the occurrence of the Commencement Date, Rent shall not begin to accrue under this Lease until the substantial completion of Landlord's Work. Landlord shall substantially complete Landlord's Work by no later than the dates herein provided. As used in this Lease, the term "substantially complete" shall mean, notwithstanding Tenant's possession of the Premises, that (i) Landlord's Work has been completed with the exception of minor "punch list" items which can be fully completed prior to the completion of Tenant's Work (hereinafter defined) without material interference with Tenant's activities within the Premises and (ii) a Certificate of Completion and/or Certificate of Inspection, if any, has been unconditionally issued by the appropriate governmental agency for Landlord's Work. Landlord agrees to perform Landlord's Work in a good and workmanlike manner, utilizing first quality new materials in compliance with all applicable laws, ordinances, rules and statutes.

5.2 **TENANT'S WORK.** Except to the extent included in Landlord's Work under this Lease, Tenant, at Tenant's sole cost and expense, shall perform and complete all other work to the Premises required to prepare the same for Tenant's Intended Use ("Tenant's Work").

A. **Tenant's Plans.** Tenant's site plan, building elevations, floor plan, sign drawings and utility point of connection plans are attached hereto as Exhibit "A-2" and made a part hereof ("Tenant's Plans"), which Tenant's Plans Landlord has approved. Landlord may object to or request revisions to elements of Tenant's Plans, provided such objection or requested revisions are based solely on objections received or revisions requested when seeking the Third Party Approvals. Tenant may submit for permitting detailed plans consistent with Tenant's Plans without Landlord's approval as long as the exterior appearance, location of the Building and location of utility connections to the Building are not materially changed. It is agreed that changes required to Tenant's Plans mandated by any applicable permitting jurisdiction shall be deemed approved by Landlord.

B. **Intentionally deleted.**

C. Work/Insurance. All work shall be completed in compliance with all codes, ordinances, rules and regulations of applicable governmental authorities, in a good and workmanlike manner by licensed contractors with appropriate building permits. Tenant agrees that the general contractor performing work on the Premises shall maintain public liability insurance of at least Two Million and No/100 Dollars (\$2,000,000.00) per occurrence. Tenant shall require that the general contractor have all such public liability insurance policies endorsed to show Landlord as an additional insured with respect to occurrences upon the Premises. All entries on the Premises after the Tender Date and all work done by or on behalf of the Tenant shall be at Tenant's sole risk, and shall be subject to all terms, covenants and conditions of this Lease.

D. Construction Rules. In connection with the Tenant's Work, Tenant agrees (i) not to erect or maintain any barricade or scaffolding which obscures the signs, entrances or show windows of any other tenant in the Shopping Center; (ii) not to unreasonably interfere with access to any such other tenant's business; (iii) not to allow Tenant's construction materials or debris to obstruct the walkways of the Shopping Center; (iv) to remove any of Tenant's construction debris that may be blown or otherwise deposited in the parking or landscaped areas of the Shopping Center (other than within Tenant's Staging Area); and (v) to take commercially reasonable customary measures to secure the Premises.

E. Intentionally Deleted.

F. Signage. Tenant is hereby granted, for the entire Term, the right (the "Signage Rights") to install and maintain the signage ("Tenant's Signage") as set out below in this Section. JL

(a) Building Signage. Subject to the Governing Documents and Third Party Approvals, Tenant shall have the right for the entire Term to install and maintain on the exterior walls of the Building the exterior storefront signage as shown on Tenant's Plans.

(b) Intentionally deleted.

(c) Intentionally deleted.

(d) Other Signs. Tenant shall have the right to place its proprietor, credit card, hours of operation, and its other standard informational signage on the front entrance or windows of the Premises, and such signage has been approved by Landlord. Subject to the Governing Documents, Tenant shall have the right to install and maintain at Tenant's sole cost and expense a low-profile monument-type sign in the Common Area in the location shown as "Monument Sign Location" on page 3 of the Site Plan on Exhibit "A", provided that such sign advertises only the business being operated in the Building and that such sign not exceed five (5) feet in height (excluding a sign pedestal not to exceed one (1) foot in height), nine (9) feet in width, and thirty (30) inches in depth.

5.3 ALTERATIONS, ADDITIONS AND IMPROVEMENTS. During the Term of this Lease, Tenant shall have the right to make alterations, additions and improvements to the interior or exterior of the Premises; provided that, except as otherwise expressly provided for in this Lease, any alterations, additions or improvements (i) to the exterior of the Premises or the Building; (ii) to the structural portions of the Premises or the Building; and (iii) which involve the alteration of the base building plumbing, electric or HVAC systems, shall not be made by Tenant without the prior written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. Landlord's consent shall not, however, be required for any alterations, additions or improvements which are part of a "system-wide" program intended to be implemented at all or substantially all similarly situated establishments operating under the same trade name as the Premises, so long as the restaurant concept is affiliated with Bloomin' Brands, provided such changes do not conflict with any Restricted Uses as listed on Exhibit "A-7".

5.4 OWNERSHIP OF IMPROVEMENTS. During the Term of this Lease Tenant shall be considered for all purposes to be the owner of the Building and its other improvements constructed at the Premises by Tenant ("Tenant's Improvements") and Tenant alone shall be entitled to all available tax deductions on its Federal and State income tax returns for the depreciation and other expenses related to Tenant's Improvements. Upon the expiration of the Term or termination of this Lease, Tenant's Improvements shall become the property of

Landlord. Tenant's Improvements do not include Tenant's Personal Property. Tenant shall not remove from the Premises any heating, ventilating, air conditioning, plumbing, electrical and other utility systems that are incorporated into the Improvements which serves the Premises generally, as compared to Tenant's Personal Property which Tenant may remove. Upon the expiration or earlier termination of this Lease, any such Personal Property belonging to Tenant which Tenant has failed to remove from the Premises upon said expiration or termination shall become the property of Landlord. Should Tenant remove any such fixture, or any alteration or replacement thereof, affixed to the Premises that was placed on the Premises by Tenant, then Tenant, at its sole cost and expense shall repair any damage to the Premises caused by such removal.

ARTICLE VI - MAINTENANCE OBLIGATIONS

6.1 **MAINTENANCE BY TENANT.** Tenant shall at all times keep and maintain, at its cost and expense, the Building constructed on the Premises, including any Patio Area, if any, exterior entrances, all glass and windows, all floors, and all partitions, doors, fixtures, equipment and appurtenances thereof, including lighting, electrical equipment, plumbing fixtures and equipment, heating, ventilating and air conditioning equipment, in good order and repair, reasonable wear and tear excepted, and in a clean and sanitary condition, and shall make all necessary repairs, including all necessary replacements, alterations and additions, using material and equipment of similar or superior kind and quality to the original improvements. Other than as set forth below with respect to Tenant's internal maintenance program, Tenant shall enter into a contract with a duly licensed air conditioning service company for the maintenance of the heating, ventilating and air conditioning system. Other than as set forth below with respect to Tenant's internal pest inspection and treatment program, Tenant shall also enter into a pest control contract for the Premises at Tenant's sole cost and expense, which contract shall provide for monthly pest inspections. Tenant shall be responsible for protecting the Premises and the property located therein from theft and robbery and shall keep all doors and windows securely fastened when not in use. Tenant shall pay all costs associated with disposal of its garbage, including but not limited to, costs of pick up, containers and deposits. Notwithstanding the above, if repairs are required because of Landlord's wrongful or negligent act or omission to act, or because of any latent defect in the Premises or Landlord's Work, and Landlord fails to make such repairs within thirty (30) days after written notice from Tenant to Landlord (or such shorter period as may be appropriate in case of an emergency or as may be necessary to prevent damage to the Premises or to avoid a delay in Tenant's opening for business or to avoid a closure of Tenant's business), Tenant may itself perform such repairs and charge the reasonable cost of such repairs to Landlord and Landlord shall have thirty (30) days from receipt of invoice(s) for such costs to make payment in full to Tenant. In the event that Landlord fails to tender full payment within the said thirty (30) day period, Tenant may thereafter begin to offset all Rent due under this Lease until the entire cost has been recovered.

Unless Tenant has established its own internal program, Tenant shall obtain service contracts to provide for (i) the regular maintenance of the heating, ventilating and air conditioning system exclusively serving the Premises; and (ii) regular pest inspections and treatment, as needed.

Tenant shall contract for the pick-up and disposal, at regular intervals, of the trash produced at the Premises, at Tenant's sole cost and expense, so that there is no accumulation of trash that cannot be accommodated by Tenant's Dumpster or other trash containers.

If Tenant fails to maintain the Building as required hereunder, then thirty (30) days after written request (or such longer period as is necessary if the repair cannot reasonably be completed within the thirty (30) day period and Tenant promptly commences and diligently pursues the completion of such repair or such shorter period of time as shall be appropriate in case of emergency or otherwise as necessary to prevent further damage), Landlord shall have the right to enter the Premises and to make such repairs at Tenant's expense, and upon completion thereof Tenant shall pay as Additional Rent Landlord's reasonable costs for making such repairs. Such payment shall be due within thirty (30) days after Tenant's receipt of an invoice therefor.

6.2 **MAINTENANCE BY LANDLORD.** Landlord covenants and agrees, at its cost and expense to provide, operate, keep, maintain and replace, if necessary, the utilities and plumbing system up to and including the connections to the Premises, the sprinkler mains, if any, and the Common Areas (including, but not limited to, the Common Areas located on the Premises, landscaping, sprinkler systems, pavement and striping of parking areas, and adequate lighting in the Common Area until at least two (2) hours after Tenant's closing time) in good condition and

repair, in a neat and clean condition and in compliance with all applicable governmental laws, regulations and other requirements. Notwithstanding the above, if Landlord is required to make repairs to the Premises or Common Areas by reason of Tenant's negligent act or failure to act, Tenant shall pay as Additional Rent Landlord's reasonable cost of making such repairs. Such payment shall be due within thirty (30) days after Tenant's receipt of an invoice therefor.

If Landlord fails to undertake and complete all necessary maintenance or repairs as required under this Lease then thirty (30) days after written request (or such longer period as is necessary if the repair cannot be reasonably completed within the thirty (30) day period and Landlord promptly commences and is diligently pursuing completion of such repair), Tenant shall have the right, to undertake and complete such maintenance or repairs at Landlord's cost and expense. In addition, in the event such a failure results in a material interference with Tenant's operation of its business, and Landlord does not immediately, after notice from Tenant, which may be oral notice to Landlord's property manager, commence, and with all due diligence, continue the cure of such failure, including taking any immediate steps necessary to lessen the impact on Tenant's business, Tenant shall have the right to undertake and complete such maintenance or repairs at Landlord's cost and expense. Landlord shall be responsible for payment of all costs and expenses incurred by Tenant in connection with the exercise of its rights under this Section. Landlord shall have thirty (30) days from receipt of said invoice(s) for such costs to make payment in full. In the event Landlord fails to tender full payment within said thirty (30) day period, Tenant may thereafter begin to offset all Rent due under this Lease until the entire cost has been recovered.

6.3 ADDITIONAL CONSTRUCTION. On and after the Commencement Date, Landlord shall not during Tenant's business hours, except (i) to the extent required for emergency repairs and (ii) except, subject to the remaining provisions of this Section 6.3, in connection with the initial construction of other buildings in the Shopping Center, engage in or allow any construction activities or utilize any area for construction staging that would adversely impact ingress and egress to and from the Premises; reduce, in some material respect, parking available to Tenant's customers; disturb customers; create an unsightly condition; or otherwise interfere with the operation of Tenant's business at the Premises in some material respect. All such work, including emergency repairs, shall be conducted (i) in a manner to minimize any interference with Tenant's business operations and its customers' and employees' use of the Common Areas, and (ii) to the extent practical, outside Tenant's business hours; provided, however, that such restriction on the timing of construction activities shall not apply to the initial construction of buildings outside of Tenant's Staging Area, the Protected Area or the Protected Access, and Landlord shall be permitted to stage construction of said buildings within the Shopping Center except for in Tenant's Staging Area, the Protected Area or the Protected Access.

ARTICLE VII – INSURANCE AND INDEMNITY

7.1 TENANT'S INSURANCE. Tenant shall, during the Term of this Lease, maintain insurance coverage in accordance with this Section.

A. **Tenant's Liability Insurance.** Tenant will keep in force, throughout the Term of this Lease, commercial general liability insurance (or substantially equivalent liability insurance or another type of comprehensive liability insurance policy then in common use) with respect to the Premises and the business operated by Tenant at the Premises. Tenant's liability insurance will (i) be in an amount of not less than Five Million Dollars (\$5,000,000) per occurrence, which may include primary, excess and umbrella policies, and (ii) name Landlord and its mortgagee(s) or agent designated by Landlord as an additional insured, as to occurrences in the Premises.

B. **Tenant's Property Insurance.** Tenant will keep in force at its own expense, commencing on the date Tenant actually takes possession of the Premises and continuing throughout the Term of this Lease, special form (formerly known as "all risk") property insurance (or substantially equivalent property insurance or another type of broad form property insurance policy then in common use) with respect to the Building located on or constructed on the Premises and Tenant's Improvements and betterments and personal property in the Premises against loss or damage by fire and such other hazards on a replacement cost basis. Tenant will furnish Landlord with certificates of such insurance within twenty (20) days after written request by Landlord. If Tenant shall not comply with the provisions of this Section, then after twenty (20) day's prior written notice and opportunity to cure to Tenant, Landlord shall have the right to obtain insurance as required by this Section and, in such event,

Tenant agree to pay the premium for such insurance promptly upon Landlord's demand. Tenant's property insurance policies will show Landlord as a loss payee, as its interest may appear.

C. **Tenant's Employers' Liability Insurance.** Tenant shall, throughout the Term of this Lease, maintain such workers compensation or employer's liability insurance as may be required by applicable Laws.

D. **Liquor Liability Insurance.** Tenant shall, throughout the Term of this Lease, maintain Liquor Legal Liability Insurance in an amounts no less than Five Million Dollars (\$5,000,000.00) which may include primary, excess and umbrella policies, or, if Liquor Legal Liability Insurance is unavailable, such other liability insurance as may be obtainable in the area of the Premises to cover Tenant's and/or Landlord's vicarious liability with respect to the actions of Tenant's patrons on or off the premises, which liability shall or may arise by reason of Tenant's sale to such patrons of alcoholic beverages, unless such risks are covered by Tenant's commercial general liability insurance.

E. **General Insurance Requirements.** Tenant's required liability insurance and property insurance shall (i) be issued by companies licensed to do business in the State in which the Premises are located and rated A- / VII or better in the then most current issue of Best's Insurance Reports, and (ii) provide for at least twenty (20) days written notice to Landlord before cancellation. Tenant is not required to carry separate insurance policies for the Premises, and all of Tenant's insurance may be under policies which cover multiple locations.

F. **Certificates of Insurance.** Tenant will furnish Landlord with certificates of the insurance Tenant is required to carry within twenty (20) days after a written request by Landlord.

G. **Deductibles and Self-Insurance.** Tenant's insurance may include a self-insured retention or deductible (a "Self-Insured Amount"), which will be of a commercially reasonable amount given the size and financial strength of Tenant and the affiliated group of entities of which Tenant is a part that are covered under the same insurance program; provided that if Tenant elects to totally self-insure, Tenant and the affiliated group of entities of which Tenant is a part must have a combined tangible net worth of at least \$100,000,000.00.

7.2 **LANDLORD'S INSURANCE COVERAGE.** Landlord shall, during the Term of this Lease, maintain insurance coverage in accordance with this Section.

A. **Landlord's Liability Insurance.** Landlord will keep in force, throughout the Term of this Lease, commercial general liability insurance (or substantially equivalent liability insurance or another type of comprehensive liability insurance policy then in common use) with respect to the portion of the Shopping Center owned by Landlord and its operation. Landlord's liability insurance will (i) be in an amount of not less than Five Million Dollars (\$5,000,000), which may include primary, excess and umbrella policies, and (ii) name Tenant as an additional insured, as to occurrences in the Common Areas.

B. **Landlord's Property Insurance.** Landlord will keep in force, throughout the Term of this Lease, special form (formerly known as "all risk") property insurance (or substantially equivalent property insurance or another type of broad form property insurance policy then in common use) with respect to the Common Areas of the portion of the Shopping Center owned by Landlord. Landlord's property insurance will be in at least an amount as is required to avoid the application of any co-insurance provision that its property insurance may be subject to.

C. **Landlord's Employers' Liability Insurance.** Landlord shall, throughout the Term of this Lease, maintain such workers' compensation or employers' liability insurance as may be required by applicable Laws.

D. **General Insurance Requirements.** Landlord's required liability insurance and property insurance shall be issued by companies licensed to do business in the State in which the Premises are located and rated A- / VII or better in the then most current issue of Best's Insurance Reports. Landlord is not required to carry separate insurance policies for the Shopping Center, and all of Landlord's insurance may be under policies which cover multiple locations.

E. Certificates of Insurance. Landlord will furnish Tenant with certificates of the insurance Landlord is required to carry within ten (10) days after a written request by Tenant.

7.3 INDEMNITY.

A. Tenant Indemnity. Tenant shall indemnify, hold harmless and defend Landlord from and against any and all suits, claims, actions, damages, liabilities and expenses, including reasonable attorneys' fees (collectively, "Claims and Damages") arising out of (i) any loss of life, personal injury and/or damage to property occurring within the Premises or resulting from the wrongful or negligent acts or omissions of Tenant, its officers, contractors, agents or employees (acting within the scope of their office, contract, agency or employment); (ii) Tenant's breach of any representation or warranty of Tenant under Article XIII; or (iii) Tenant's failure to maintain the Premises in accordance with applicable Laws to the extent within its obligations under this Lease.

B. Landlord Indemnity. Landlord shall indemnify, hold harmless and defend Tenant from and against any and all Claims and Damages arising out of (i) any loss of life, personal injury and/or damage to property occurring within the Common Areas in the portion of the Shopping Center owned by Landlord or resulting from the wrongful or negligent acts or omissions of Landlord, its officers, contractors, agents or employees (acting within the scope of their office, contract, agency or employment); (ii) Landlord's breach of any representation or warranty of Landlord under Article XIII; or (iii) Landlord's failure to maintain the portion of the Shopping Center owned by Landlord in accordance with applicable Laws to the extent within its obligations under this Lease.

C. Limitation on Indemnity. The obligation of each party to indemnify, hold harmless and defend the other will not apply to the extent of any Claims or Damages which are the direct result of such other party's negligence or willful misconduct or that of its agents, employees or contractors.

D. Survival. Tenant's indemnity provisions in Section 7.3A and Landlord's indemnity provisions in Section 7.3B shall survive expiration of this Lease or the sooner termination thereof for an amount of time not to exceed the applicable statute of limitation for a cause of action arising from out of the circumstances referenced in such sections.

7.4 WAIVER OF SUBROGATION. Landlord and Tenant hereby waive any rights each may have against the other on account of any loss or damage incurred by Landlord or Tenant, as the case may be, to their respective property, the Shopping Center, the Premises, or its contents arising from any risk generally covered by special form property insurance (or such successor form as is then in general use). The parties each, on behalf of their respective insurance companies insuring the property of either Landlord or Tenant against any such loss or damage, waive any right of subrogation that such companies may have against Landlord or Tenant, as the case may be. Each party covenants with each other that, to the extent such insurance endorsement is available, they will each obtain for the benefit of the other, a waiver of any right of subrogation from their respective insurance companies, if such endorsement is requested.

ARTICLE VIII – ASSIGNMENT AND SUBLETTING

8.1 ASSIGNMENT.

A. Consent of Landlord. Except as specifically provided in this Article, Tenant may not assign this Lease without the prior written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. Any transfer of Tenant's interest in this Lease by operation of law, regardless of whether the same is characterized as voluntary or involuntary, shall be construed as an "assignment" governed by this Article. Landlord's consent to any one assignment shall not act as a waiver of the requirements of Landlord's consent with respect to any subsequent assignment.

B. Assumption of Lease. In connection with any assignment of this Lease, the assignee shall be entitled to all the rights and shall assume all the obligations of Tenant under this Lease pursuant to an assumption agreement in a form reasonably acceptable to Landlord.

C. **Consent Criteria.** Landlord shall not withhold its consent to a proposed assignment by Tenant so long as the proposed assignee (i) agrees in writing to be bound by all of the terms and conditions of this Lease, including, specifically, the Permitted Use; (ii) demonstrates, to Landlord's reasonable satisfaction, prior experience in operating the Permitted Use; (iii) demonstrates, to Landlord's reasonable satisfaction, net worth (including net worth of any guarantor of the assignee's rental obligations under this Lease) in the amount of at least Three Million Dollars (\$3,000,000.00); and (iv) demonstrates, to Landlord's reasonable satisfaction, that the proposed assignee owns (itself or its guarantors, or its guarantors affiliates) at least three (3) other operations as specified in the Permitted Use clause (except in the event the proposed assignee is a franchisee of a franchisor of at least three (3) other operations); provided that if the assignee demonstrates, to Landlord's reasonable satisfaction, net worth (including the net worth of any guarantor of the assignee's rental obligations under this Lease) in the amount of at least Four Million Dollars (\$4,000,000.00) it shall not be required to comply with this item.

8.2 **SUBLETTING.**

A. **Consent of Landlord.** Except as specifically provided in this Article, Tenant may not sublet all or any portion of the Premises, without the prior written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. Any subletting will be subject to all the terms of this Lease and no subletting will release Tenant from the primary responsibility for the performance of the obligations of the Tenant under this Lease. Landlord's consent to any one subletting shall not act as a waiver of the requirements of Landlord's written consent with respect to any subsequent subletting.

B. **Consent Criteria.** Landlord shall not withhold its consent to a subletting by Tenant so long as Tenant proposes to sublet the entire Premises for a single use and the proposed subtenant (i) agrees in writing to be bound by all of the terms and conditions contained herein, including, specifically the Permitted Use clause; (ii) demonstrates, to Landlord's reasonable satisfaction, prior experience in operating the Permitted Use.

C. **Sublease Rent.** All rent and other consideration payable under any sublease shall be solely the property of Tenant.

8.3 **TRANSACTIONS WITH AFFILIATES.** Notwithstanding any contrary provision of this Article VIII, Landlord's consent shall not be necessary for any assignment, subletting or transfer to any person or entity (i) which is an affiliate of Tenant or Bloomin' Brands; (ii) with which or into which Tenant, Tenant's general partner or managing or majority member, or Bloomin' Brands has merged or consolidated or in connection with taking the company public; (iii) which acquires all, substantially all or a majority of Tenant's assets or leases in the State in which the Premises are located; (iv) which, as to a subletting, is a franchisee or regional operating or joint venture partner of Tenant's franchisor or parent entity and, as to an assignment or transfer, is a franchisee or regional operating or joint venture partner of Tenant's franchisor or parent entity with at least three (3) other operations; or (v) which acquires the Premises as part of a multi-site deal involving at least seven (7) locations of Tenant or its affiliates. For purposes of this Section 8.3, an "affiliate" of a person or entity shall mean any other person or entity which (directly or indirectly) controls, is controlled by, or is under common control with such person or entity. Control shall be assumed by the ownership or control (directly or indirectly) of a majority of voting interest in an entity. In the event of a transfer to an affiliate under (i), (ii) or (iv) hereinabove, the assigning Tenant shall be released effective as of the date of the assignment, but the Guarantor of the assigning Tenant's obligations hereunder shall continue to guaranty the obligations of such affiliate or transferee, as applicable. In the event of a transfer to an affiliate under (iii) or (v) hereinabove, the assigning Tenant shall be released effective as of the date of the assignment, but the Guarantor of the assigning Tenant's obligations hereunder shall continue to guaranty the obligations of such affiliate or transferee, as applicable; provided, however, if such affiliate or transferee demonstrates the net worth test as set forth in Section 8.1C(iv) above, then the Guarantor shall remain liable under the Lease as a guarantor of the Guaranteed Sums for the Guaranty Period (as both defined in Section 8.6C below). Notwithstanding anything to the contrary contained in this Lease, in addition, any sale, issuance or other transfer whatsoever by Tenant (or any other person or entity) of Tenant's stock (whether in public offering, or subsequent thereto, or pursuant to a private placement or other similar transaction, or subsequent thereto) shall not require Landlord's consent or be otherwise restricted or prohibited.

8.4 **PROCEDURE FOR ASSIGNMENT OR SUBLETTING.** If Tenant desires to assign this Lease or sublet all or any portion of the Premises to a third party that requires Landlord's consent under this Lease,

Tenant shall provide notice of the proposed assignment or subletting to Landlord (the "Request Notice"). The Request Notice shall include the name of the proposed assignee or subtenant and information based upon which Landlord can evaluate the proposed assignee or subtenant under the applicable consent criteria set out in this Article. Landlord shall have a period of ten (10) business days from receipt of the Request Notice to request such additional reasonable information as may be reasonably required to evaluate the proposed assignee or subtenant under the applicable consent criteria set out in this Article (the "Information Request"). Landlord shall, within thirty (30) days following the later of (i) the Request Notice, and (ii) its receipt of the additional information, if any, requested in a timely Information Request, to consent to or deny (which denial shall include Landlord's basis for such denial) the proposed assignment or subletting. If the proposed assignment or subletting is denied, Tenant may submit a supplemental request for Landlord's consent, including information responding to Landlord's basis for the denial and Landlord shall similarly respond to any supplemental request for its consent within fifteen (15) days following Landlord's receipt thereof. If a proposed assignment is approved, Landlord agrees to execute a consent in a form acceptable to Landlord to such assignment within ten (10) business days following its receipt of a proposed assignment document.

8.5 Intentionally deleted.

8.6 RELEASE UPON TRANSFER.

A. Transfer by Landlord. For purposes of this Lease, the term "Landlord" shall mean the owner, for the time being, of the Premises, and in the event of the transfer by such owner of its interest in the Premises and the assumption of Landlord's obligations hereunder by the transferee, then notwithstanding anything to the contrary contained herein, such transferring Landlord shall thereupon automatically be released and discharged from all covenants and obligations of the Landlord thereafter accruing, but such covenants and obligations shall be binding during the Term of this Lease upon each new owner for the duration of such owner's ownership. Notwithstanding the foregoing, any such owner shall remain obligated to Tenant for any and all deposits paid by Tenant hereunder until such time as said deposits are transferred to and accepted by any new owner and notice of such transfer and acceptance is given to Tenant. Landlord shall provide written notice to Tenant of any transfer or other assignment of Landlord's interest in this Lease. Provided, however, notwithstanding anything herein to the contrary, Tenant shall not be liable to any subsequent owner of the Premises for any Rent paid to Landlord after such transfer unless and until fifteen (15) days after Tenant has been provided written notice of such transfer.

B. Transfer by Tenant. For purposes of this Lease, the term "Tenant" shall mean the holder, for the time being, of the leasehold interest created by this Lease, and in the event of the assignment of this Lease permitted by this Article VIII and the assumption of Tenant's obligations hereunder by the assignee, then notwithstanding anything to the contrary contained herein, such transferring Tenant shall thereupon automatically be released and discharged from all covenants and obligations of the Tenant thereafter accruing under this Lease from and after the date of the transfer, but shall not be released from any liability that has accrued prior to the date of the transfer.

C. Post Transfer Guaranty. Notwithstanding the release of the assigning Tenant provided for in Section 8.6B above, the Guarantor under Exhibit "G-1" attached hereto, shall remain liable under the Lease as a guarantor of the Guaranteed Sums for the Guaranty Period (both as defined below). The "Guaranteed Sums" means the Base Rent, Real Estate Taxes and Operating Expense Payment due and payable during the Guaranty Period and the "Guaranty Period" means (a) as to a transfer under Section 8.3 (iii) and 8.3 (v) of this Lease if such transferee demonstrates the net worth test as set forth in Section 8.1C (iv) above, and as to an approved assignment under Section 8.1C, the later to occur of (i) five (5) years following the Commencement Date or (ii) two (2) years following an approved assignment under Section 8.1C or Section 8.3(iii) or 8.3(v) of the Lease, as applicable, commencing on the date of the assignment and ending on the second (2nd) anniversary of the date of the assignment and (b) as to a transfer under Section 8.3(i), (ii), and (iv) of this Lease and as to a transfer under Section 8.3(iii) and 8.3(v) of this Lease if such transferee fails to demonstrate the net worth test as set forth in Section 8.1C(iv) above, the Term of the Lease.

ARTICLE IX – DEFAULT

9.1 **DEFAULT OF TENANT.** Tenant shall be deemed to be in default under this Lease (a “Tenant Default”) upon the occurrence of any of the following: (i) Tenant’s failure to pay Rent or any other sums due to Landlord under this Lease when due, if the failure continues for more than ten (10) days following written notice from Landlord to Tenant of such failure; (ii) Tenant’s failure to perform any material covenant, promise or obligation contained in this Lease, if the failure continues for more than thirty (30) days following written notice from Landlord to Tenant of such failure, provided that if the failure cannot be cured within the thirty (30) day period, the thirty (30) day period shall be extended for such additional time as is needed to cure the failure using due diligence and all commercially reasonable measures; or (iii) Tenant’s voluntary petition for relief under any bankruptcy or insolvency law, the sale of Tenant’s interest under this Lease to satisfy a debt of Tenant by execution or other legal process, or the filing against Tenant of an involuntary petition for relief under any bankruptcy or insolvency law which is not discharged within ninety (90) days after filing.

9.2 **LANDLORD’S REMEDIES.** Upon a Tenant Default Landlord may exercise the rights and remedies set out below.

A. **Termination of Possession.** Landlord may terminate Tenant’s right to possession under this Lease and reenter and retake possession of the Premises. Following the taking of possession, Landlord shall use commercially reasonable efforts to re-let the Premises on behalf of Tenant, at such rental and upon such terms and conditions as Landlord may, in the exercise of Landlord’s commercially reasonable discretion, deem best under the circumstances. Taking possession of the Premises by Landlord, as provided for in this Section, shall not be deemed a termination of this Lease or of Tenant’s obligations under this Lease and Tenant shall continue to make the Rent payments as they become due under this Lease.

Following any re-letting of the Premises, Tenant shall pay to Landlord on a monthly basis the sum equal to: (i) the Rent payable under this Lease for such month, plus the monthly amortization (over the term of the re-letting) of the cost of any brokerage commissions for the re-letting and the cost of any reasonable alterations made to accommodate the new tenant, less (ii) the rent received from the new tenant; provided that if the new tenant receives a rent abatement or substantially lower rent at the beginning of the re-letting, the rent for the re-letting shall be averaged over the term of the re-letting for purposes of the foregoing calculation. Tenant shall not be entitled to any of the excess of the rent from the re-letting over the Rent payable under this Lease, except as a credit against the sums due to Landlord.

B. **Termination of Lease.** Landlord may declare this Lease to be terminated, and reenter upon and take possession of the Premises by any lawful means, whereupon the term hereby granted and all right, title, and interest of Tenant in the Premises shall terminate. Following the termination of this Lease, Tenant shall have no further liability under this Lease, except that Landlord shall be entitled to recover from Tenant, as final and liquidated damages, the sum obtained by adding together all of the following: (i) all Rent which is accrued but unpaid under this Lease through the date of termination; (ii) the reasonable cost of making any repairs to the Premises needed on the date of termination, which were Tenant’s responsibility to make under this Lease, but which Tenant failed to make; (iii) attorneys’ fees and costs recoverable under Section 16.12; (iv) any unamortized (determined over the Initial Term) portion of any brokerage commission paid by Landlord in connection with this Lease; and (v) the present value (discounted using an annual rate equal to the annual yield on the United States Treasury Issue with a maturity date most closely matching the expiration date of the then Term of this Lease) at the time of termination, of the difference between the Base Rent for the then remaining Term of this Lease (the “Lease Base Rent”) and the fair market base rental value (assuming an Operating Expense and Real Estate Tax reimbursement equivalent to that provided for in this Lease) of the Premises for the then remaining Term of this Lease (the “Fair Market Base Rent”). The Fair Market Base Rent shall assume that the Premises is leased in its “as is” condition, as of the termination date, but after the repairs provided for in item (ii) above.

C. **Remedies Cumulative and Non-Exclusive.** The rights and remedies of Landlord set forth in this Section 9.2 and elsewhere in this Lease are cumulative and not exclusive and, except to the extent inconsistent with the express provisions of this Lease, are in addition to any remedies that Landlord may have under

applicable law or in equity, including the right to injunctive relief, except that under no circumstances shall Landlord be entitled to accelerate payment of any Rent due hereunder except as set forth in Subsection B above.

9.3 **DEFAULT OF LANDLORD.** Landlord shall be deemed to be in default under this Lease (a "Landlord Default") upon the occurrence of any of the following: (i) Landlord's failure to pay any sums due to Tenant under this Lease when due, if the failure continues for more than thirty (30) days following written notice from Tenant to Landlord of such failure; (ii) Landlord's failure to perform any covenant, promise or obligation contained in this Lease if the failure continues for more than thirty (30) days following written notice from Tenant to Landlord of such failure, provided that if the failure cannot be cured within the thirty (30) day period and the failure does not prevent Tenant's ordinary business operations at the Premises or cause the Premises not to be in compliance with applicable Laws and is not a violation of Section 1.4, the thirty (30) day period shall be extended for such additional time as is needed to cure the failure using due diligence and all commercially reasonable measures; or (iii) Landlord's voluntary petition for relief under any bankruptcy or insolvency law, the sale of Landlord's interest under this Lease to satisfy a debt of Landlord by execution or other legal process, or the filing against Landlord of an involuntary petition for relief under any bankruptcy or insolvency law which is not discharged within ninety (90) days after filing.

Upon written request of any Mortgagee of record which has executed an SNDA with respect to this Lease, Tenant shall give prompt written notice of any default of Landlord hereunder to the notice address designated by such Mortgagee in the SNDA, and Tenant shall allow such Mortgagee a reasonable length of time (in any event, not less than thirty (30) days from the date of such notice) in which to cure any such default prior to Tenant exercising any right to terminate this Lease. Any such notice shall be sent to the address provided by the requesting Mortgagee or as otherwise provided for in such executed SNDA.

9.4 **TENANT'S REMEDIES.**

A. **Tenant's Remedies.** If Landlord is in default beyond any applicable cure period under this Lease, Tenant may commence an independent action against Landlord for any remedy available to Tenant at law or in equity, all such remedies to be cumulative and non-exclusive. In addition to the foregoing remedies, Tenant shall have the right of setoff against Rent for any damages that Tenant may have sustained by reason of Landlord's default under this Lease. In addition, should Tenant obtain a monetary judgment against Landlord, Tenant may offset such judgment against all Base Rent and Additional Rent and other sums next due under this Lease until Tenant has fully recovered the amount of such judgment.

B. **Remedies Cumulative and Non Exclusive.** The rights and remedies of Tenant set forth in this Section 9.4 and elsewhere in this Lease are cumulative and not exclusive and are in addition to any remedy Tenant may have at law or in equity (including the right to injunctive relief) all of which shall be cumulative.

9.5 **SELF HELP.**

A. **Landlord's Self Help Right.** If (i) Tenant is in breach of any of the terms, covenants or conditions of this Lease and the breach is, in any material respect or adversely impacting the businesses or business operations of other tenants of the Shopping Center or their use of the Common Areas, as reasonably determined by Landlord; (ii) Landlord has served upon Tenant written notice of the breach; and (iii) Tenant has failed to promptly commence or once commenced has failed to diligently pursue to completion, using all commercially reasonable efforts, the cure of the breach, Landlord may, following written notice to Tenant, itself take such action as Landlord deems reasonably necessary to cure or mitigate the impact of the breach. Tenant shall reimburse Landlord for all reasonably documented costs and expenses incurred by Landlord in connection therewith ("Landlord Cure Costs"), within thirty (30) days of a demand from Landlord accompanied by reasonable documentation of the Landlord Cure Costs. Landlord's exercise of its remedy under this Subsection does not require that the failure constitute a Tenant Default, but may only be exercised by Landlord if Tenant is not pursuing the cure of the breach in the manner required by item (iii) above following the notice required by item (ii) above.

B. **Tenant Self Help Right.** As to the Protected Area and the Premises, if (i) Landlord is in breach of any of the terms, covenants or conditions of this Lease and the breach is, in any material respect, adversely impacting Tenant's business, business operations or use of the Protected Area; (ii) Tenant has served upon Landlord

thirty (30) days prior written notice of the breach; and (iii) Landlord has failed to promptly commence or once commenced has failed to diligently pursue to completion, using all commercially reasonable efforts, the cure of the breach, Tenant may, following written notice to Landlord, itself take such action as Tenant deems reasonably necessary to cure or mitigate the impact of the breach. Landlord shall reimburse Tenant for all reasonably documented out of pocket costs and expenses incurred by Tenant in connection therewith ("Tenant Cure Costs"), within thirty (30) days of a demand from Tenant accompanied by reasonable documentation of the Tenant Cure Costs.

9.6 LATE FEES AND INTEREST.

A. Late Fees and Administrative Fees. If any sum due to Landlord or Tenant from the other is not paid within ten (10) days after its due date, a late fee (the "Late Fee") equal to five percent (5%) of the late amount will be added to the amount due. In addition to any Late Fee due, an administrative fee (the "Administrative Fee") of One Hundred Dollars (\$100.00) shall be due from any party which gives to the other a check for the payment of sums due under this Lease which is returned for insufficient funds.

B. Interest. Interest, at the Default Rate (defined below), shall accrue on any amount due and owing from either Landlord, that is not paid within thirty (30) days, or Tenant, that is not paid within ten (10) days as to the payment of Rent and within thirty (30) days to any other payments. Following such thirty (30) or ten (10) day period, as applicable, interest, at the "Default Rate", shall accrue, beginning retroactively as of the due date, on any amount remaining unpaid until paid. The Default Rate is an annual interest rate equal to the lesser of (a) the maximum rate permitted by law, or (b) the Prime Rate of interest (or the average thereof, if more than one) as published in the Money Rates section (or successor section) of the Wall Street Journal on the date such payment was due (or, if not a business day, the prior business day) plus four percent (4%). The same rights and remedies shall apply to the collection of any interest which accrues under this Section as apply to the collection of underlying amount due.

9.7 DELAY IN ENFORCEMENT. Any delay in the enforcement of the rights and remedies of Landlord or Tenant under this Lease following a default by the other, for whatever reason, shall not be deemed a waiver of, or otherwise prevent the later exercise of rights and remedies under this Lease at any time while the default is continuing, except to the extent such default was specifically waived in writing.

9.8 LIMITATIONS ON LANDLORD'S LIABILITY. Notwithstanding anything to the contrary contained in this Lease, in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed, honored or performed by Landlord, neither Landlord nor any of its officers, directors or employees shall have any personal liability for the obligations of Landlord under this Lease beyond Landlord's ownership interest in the Shopping Center and the rents, profits and insurance, condemnation and other proceeds payable to Landlord with respect to the portion of the Shopping Center owned by Landlord ("Landlord's Interest"). Tenant agrees to look only to Landlord's Interest for the collection of any judgment (or any other judicial procedures requiring the payment of money by Landlord) and no other property or assets of Landlord shall be subject to levy, execution, or other procedures for satisfaction of Tenant's remedies. The foregoing limitation of liability shall not apply to claims by Tenant resulting from Landlord's fraud. This Section is not intended to in any way limit Tenant's right to obtain injunctive or other equitable relief.

ARTICLE X – ACCESS BY LANDLORD

10.1 RIGHT TO ENTER. Landlord or Landlord's agents shall have the right to enter the Premises upon reasonable notice to Tenant (except to the extent required by emergency circumstances) and during Tenant's non-business hours, accompanied by Tenant's representative, to show the Premises to prospective purchasers of the Shopping Center and to make such reasonable repairs to the Premises as Landlord may deem necessary and which are Landlord's responsibility (or Landlord is entitled to perform) under this Lease. During the ninety (90) day period immediately preceding the expiration of the Term, Landlord may show the Premises to prospective tenants during Tenant's non-business hours, upon reasonable notice to Tenant and accompanied by Tenant's representative.

10.2 CONDITIONS OF ENTRY. Any entry by Landlord within the Premises shall be subject to the following additional conditions: (i) Landlord's entry (and any work within the Premises) shall be performed (except

to the extent required by emergency circumstances) during Tenant's non-business hours; (ii) Landlord's entry (and any work within the Premises) shall be performed in a manner so as to minimize any adverse impact on Tenant's business operations; (iii) Landlord shall promptly repair any damage to the Premises caused by its entry or work to as near as reasonably possible to the prior condition; (iv) Landlord shall (except to the extent required by emergency circumstances) complete any work in the Premises and have the area restored to its prior condition, to the extent reasonably possible; (v) any installation within the Premises shall be subject to Tenant's approval, which approval shall not be unreasonably withheld, conditioned or delayed; (vi) Landlord shall otherwise conduct any entry and perform any work in a manner to minimize any adverse impact to Tenant's use and enjoyment of the Premises; and (vii) to the extent Tenant is unable to conduct normal business operations as a result of any such entry, and such interference continues for more than two (2) days, after written notice thereof from Tenant to Landlord, Tenant shall be entitled to a day for day abatement of all Rent due under this Lease during the period of that such interference continues to cause Tenant to be unable to conduct normal business operations.

ARTICLE XI – CONDEMNATION

11.1 CONDEMNATION.

A. **Total Taking.** If during the Term of this Lease, the whole of the Premises are taken or condemned, this Lease shall terminate on the date of such taking or condemnation and Landlord and Tenant shall be released from liability accruing after the date of termination. As used in this Article, a taking or condemnation includes a deed given or transfer made in lieu thereof. Landlord must provide Tenant with a copy of any notice received from the condemning authority within ten (10) days of receipt.

B. **Partial Taking / Termination by Tenant.** If a portion of the Premises or the Common Areas (including access to the Common Areas) is condemned or taken in any manner or degree that, in any material respect, adversely impacts Tenant's business or business operations (as determined by Tenant in its sole business judgment, not, however, to be arbitrarily exercised), then Tenant may elect to terminate this Lease as of the date of the vesting of title in the condemning authority, by written notice to Landlord given within sixty (60) days of the condemnation or taking. Landlord must provide Tenant with a copy of any notice received from the condemning authority within ten (10) days of receipt.

C. **Partial Taking / Termination by Landlord.** If (i) more than seventy-five percent (75%) of the land area of the Shopping Center is condemned or taken, rendering the Shopping Center no longer viable (in Landlord's reasonable business judgment); (ii) Landlord terminates all other leases in the Shopping Center, without the intent to enter into a new lease with any tenant; and (iii) as a result of such condemnation, Landlord intends to raze the Shopping Center and replace it with a development that would not accommodate a replacement for the Premises, then Landlord may elect to terminate this Lease as of the date of the vesting of title in the condemning authority, by written notice to Tenant given within sixty (60) days of the condemnation or taking. Landlord must provide Tenant with a copy of any notice received from the condemning authority within ten (10) days of receipt.

11.2 **AWARD.** Landlord shall be entitled to that portion of the condemnation award attributable to Landlord's fee interest and the residual value of this Lease. Tenant shall be entitled to that portion of the condemnation award attributable to Tenant's leasehold interest, Tenant's improvements and fixtures on the Premises, all business damages, and relocation costs. Landlord and Tenant shall fully cooperate with each other to accomplish the division provided for in the preceding sentence. Landlord and Tenant shall use good faith efforts to obtain separate awards from the condemning authority (or a judicial allocation of a single award) for their respective interests, consistent with this Section.

11.3 **RESTORATION.** If there is a condemnation or taking and neither Tenant nor Landlord elects to (or neither is entitled to) terminate this Lease, then: (i) Tenant shall commence restoring the Premises to the same condition as existed prior to such taking as soon as reasonably possible using due diligence and commercially reasonable efforts; and (ii) Landlord shall commence restoring the Common Areas to the same condition as existed prior to such taking as soon as reasonably possible using due diligence and commercially reasonable efforts. During the time period of such restoration work, Tenant shall receive an equitable reduction in Base Rent and Additional Rent

until the Landlord's restoration is substantially completed. Landlord agrees to pay to Tenant such amount of any award applicable to the improvements within the Premises as provided in Section 11.2 above.

ARTICLE XII – DESTRUCTION OF PREMISES

12.1 **TERMINATION BY TENANT.** If the Premises is totally or partially damaged or destroyed by fire or other casualty in the last twenty-four (24) months of the Term in any manner or degree that, in any material respect, adversely impacts Tenant's business or business operations (as determined by Tenant in its sole business judgment, not, however, to be arbitrarily exercised) or the damage is such that it is estimated to take more than two hundred seventy (270) days from the date of casualty to repair, then Tenant shall have the option of terminating this Lease upon written notice to Landlord within sixty (60) days after such casualty, in which event Rent and all other obligations herein shall cease as of the date of such casualty, and neither Landlord nor Tenant shall have any further obligations or rights hereunder, except for liability for events occurring prior to the termination of this Lease and except that Tenant shall raze the Building located on the Premises, remove any debris, and cap off all utilities.

12.2 **RESTORATION.** If there is a fire or other casualty and Tenant does not elect to terminate this Lease, then Tenant shall commence restoring the Premises as soon as reasonably possible using due diligence and commercially reasonable efforts. To the extent the Lease is not otherwise terminated as provided in Section 12.1 above, Landlord agrees to release to Tenant such amount of insurance proceeds from Tenant's property insurance provided for in Section 7.1B above, as may be applicable to the improvements on the Premises.

ARTICLE XIII – REPRESENTATIONS AND WARRANTIES

13.1 **AUTHORITY.** Tenant hereby represents and warrants to Landlord that (i) Tenant is a duly authorized and validly existing Florida limited liability company qualified to do business in the State in which the Premises are located; (ii) Tenant has the full right and authority to enter into this Lease; (iii) each of the persons executing this Lease on behalf of Tenant is authorized to do so; and (iv) this Lease constitutes a valid and legally binding obligation of Tenant, enforceable in accordance with its terms. Landlord represents and warrants to Tenant that (i) Landlord is a duly authorized and validly existing limited liability company qualified to do business in the State in which the Premises are located; (ii) Landlord has the full right and authority to enter into this Lease; (iii) each of the persons executing this Lease on behalf of Landlord is authorized to do so; and (iv) this Lease constitutes a valid and legally binding obligation of Landlord, enforceable in accordance with its terms.

13.2 INTENTIONALLY DELETED.

13.3 **PATRIOT ACT.** Tenant represents and warrants to Landlord, that Tenant is not restricted from entering into this Lease or otherwise dealing with Landlord under Executive Order No. 13224 on Terrorist Financing (the "Executive Order") or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "Patriot Act") or any other law, regulation or order restricting certain dealings with parties known or suspected to engage in or support terrorism (collectively, "Terrorism Laws"). Landlord represents and warrants to Tenant, that Landlord is not restricted from entering into this Lease or otherwise dealing with Tenant under Terrorism Laws. A party shall be in default under this Lease if its acts, omissions or status would cause the other to be in violation of any Terrorism Laws.

13.4 **TITLE COVENANT.** Landlord represents, warrants and covenants to Tenant that except as expressly provided herein, there are no agreements, contracts, covenants, conditions or exclusions which would, if enforced, prevent, prohibit or restrict the operation of the Premises for the Intended Use.

ARTICLE XIV – ESTOPPEL CERTIFICATES AND SUBORDINATION

14.1 **ESTOPPEL CERTIFICATE.** At any time and from time to time either party, upon request of the other party, will execute, acknowledge and deliver an instrument, stating, if the same be true, that this Lease is a true and exact copy of the Lease between the parties hereto, that there are no amendments hereto (or stating what amendments there may be), that the same is then in full force and effect and that, to the best of its knowledge, there are no offsets, defenses or counterclaims with respect to the payment of Rent hereunder or in the performance of the other terms, covenants and conditions hereof on the part of Tenant or Landlord, as the case may be, to be performed,

and that as of such date no default has been declared hereunder by either party or if so, specifying the same. Such instrument will be executed by the other party and delivered to the requesting party within thirty (30) days of receipt of a request.

14.2 **SNDA FOR FUTURE MORTGAGES.** Tenant agrees to subordinate its interest in this Lease to any future mortgage, deed to secure debt or deed of trust (a "Mortgage") encumbering the Premises and held by an institutional mortgagee by the execution of an SNDA in a form as may be approved by Tenant (which shall be based upon Tenant's form of SNDA), which SNDA shall also be executed by such future mortgagee and Landlord. Tenant's interest in this Lease shall not be subordinate to any future Mortgage except as expressly provided in such fully executed SNDA. Tenant shall not be required to subordinate this Lease to more than one Mortgage at any one time. Landlord hereby represents, warrants, covenants and agrees that as of the Tender Date, the Premises shall not be encumbered by a mortgage or deed of trust lien.

14.3 **LANDLORD SUBORDINATION.** Landlord hereby expressly subordinates any and all claim, right, lien (including, without limitation, any common law or statutory Landlord's lien), title and security interest in and to all of Tenant's Improvements or Personal Property to the security interest of Tenant's lender, if any, either existing as of the Effective Date of this Lease or under any future loan. Landlord further agrees to promptly execute any reasonable form of subordination agreement reasonably requested of Landlord by Tenant's lender.

ARTICLE XV – HAZARDOUS SUBSTANCES

15.1 **TENANT'S COVENANT.** Tenant shall not cause or affirmatively permit any Hazardous Substance to be used, stored, generated, or disposed of on, in or about the Premises (except those commonly or properly used in connection with the operation of a restaurant and which are used in accordance with all applicable governmental laws and regulations), without obtaining Landlord's prior written consent. If the Premises become contaminated in any manner as a result of any breach of the foregoing covenant or any act or omission of Tenant or any of its agents, employees or contractors, Tenant shall indemnify, defend and hold harmless Landlord from any and all claims, demands, actions, damages, fines, judgments, penalties, costs (including reasonable attorneys', consultants', and experts' fees), liabilities, losses and expenses arising during or after the term of this Lease and arising as a result of such contamination. This indemnification includes any and all costs incurred due to any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if Tenant causes or affirmatively permits the presence of any Hazardous Substance on, in, or about the Premises that results in contamination, Tenant, at its sole expense, shall complete all required clean up, removal and remediation. Tenant shall first obtain Landlord's approval for any such remedial action. Notwithstanding the foregoing, this indemnification shall only apply to contamination by a Hazardous Substance resulting from Tenant's use and operation of the Premises. Nothing herein contained shall be held to indemnify Landlord from liability or to create any liability on Tenant for Hazardous Substance contamination resulting from Landlord's ownership, use or operation, or the use or operation by any third party in, on or under the Premises or the Shopping Center.

15.2 **LANDLORD'S COVENANT.** Landlord represents and warrants that, to the best of its knowledge and belief (without conducting any investigation), no leak, spill, discharge, emission or disposal of any Hazardous Substance has occurred on the Premises, except as disclosed in any existing environmental reports delivered from Landlord to Tenant. Landlord agrees to provide to Tenant a copy of all environmental audits and reports with respect to the Shopping Center within its possession or available to it within five (5) days of the Effective Date. Landlord covenants and agrees, at its sole cost and expense, to indemnify, protect, defend and save Tenant harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses (including, without limitation, attorneys' and experts' reasonable fees and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against Tenant and arising from or out of any Hazardous Substance on, in, under or affecting all or any portion of the Premises, which Hazardous Substance is not the result of Tenant's use or operation of the Premises.

15.3 **DEFINITIONS.** As used herein, the term "Hazardous Substance" means any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the State in which the Premises are located, or the United States government. "Hazardous Substance" includes any and all materials or

substances which are defined as "pollutant", "contaminant", "hazardous waste", "extremely hazardous waste" or a "hazardous substance" pursuant to state, federal or local governmental law. "Hazardous Substance" includes asbestos, polychlorinated biphenyls (PCBs) and petroleum. The provisions under this entire Article shall survive the expiration or earlier termination of this Lease.

ARTICLE XVI - MISCELLANEOUS

16.1 **NOTICE.** Any notice, demand, request or other instrument which may be or is required to be given under this Lease, whether by a party hereto or on behalf of such party by its legal representative, shall be deemed to be delivered (i) when received (or when receipt is refused) if deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, or (ii) when received (or when receipt is refused) if delivered personally or sent by a nationally recognized overnight courier, all charges prepaid, at the addresses of Landlord and Tenant as set forth in this Section. Such address may be changed by written notice to the other party in accordance with this Section. The parties acknowledge that copies of any notice sent by facsimile or e-mail or other electronic communication are for convenience only, and shall not be deemed to be proper notice required hereunder.

If to Landlord:

Eastland Mall, LLC
c/o CBL & Associates Management, Inc.
CBL Center, Suite 500
2030 Hamilton Place Boulevard
Chattanooga, TN 37421
Attn: Chief Legal Officer

If to Tenant:

Outback Steakhouse of Florida, LLC
2202 N. West Shore Blvd., 5th Floor
Tampa, Florida 33607
Attention: Chief Development Officer
(813) 282-1225 Phone
(813) 282-9195 Fax

and

With a copy to:

Eastland Mall, LLC
c/o CBL & Associates Management, Inc.
CBL Center, Suite 500
2030 Hamilton Place Boulevard
Chattanooga, TN 37421
Attn: Justice Wade
(423) 553-8738 Phone
(423) 954-2994 Fax

Outback Steakhouse of Florida, LLC
2202 N. West Shore Blvd., 5th Floor
Tampa, Florida 33607
Attention: Senior Director of Asset Management

16.2 **WAIVER.** The waiver by Landlord or Tenant of any breach or default of any term, covenant or condition shall not be deemed to be a waiver of any subsequent breach or default of the same or any other term, covenant or condition, nor shall the acceptance or payment of Rent or other payment be deemed to be a waiver of any such breach or default. No term, covenant or condition of this Lease shall be deemed to have been waived by Landlord or Tenant, unless such waiver is in writing.

16.3 **CAPTIONS AND SECTION NUMBERS.** The captions and Section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such Sections.

16.4 **ENTIRE AGREEMENT.** This Lease and any attachments hereto and forming a part hereof set forth all the covenants, promises, agreements, conditions, and understandings between Landlord and Tenant concerning the Premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, other than as herein set forth.

16.5 **AMENDMENTS.** No subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant until reduced to writing and signed by Landlord and Tenant. Local and regional managers and partners do not have authority to agree to amend this Lease or waive any of its terms on behalf of Tenant. Landlord should direct any request to amend this Lease or to waive any of its terms to Tenant's corporate offices at the address set out in Section 16.1 above.

16.6 **INTERPRETATION.** The words "Tenant" and "Landlord" shall mean each party mentioned as Tenant or Landlord herein, whether one or more, and their respective heirs, executors, administrators, successors, and assigns. If there is more than one party, any notice required or permitted may be given to any one thereof, and such notice to one shall be deemed notice to all, unless multiple notices are required by Section 16.1. The use of the singular pronoun to refer to Tenant or Landlord shall be deemed proper regardless of the number of parties. When the word "including" (or some derivation thereof, such as "includes") is used in this Lease to refer to something that, in that context, may be part of a larger group of similar items, the reference is without limitation, and it should be interpreted as if followed by "but not limited to", "without limitation", or appropriate equivalent language for the context.

16.7 **NO PARTNERSHIP.** Landlord and Tenant shall have no business relationship as a result of this Lease other than Landlord and Tenant. No provision of this Lease shall be construed as creating any other business relationship between Landlord and Tenant, including the relationships of partners or parties to a joint venture.

16.8 **CONFIDENTIALITY.** Landlord and Tenant agree not to disclose the provisions of or provide a copy of this Lease to any third party, except in the ordinary course of business to agents, attorneys, potential assignees or subtenants, accountants and employees who need to know of its content in the performance of their services to Landlord and Tenant, as applicable, to prospective purchasers and lenders for the Shopping Center and in connection with any dispute with Tenant and Landlord, as applicable.

16.9 **PARTIAL INVALIDITY.** If any term, covenant or condition of this Lease, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term, covenant, or condition to persons or circumstances other than those as to which it was held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

16.10 **APPLICABLE LAW.** This Lease shall be construed according to the laws of the State in which the Premises are located.

16.11 **RECORDING.** Contemporaneously with the execution and delivery of this Lease by each of the parties hereto, each party shall execute a Memorandum of this Lease in the form of Exhibit "E" attached hereto to be recorded following the full execution and delivery of this Lease by Landlord or Tenant in the public records at the recording party's expense. Following the expiration or earlier termination of this Lease, Tenant agrees, within ten (10) business days following a request from Landlord, to execute and deliver a Termination of Memorandum of Lease in the form attached to this Lease as Exhibit "H". Tenant's obligation to deliver the Termination of Memorandum of Lease shall survive the expiration or earlier termination of this Lease.

16.12 **COSTS OF ENFORCEMENT.** In the event that Landlord or Tenant shall bring an action to recover any sum due hereunder or for any breach hereunder and shall obtain a judgment in its favor, or in the event that Landlord or Tenant retains an attorney for the purpose of collecting any sum due hereunder or construing or enforcing any of the terms or conditions hereof or protecting their interest in any bankruptcy, receivership, or insolvency proceeding or otherwise against the other, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred, including reasonable attorneys' and legal assistants' fees prior to trial, at trial, and on appeal and for post-judgment proceedings. This Section survives the expiration or termination of this Lease.

16.13 **SUCCESSORS.** The provisions of this Lease shall inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors, and assigns of Landlord and Tenant.

16.14 **BROKERS.** Tenant and Landlord represent and warrant to each other that they have not consulted or contacted any agent, broker, or finder in connection with this Lease, other than Noah Jones with Atlantic Retail Properties (the "Broker"). Landlord shall be responsible for the payment of any and all commissions and fees which may be payable to the Broker pursuant to a separate agreement between Landlord and the Broker. Landlord and Tenant agree to defend, indemnify and hold the other harmless from any and all claims for compensation or commission in connection with this Lease by any other broker, agent, or finder (other than Tenant's Broker) claiming to have dealt with such party.

16.15 **FORCE MAJEURE.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance required hereunder by reason of fire or other casualty, strikes, lockouts, labor troubles or shortages, material shortages, any moratorium or other governmental or court imposed restrictions, riots, criminal acts, food borne illness, insurrection, war, adverse and unusual weather conditions, or acts of God, vandalism, defective materials or work by third party contractors, jobsite accidents, or other reason of like nature beyond the reasonable control of the party delayed in such performance (each a "Force Majeure Event"), then (a) the period for performance shall be extended by the period of time equivalent to the delay caused by such Force Majeure Event or (b) performance shall be excused during the period of non-performance caused by such Force Majeure Event, as applicable. Notwithstanding the foregoing, any extension of time for a Force Majeure Event shall be conditioned upon the party seeking an extension of time delivering written notice of such Force Majeure Event to the other party within ten (10) days of the commencement of the delay caused by the Force Majeure Event. This Section shall not apply to any obligation to pay any sums due under this Lease and the lack of the financial ability to perform shall not constitute a Force Majeure Event.

16.16 **LANDLORD'S RIGHTS.** In exercising its rights hereunder and all rights reserved to Landlord under this Lease, Landlord shall use reasonable efforts to ensure that such right shall be exercised in a reasonable manner and in a manner so as to minimize any adverse impact to Tenant's business or Tenant's use or enjoyment of the Premises.

16.17 **TIME REQUIREMENTS.** For purposes of all time requirements and limits hereunder, any time requirement reference to days other than "business days" shall mean actual "calendar days" which shall include each day after the day from which the period commences. All time requirements referenced as "business days" shall include each day after the day from which the period commences excluding any Saturday, Sunday or legal holiday. If the final day of any such time period falls on a Saturday, Sunday or legal holiday in the jurisdiction where the Premises is located or the jurisdiction to which notices to Landlord or Tenant are to be sent, such period shall extend to the first business day thereafter.

16.18 **CONSENT.** Except as expressly set forth in this Lease, whenever a party's consent or approval is requested under or in connection with this Lease, such consent or approval shall not be unreasonably withheld, delayed or conditioned.

16.19 **SURVIVAL OF OBLIGATIONS.** Notwithstanding any provisions contained in this Lease to the contrary, the monetary obligations of Landlord and Tenant that relate to the period prior to the termination or expiration of this Lease (for example, the payment of accrued Rent, Operating Expense Payments or Real Estate Taxes) shall survive the termination or expiration of this Lease.

16.20 **GUARANTY OF LEASE.** Certain obligations under this Lease shall be guaranteed by Bloomin' Brands, Inc., a Delaware corporation by guaranty in the form attached hereto as Exhibit "G-1". In addition, Bloomin' Brands, Inc. agrees to guaranty the completion of certain improvements by guaranty in the form attached hereto as Exhibit "G-2".

16.21 **EXHIBIT LIST.** The following is a list of exhibits that are attached to the Lease:

Exhibit "A"	Site Plan with the following Depicted Areas:		
	• Premises	• Tenant's Staging Area	• Service Area
	• Shopping Center	• Protected Access	• Take-Away Spaces
	• Protected Area	• Monument Sign	• Restricted Area
			• Valet Parking
Exhibit "A-1"	Shopping Center Legal Description		
Exhibit "A-2"	Tenant's Plans		
Exhibit "A-3"	Site Delivery Specifications		
Exhibit "A-4"	Pad/Site Certification Form		
Exhibit "A-5"	Delivery and Acceptance of the Premises Agreement		
Exhibit "A-6"	Form of Term Commencement and Expiration Agreement		
Exhibit "A-7"	Existing Prohibited Uses and Existing Exclusives		
Exhibit "B"	Base Rent Schedule		
Exhibit "C"	Intentionally Deleted		
Exhibit "D"	Intentionally Deleted		
Exhibit "E"	Memorandum of Lease		
Exhibit "F"	Rules and Regulations		
Exhibit "G-1"	Guaranty of Lease		
Exhibit "G-2"	Guaranty of Completion of Improvements		
Exhibit "H"	Termination of Memorandum of Lease		

[Signatures appear on following page.]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease effective as of the Effective Date.

WITNESS:

[Redacted Signature]

"Landlord"

Eastland Mall, LLC,
a Delaware limited liability company
By: CBL & Associates Management, Inc.,
a Delaware corporation, managing agent

By:

Name: Jeffery V. Curry

Title: Chief Legal Officer

Date: 11-16-17, 2017



"Tenant"

Outback Steakhouse of Florida, LLC,
a Florida limited liability company

By:

Name: ANWETTE RODRIGUEZ

Title: Authorized Agent - Real Estate

Date: November 8, 2017

WITNESS:

[Redacted Signature]

EXHIBIT "A"
SITE PLAN

[See the following four (4) attached site plan pages.]

de

NOTES

F.A. ROUTE 10 (S.B.I. ROUTE 6)
(EMPIRE STREET)

SHOPPING CENTER
BOUNDARY

PROTECTED AREA

U.S. POST OFFICE

(VETERANS PARKWAY)

SITE PLAN

EASTLAND MALL

1925-199 (60) 1994
1919-1994 (60) 1994

DATE	2011
NAME	SAH
AGE	10

EXHIBIT A
PAGE 1 OF 3

any other way to deal with the problem than to let them be. In fact, the only way to deal with the problem is to let them be. In fact, the only way to deal with the problem is to let them be.

MOBILE

F.A. ROUTE 10 (S.B.I. ROUTE 2)
(EMPIRE STREET)

FRONTAGE ROAD

TAKE-AWAY SPACES (6)

PROTECTED ACCESS

VALET PARKING

U.S. POST OFFICE

U.S. RITE 66 (F.A. RITE. 61)
(VETERANS PARKWAY)

SITE PLAN

EASTLAND MALL

EXHIBIT A

1. **Introduction**
 2. **Background**
 3. **Methods**
 4. **Results**
 5. **Discussion**
 6. **Conclusion**
 7. **References**
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DEPT. OF THE ARMY



EXHIBIT A
PAGE 3 OF 3

PROJECT	5710107	REV	00000000
DATE	09/13/17	BY	
DESIGNED BY	CLG/E	CHECKED BY	
PROJECT NO.	5710107	PROJECT NAME	

1415 EAST EMPIRE STREET BIRMINGHAM, AL 35201
Phone: (303) 663-5501

CBL
CAL PROPERTIES

[illegible]

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Major findings by a report dated 14 of 12 2000, presented by the Public Health Service to the President, are that the tobacco industry has been successful in delaying the implementation of tobacco control measures. The report also found that the tobacco industry has been successful in delaying the implementation of tobacco control measures. The report also found that the tobacco industry has been successful in delaying the implementation of tobacco control measures.

EXHIBIT "A-1"

SHOPPING CENTER LEGAL DESCRIPTION

Tract No. 1: (Fee Parcel)

Lots 1 and 3 in the Eastland Mall Subdivision in Bloomington, Illinois, according to the plat thereof recorded January 07, 1999 as Document Number 99-490 and as amended by Document Number 2000R24331 recorded September 29, 2000, in McLean County, Illinois.

Tract No. 2 (Fee Parcel)

A part of Lot 10 in SECOND ADDITION TO MEDICAL HILLS SUBDIVISION, situated in the City of Bloomington, in the County of McLean, and State of Illinois, according to the plat thereof recorded September 14, 1972 as Document No. 72-9201, more particularly bounded and described as follows: Commencing at the Southeast corner of Lot 1 Medical Hills Subdivision, thence South 89 degrees, 48 minutes East 154.5 feet along the North line of Eastland Drive in the City of Bloomington to the Southwest corner of Lot 14 in the FOURTH ADDITION TO MEDICAL HILLS SUBDIVISION in the City of Bloomington; thence North 1 degrees, 9 minutes West along the West line of said Lot 14, said line being parallel with the East line of Fairway Drive, 282 feet to the Northwest corner of said Lot 14 being a point on the North line of said Lot 10; thence North 89 degrees 48 minutes West along said North line, 154.5 feet to the Northeast corner of said Lot 1; thence South 1 degrees, 9 minutes East along the East line of said Lot 1, 282 feet to the Southeast corner of said Lot 1;

Tract No. 3 (Fee Parcel)

A part of the Northwest 1/4 of the Northwest 1/4 of Section 2, Township 23 North, Range 2 East of the Third Principal Meridian, in the City of Bloomington, McLean County, Illinois, more particularly described as follows:

Beginning at the Southeast Corner of the Northwest 1/4 of said Northwest 1/4; thence North 1 degree 32 minutes West 525.04 feet along the East line of the Northwest 1/4 of said Northwest 1/4 to a point which is 872.21 feet South of the Northeast corner of the Northwest 1/4 of said Northwest 1/4; thence North 89 degrees 48 minutes West 776 feet parallel with the South line of the Northwest 1/4 of said Northwest 1/4; thence Southeast 64.83 feet along an arc of a curve of radius 339.70 feet, said curve being concave to the West and the 64.73 feet chord of said arc bears South 6 degrees 37 minutes East to a Point of Tangency; thence South 1 degree 09 minutes East 460.78 feet to a point on the South line of the Northwest 1/4 of said Northwest 1/4, said point being 773.63 feet West of the point of beginning; thence South 89 degrees 48 minutes East 773.63 feet along the South line of the Northwest 1/4 of said Northwest 1/4 to the point of beginning, in McLean County, Illinois.

aw

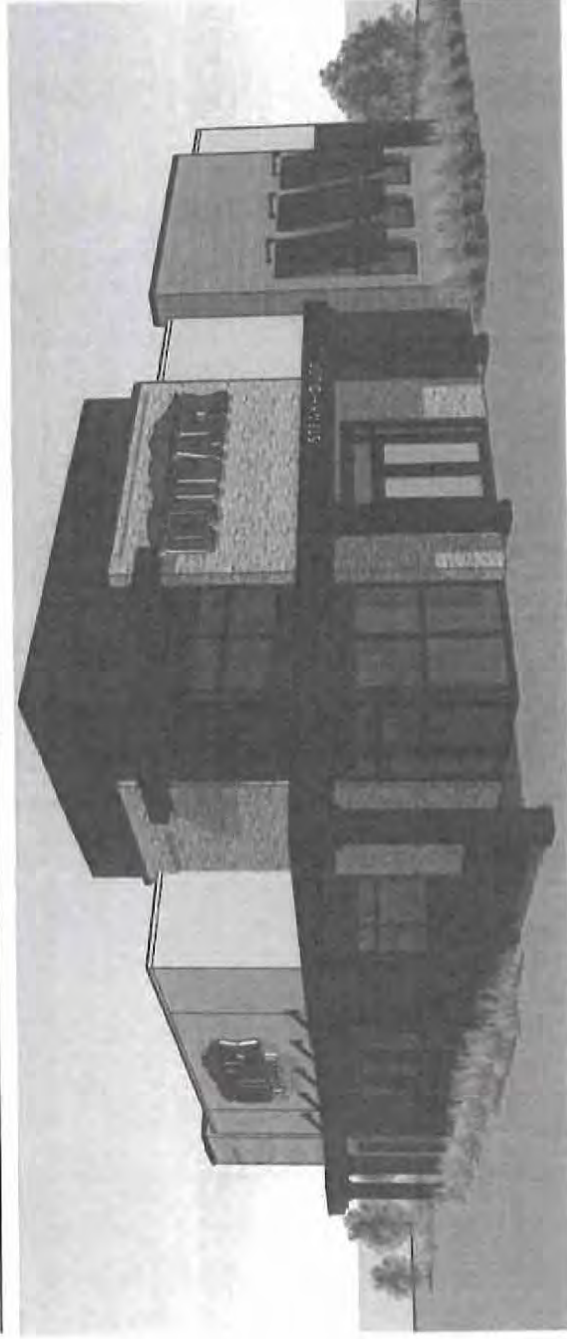
EXHIBIT "A-2"
TENANT'S PLANS

[See the following five (5) attached pages.]

JA
JH
JH

Outback Bloomington, IL.

24 Oct. 2017



OUTBACK

RVP: TBD
JVP: TBD

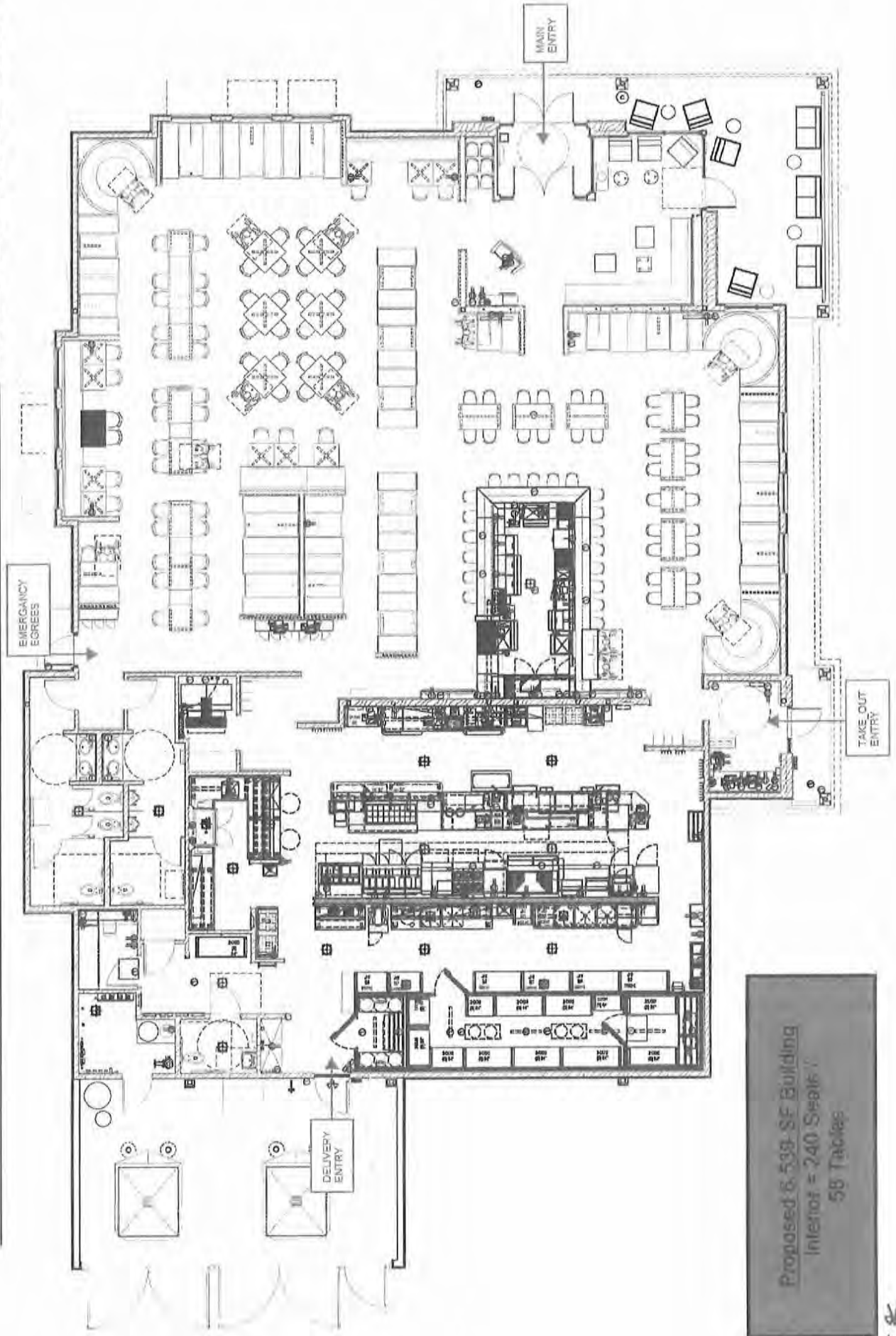
Building Size: 6539 SF
240 Seats / 58 Tables

President: Gregg Scarlett

Handwritten signature/initials

Outback Plan

OUTBACK

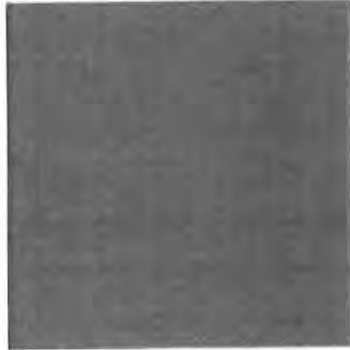


Proposed 6,539-SF Building
Interior = 240 Seats /
58 Tables

3/4
1/4

OUTBACK

Outback MATERIALS



Exterior Paint Color
Sherwin Williams
Well-Bred Brown SW7027



Exterior Paint Color
Benjamin Moore
Squire Hill Buff BM 1068



Exterior Paint Color
Sherwin Williams
Rustic Red SW7593



Exterior Metal Finish
Berridge Manufacturing
DARK BRONZE



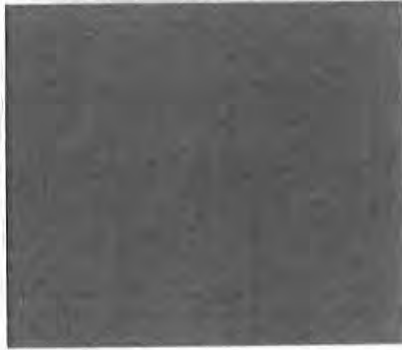
Stone Veneer
El Dorado Stone
Dry Creek Stack Stone



Canvas Awnings
Sunbrella
"Tresco Brick"



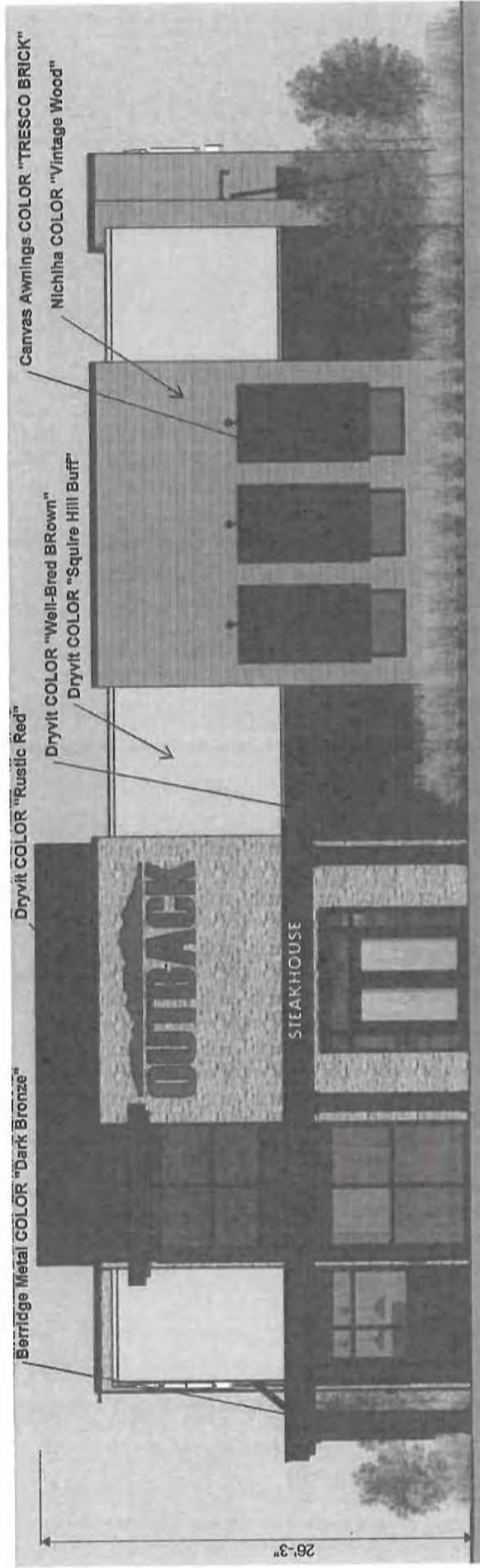
Exterior Wood Siding
Nichiha "Vintage Wood"
Cedar



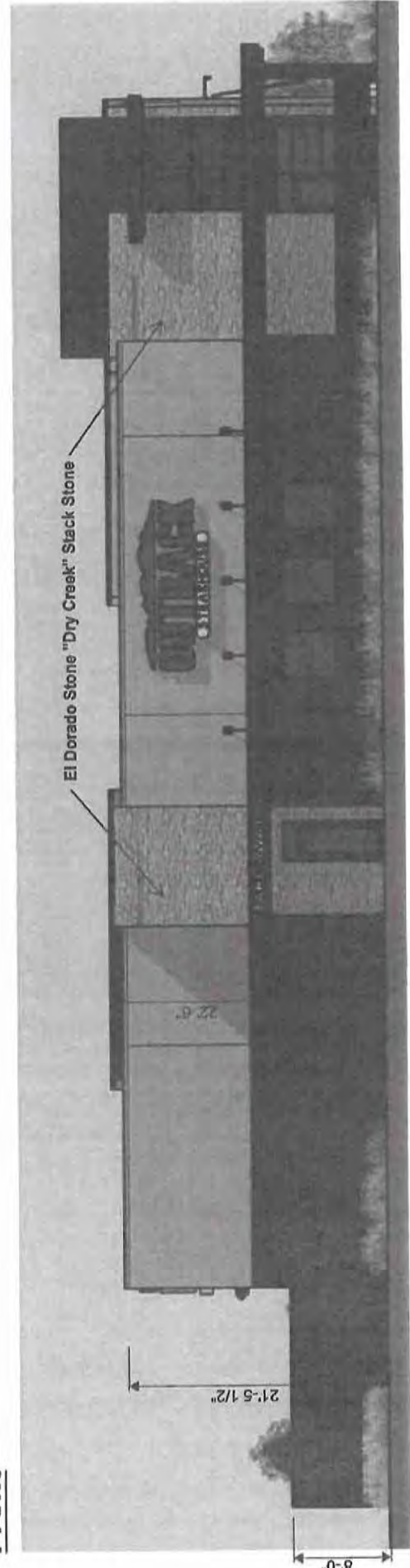
Exterior Metal Trim
Berridge
"Colonial Red"

2/2/23

Outback Elevations



Front

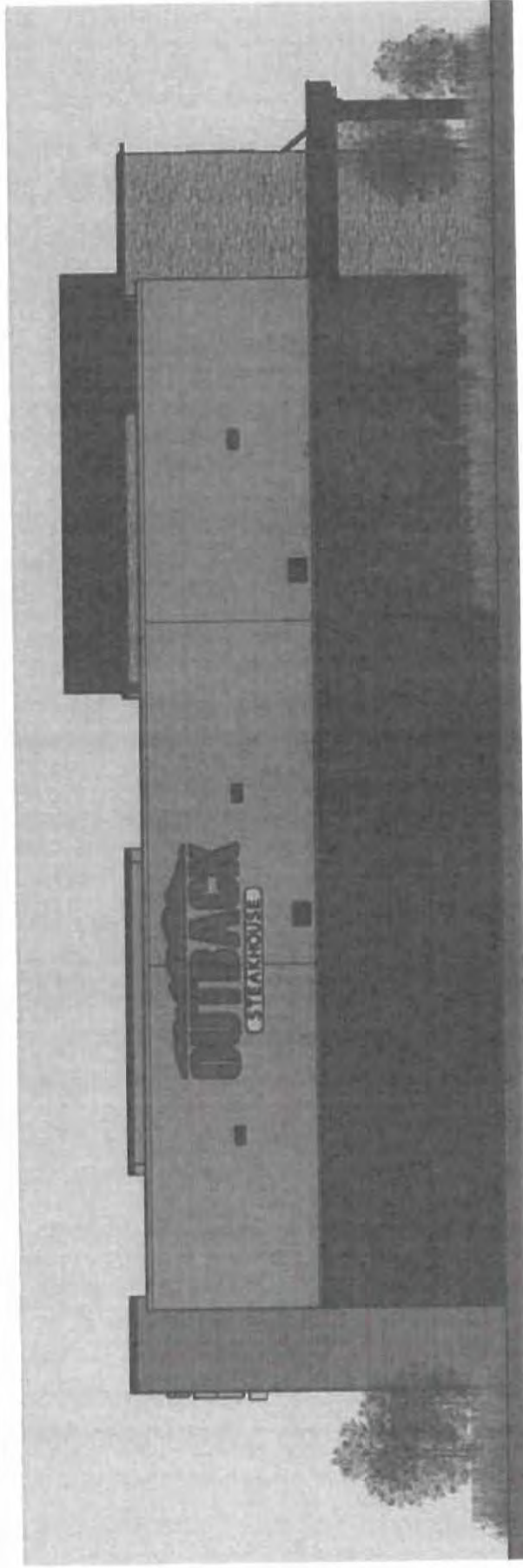


Left

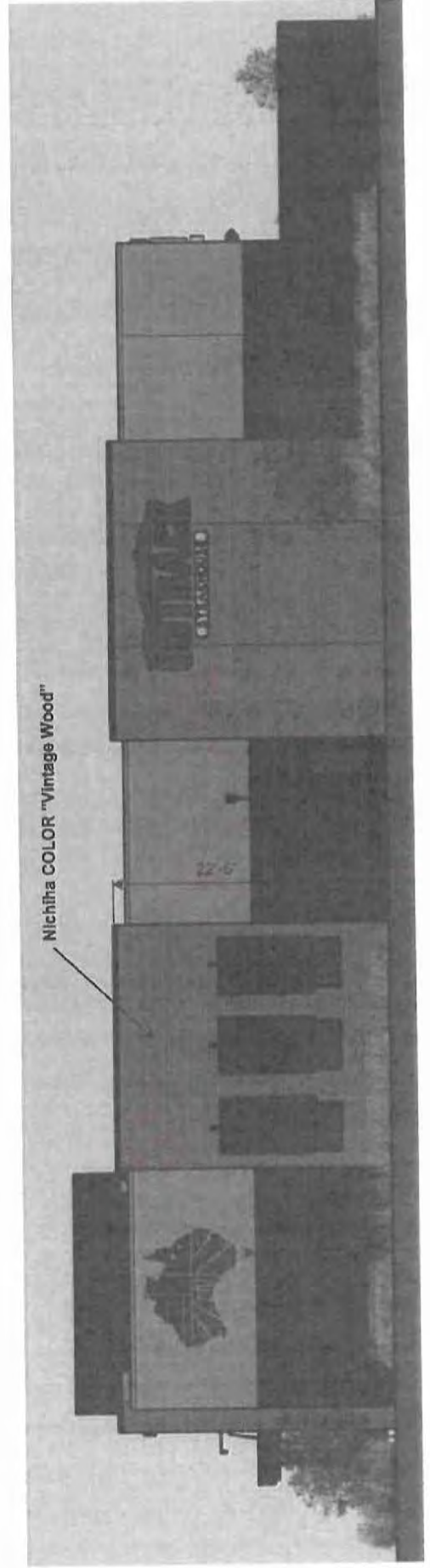
2/15/15

Outback Elevations

OUTBACK



Rear



Right

2/11/11
JH
OK

EXHIBIT "A-3"

WORK LETTER

Landlord's Work: Outparcel Pad Ready

This Section sets out work to be performed by Landlord, at Landlord's sole cost and expense. The term "Landlord's Work" means the work described below or reasonably required to obtain the results described below:

Landlord's Work means those improvements identified as Landlord's Work, as reflected in the Landlord's Approved Plans ("Plans"), as applicable, delivery and approval of which will be set forth in the lease and, the items listed below. All plans for Landlord's Work are to be reviewed and approved by the Tenant. Landlord will complete all of Landlord's Work that is not identified as "Existing" in accordance with the Plans at Landlord's sole cost and expense, using all new, first-class quality equipment and materials prior to delivering possession of the Premises to Tenant.

Landlord will perform Landlord's Work in a good and workmanlike manner and in compliance with all "Applicable Laws" (defined as all laws, statutes, ordinances, building codes, and rules and regulations applicable to performance of Landlord's Work). Landlord will obtain all permits for Landlord's Work and will have all necessary building code inspections completed prior to delivering possession to Tenant.

Tenant shall be solely responsible for the payment of any imposition charged by applicable governmental jurisdictions or utility providers which are commonly referred to under one of the following names, which list is included for illustrative purposes only and is not intended to be exhaustive: connection charges, availability fees, tie-in fees, meter fees or charges, "tap-in" or tap fees, system contribution fees, transportation fees, or impact charges, and any similar imposition charged by applicable governmental authorities or utility providers associated with the development of the Common Area and the Premises and the use of the Premises for the Permitted Use. Anything related to the overall development to be paid by the Landlord.

Any language required to support the intent of the parties as set forth in this Exhibit "A-3" shall be specified in the lease.

Landlord's Work to Complete at Landlord's Expense

Premises and Common Area Improvements

Landlord will construct all improvements and infrastructure for the Premises and the Common Areas as preliminarily depicted in Exhibit A of the Letter of Intent, further detailed in the Plans, including, without limitation; pad prep, grading, paving and striping of the parking areas, driveways and access roads (including all appropriate curb cuts, curbing, sidewalks, traffic islands) perimeter curb and meeting all requirements of the Americans with Disabilities Act, standard minimum asphalt pavement section, must be new pavement, consists of 1-inch-thick Hot Mix Asphalt Surface Course over 2-inch-thick Hot Mix Asphalt Wearing Course over 6-inch-thick graded aggregate base, thicker pavement section may be required based on site specific soil conditions or concrete if typically used and as specified by the Geotechnical Engineer; landscaping and irrigation; parking lot lighting arranged so as to provide an average illumination level of 4 foot candles, with a minimum illumination level of 1 foot candle, in all areas subject to Tenant's employees and/or customers use, on from dusk until 2 hours after closing; and any other work (whether or not within "Landlord's Improvement Area") which is necessary to allow Tenant to obtain permits and approvals for construction of Tenant's intended improvements, and upon completion of those improvements to obtain an unconditional Certificate of Occupancy.

PRE-TENDER LANDLORD'S WORK

Pad Delivery – Site Delivery Specifications

Pad must be delivered so it meets these delivery specifications and is capable of supporting Tenant's Building utilizing a conventional shallow slab on grade foundation system without the use of special supporting systems such as piles, caissons, grade beams or other special supporting systems, or the need for special reinforcement or extra

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concrete thickness. Landlord will complete the work and provide the attached *Pad/Site Certification Form* filled out by the Landlord's Geotechnical Engineer and Surveyor, as required to deliver the Premises in compliance with these site delivery specifications as follows and the Plans approved by the Tenant.

The Premises shall be delivered with Suitable Native Soil and/or Suitable Fill Material to the Proposed Grade. The depth of the Suitable Native Soil and/or Suitable Fill Material shall extend to the point of eliminating any influence from materials which are not Suitable Native Soil or Suitable Fill Material upon the support of Tenant's Building or other improvements or upon excavations for foundations, storm sewers, utilities or grease traps.

The Landlord's Land Surveyor will conduct an as-built survey, which shall be delivered to the Tenant, depicting and certifying both the horizontal and vertical locations of the Premises as being in compliance with Tenant's Approved Plans.

The Geotechnical Engineer will conduct an investigation, at Landlord's cost and to Tenant's minimum specifications as to number of borings in the pad and parking areas, depth, and intervals to classify the Native Soil and/or Fill Material on the Premises and determine their structural capabilities and will determine the most appropriate method to achieve the Site Delivery Specifications. The Geotechnical Engineer will also certify compliance with these Site Delivery Specifications.

If it is determined by the Geotechnical Engineer that other influences, including, but not limited to, seismic design considerations, will affect the support or structural integrity of the Tenant's Building, then the Premises will be delivered with the applicable measures to eliminate those influences.

Definitions:

ASTM – American Society for Testing and Material

BUILDING PAD – The area where Tenant's proposed Building will be situated including up to ten (10) feet of the area which surrounds Tenant's proposed Building, and the concrete dumpster pad.

PROPOSED GRADE – For the Building Pad, the Proposed Grade is eight (8) inches below the finished floor elevation as depicted on the Plans. For the Pavement Areas, the Proposed Grade is the pavement surface elevation, as depicted on the Plans, less asphalt and base thickness.

SUITABLE SOIL – Soil which is free of deleterious material, including, but not limited to, organic or frozen matter, expansive or compressible soils, rock, cemented sands, construction debris, landfill material and/or Hazardous Materials. Soil shall be low expansive with a maximum liquid limit (ASTM D-424) of 30 and a maximum plasticity index (ASTM D-424) of 15. The placement and compaction of each lift of fill shall be inspected, tested and approved by Landlord's geotechnical consultant before subsequent lifts can be placed and compacted.

NATIVE SOIL – Soil which has existed on the Premises in its natural condition.

SUITABLE NATIVE SOIL – Suitable Soil which, in its natural and undisturbed condition, is capable of supporting Suitable Fill Material and (a) Tenant's Building utilizing a conventional shallow foundation system without the use of special foundations such as piles, caissons, grade beams or other special supporting systems, and a conventional slab-on-grade floor without the need for special reinforcement or extra concrete thickness, and (b) the Pavement Area improvements utilizing a conventional asphaltic concrete pavement section typically used in the geographic area for a similar project.

FILL MATERIAL – Any material that has been, or will be, imported to the Premises.

SUITABLE FILL MATERIAL – Suitable Soil placed in horizontal layers not exceeding twelve (12) inches and compacted to not less than 95% maximum dry density as determined by the Standard Proctor (ASTM D-698) or 90% as determined by the Modified Proctor (ASTM D-1557) test procedure.

GEOTECHNICAL ENGINEER – A Geotechnical Engineer, retained by the Landlord at Landlord's cost and

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SMB
ML

expense, registered in the state in which the Premises is located.

PAVEMENT, CONCRETE CURBING, AND CONCRETE AREAS – The areas located Outside the Building Foundation and Patio.

Utilities –

Landlord will complete the work required to provide the following utilities delivered underground and stubbed to within five (5) feet of the Tenant's building at the point of connection (POC) for each such utilities to be further detailed on the Plans and coordinated and shown on Tenant's Building Plans, operational and with sufficient capacity:

- 2" telephone and 2" cable conduits
- 2" conduit and wiring for all freestanding signs
- Two external 1,500 gallon grease traps, in series, or such greater capacity or different configuration as may be required by applicable laws and at a depth acceptable to accommodate Tenant's interior plumbing design.
- Sanitary Sewer - 6" gravity sewer line to a depth sufficient to accommodate Tenant's standard plumbing plan, without the need for pumps, and acceptable by local municipalities and utility companies, separate line from the grease trap, to be further detailed on the Plans.
- Domestic Water - 1 ½" water meter and meter box with 2" water line providing water pressure between 50 psi and 70 psi
- Fire Water - 4" – 6" fire main including backflow device providing water pressure between 50 psi and 70 psi, including tap, valves, and underground valve vault, all in accordance with applicable codes.

POST-TENDER LANDLORD'S WORK

Landlord's Work to Complete 45 DAYS POST-TENDER:

Utilities –

Landlord will complete the work required to provide the following utilities delivered underground and stubbed to the Tenant's building at the point of connection for each such utilities to be further detailed on the Plans and coordinated and shown on Tenant's Building Plans, operational and with sufficient capacity:

- Storm water management and conveyance system including a stub out to within five (5) feet of the Tenant's building.
- Primary Electric - 120/208 volt, 1200 amps, 3 Phase electric service including primary service to pad mounted transformer, wire shall be copper.
- Gas - 3.5 million BTU natural gas line with a delivery pressure between 9" and 12" w.c.

Site Work –

- Paving – Asphalt binder course
- Curb work – All curbs
- Sidewalks – outside of building pad
- Landscaping outside of the building pad and perimeter curb
- Parking Lot Lighting
- Irrigation outside of the building page and perimeter curb
- Final asphalt course, parking lot striping, and signage

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EXHIBIT "A-4"
PAD/SITE CERTIFICATION FORM

Developer / Owner / Landlord (LL) should forward individual copies of this document to their (1) Grading Contractor, (2) Geotech Engineer, (3) Surveyor, and (4) Civil Engineer (if retained). Each consultant or contractor must complete sections B, C and D and the Landlord is to provide at Tender of Pad.

Upon fulfillment of the Requirements for Pad / Site delivery, as identified in the agreement between Bloomin' Brands, Inc. (BBI) & Owner / Developer / Landlord (LL), this document serves as binding certification of those conditions by the Contractor or Consultants responsible for their fulfillment and / or verification.

A. SITE IDENTIFICATION (BBI Construction Manager to complete prior to release to Owner)

Concept: _____
Project Name / #: _____
Address: _____ Note Street, City,
County, State

B. DELIVERY REQUIREMENTS (Consultant / Contractor must check one or more documents below that were used to determine

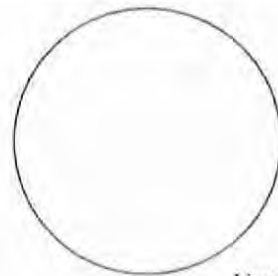
☐ Pad/Site Spec: _____ Note Date
☐ Geotech Report: _____ Note Rpt
Preparer & Date
☐ Construction Docs: _____ Note Rpt Preparer,
Date, & Sheet

C. CERTIFICATION (Consultant / Contractor must check one identification box, then supply specific company

☐ LL Surveyor: Certifies that Pad / Site Dimensions, Topography, Elevations comply with those in documents referenced above. (Surveyor MUST Attach Survey Data & Seal). Finish Pad Elevation

☐ LL Geotechnical Eng: Certifies Site Material / Compaction Requirements have been met as observed during site work, confirmed by testing, and as identified in docs referenced above. (Geotech MUST Attach Final Report detailing compliance and Seal Form below).

Company Name: _____
Address: _____
Phone / Fax: _____
Agent Name / Title: _____
Agent Signature: _____
Email Address: _____
License / Reg #: (Exp): _____
Date and Project # _____
MUST Seal Above



Licensed Engineer

D. ATTACHMENTS (Consultant / Contractor to describe and date required attached supporting documentation, reports, plans, etc.)

☐ Attachment(s): _____

E. RETURN TO BBI (BBI Construction Manager to complete prior to release to Owner)

EXHIBIT "A-5"
DELIVERY AND ACCEPTANCE OF THE PREMISES AGREEMENT

Project Name:
Date Possession Tendered:
Tenant:
Landlord:
Premises Address:

Store #:
Phone No.:
Phone No.:

Landlord and Tenant hereby acknowledge and agree that (check one of the following):

- ☐ Landlord's Work is complete and accepted by Tenant as of the date of possession noted above, subject to the terms and conditions of the Lease regarding latent defects and completion of punchlist items.
- ☐ Although the items of Landlord's Work indicated below are not complete, Tenant hereby accepts possession of the Premises as of the date of possession noted above and elects to complete the unfinished items at Landlord's expense, subject to the terms and conditions of the Lease.
- ☐ Although the items of Landlord's Work indicated below are not complete, Tenant hereby accepts possession of the Premises as of the date of possession noted above, subject to Landlord's completion of the unfinished items identified below within the timeframes noted, at Landlord's expense and subject to the terms and conditions of the Lease.
- ☐ Tenant finds the items of Landlord's Work indicated below substantially incomplete, and as such the Tenant does not accept possession of the Premises.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL THE COMMENCEMENT DATE BE EFFECTIVE UNTIL ALL SUCH ITEMS OF LANDLORD'S WORK ARE COMPLETE.

Incomplete items of Landlord's Work: _____

[Attach additional pages if needed.]

From and after the date hereof, all notices should be delivered to Tenant at the address set forth in the Lease.

Landlord:

EASTLAND MALL, LLC, a Delaware limited liability company

By: CBL & Associates Management, Inc., its managing agent

By: _____
Print Name: _____
Title: _____
Date: _____, 20__

Tenant:

OUTBACK STEAKHOUSE OF FLORIDA, LLC, a Florida limited liability company

By: _____
Print Name: _____
Title: _____
Date: _____, 20__

CBL

[Handwritten signature]

EXHIBIT "A-6"
FORM OF TERM COMMENCEMENT AND EXPIRATION AGREEMENT

This Term Commencement and Expiration Agreement ("Agreement") is attached to and made a part of that certain Lease Agreement by and between EASTLAND MALL, LLC, a Delaware limited liability company ("Landlord") and OUTBACK STEAKHOUSE OF FLORIDA, LLC, a Florida limited liability company ("Tenant"). The terms used in this Agreement that are defined in the Lease shall have the same meanings as provided in the Lease.

This Agreement is being provided pursuant to the terms and provisions of that certain lease agreement dated _____ 2017 (the "Lease"), between Landlord and Tenant. The parties to the Lease desire to confirm that the following terms which are defined in the Lease shall have the meanings set forth below for all purposes in the Lease:

The Commencement Date was _____.

The Lease shall terminate on _____, subject to earlier termination and Renewal Terms as provided for in the Lease.

Tenant has four (4) Renewal Terms of five (5) years each which are to be exercised by Tenant by written notice to Landlord (a "Renewal Notice") by no later than (a) _____, with respect to the first Renewal Term, (b) _____, with respect to the second Renewal Term, (c) _____, with respect to the third Renewal Term, and (d) _____, with respect to the fourth Renewal Term.

Actual Square Footage contained in:

(a) Premises	_____ square feet
(b) Building constructed on the Premises	_____ square feet
(c) Shopping Center	_____ square feet
(d) Tenant's Tax Share	_____ %

This Agreement shall be binding on the parties hereto, their successor and assigns and all subtenants of Tenant and any other party claiming under or through Tenant. The Lease is in full force and effect as of the date hereof in accordance with its terms, and Tenant is in possession of the Premises.

WITNESS:

LANDLORD:

EASTLAND MALL, LLC

By: CBL & Associates Management, Inc., its managing agent

Print Name: _____

By: _____
Name: _____
Title: _____

WITNESS:

TENANT:

OUTBACK STEAKHOUSE OF FLORIDA, LLC

Print Name: _____

By: _____
Print Name: _____
Title: _____ Authorized Agent – Real Estate

[Handwritten signature]

EXHIBIT "A-7"
EXISTING PROHIBITED USES
AND
EXISTING EXCLUSIVES

Bergner's

(H) The parking areas, sidewalks, aisles, streets and driveways and other Common Facilities on the Entire Tract shall be maintained and operated as such during the term of this Lease and shall not be fenced or otherwise obstructed and shall be kept open at all times for the free use thereof as intended in this Lease. They shall not be used for the display or sale of merchandise or for any other purpose not contemplated by this Lease, except as provided in paragraph (D) of Section 36 and except that Landlord may construct and lease kiosks in the Mall, provided no kiosk shall be located within 80 feet of the Mall entrance of Tenant's Main Building.

(Q) Notwithstanding anything set out in this Lease to the contrary, it is agreed that (i) all Common Facilities on the Entire Tract shall be subject to the exclusive control and management of Landlord, (ii) Landlord shall have the right at any time, once or more often, to change the size, area, level, location and arrangement of parking areas and other Common Facilities on Landlord's Tract, (iii) Landlord shall have the right to construct buildings and other improvements on the Common Facilities on Landlord's Tract, (iv) Landlord shall have the right to close all or any portion of the parking areas and other Common Facilities on the Entire Tract in order to (x) make repairs and changes thereto, (y) prevent a dedication thereof or the accrual of any rights to any person or the public therein, and (z) discourage non-customer parking; (v) Landlord shall have the right to do and perform such other acts in and to the Common Facilities on the Entire Tract as Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants of the Shopping Center and their customers; and (vi) Landlord shall have the right to add additional land to the Shopping Center and to construct buildings, Common Facilities and other improvements thereon;

PROVIDED, HOWEVER, nothing in this paragraph (Q) shall be construed to authorize landlord to violate the provisions of paragraph (A) of this Section 25 nor to make any changes in the area marked "Restricted Area" on the Site Plan, in a manner so as to materially adversely affect customer visibility or access to Tenant's Main Building nor to alter in any manner the Mall entrances of Tenant's Main Building. Tenant shall not have any special rights in the "Restricted Area" and the same shall be deemed a part of the Common Facilities.

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Construction, Operation and Reciprocal Easement Agreement (Macy's)

Section 14.4 Limitation on Detrimental Characteristics

(a) No use or operation will be made, conducted or permitted on any part of the Shopping Center Site which use or operation is clearly objectionable to the development or operation of the Center. Included among the uses or operations which are prohibited on the Shopping Center Site, because of their obvious interference with Developer's intent to maintain a balanced and diversified grouping of retail stores, merchandise and services, as well as their obvious detrimental effect upon the general appearance of the Center and conflict with the reasonable standards of appearance and maintenance required by this REA, are uses or operations which produce or are accompanied by characteristics, such as, but not limited to, the following:

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(i) Any noise, litter, odor or other activity which may constitute a public or private nuisance;

(ii) Any unusual firing, explosion or other damaging or dangerous hazards;

(iii) Any assembly, manufacturing, distilling, refining, smelting, industrial, agriculture, drilling or mining operation;

(iv) Any collection, dumping, disposal, incineration or reduction of garbage or refuse other than handling or reducing such waste if produced on the premises from authorized uses and if handled in a reasonably clean and sanitary manner.

(b) Each Party has an interest in achieving a balanced and diversified grouping of retail stores, merchandise and services in the Center. A balanced diversification of goods and services as is required of Developer by Article 12 will maximize the merchandising of the Mall Stores, assist in the application and enforcement of the reasonable standards of appearance, maintenance and housekeeping and promote the traffic and movement of people using the Enclosed Mall for shopping. Upon May's request, Developer shall consult with and advise May from time to time on the status of the leasing program for the Mall Stores Building, and give May, on request, a current leasing plan for the Mall Stores Building. Neither Developer nor May will permit any occupancy on their respective Parcels by a clearly objectionable type of Occupant or which is otherwise not in compliance with the

A-1

provisions of this REA or with a type of Occupant that will create undue noise, litter or odor in the area immediately proximate to any Party's Store Building; PROVIDED, HOWEVER, the foregoing provisions of this Section shall not be applicable to leases encumbering the Developer Parcel on the date of this REA as to which Developer does not have the right to enforce the foregoing restrictions, but Developer shall in good faith seek to include such provisions in any amendment or modification of such existing leases.

Section 14.5 No Selling Outside of the Developer Complex and Major's Store Buildings

So as not to interfere with efficient automobile and pedestrian traffic flow between a Party's Store Building and all other areas in the Center, there shall be no selling activities conducted outside the buildings on the Developer Parcel and May Store Building, except as provided below. No selling activity shall be conducted in the Enclosed Mall or in the Exterior Common Area except for activities sponsored by the advertising and promotion service provided for in Section 25.22 and except for kiosks and retail merchandising units as provided in Sections 14.8 and 14.9.

Section 14.9 Duration of Covenants

The restrictions described in this Article 14 shall be and remain in effect from the date of this REA until the termination of this REA or such earlier date when the May Store Building is no longer being Operated for retail purposes; provided, however, that (a) May shall not be entitled to enforce the provisions of Sections 14.3, 14.4 and 14.8, if it is not Operating for retail purposes in at least its Minimum Floor Area, and (b) May shall not be entitled to enforce the provisions of Sections 14.5 and

der

14.7 with respect to the Enclosed Mall if it is not Operating for retail purposes in at least its Minimum Floor Area with at least a main entrance (which has not been permanently closed) to the Enclosed Mall, and (c) so long as Developer is Operating the Mall Store Building in at least its Minimum Floor Area for retail purposes, May shall not violate the provisions of this Article.

Kohl's

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(C) Notwithstanding anything set forth in this Lease to the contrary but subject to the proviso to paragraph (P) of Section 25, it is agreed that Landlord reserves the right, without invalidating this Lease or modifying any provision thereof except Exhibit B, at any time either before, during or after the initial construction thereof, once and more often, (i) to make alterations, changes and additions to the buildings and other improvements in the Landlord's Tract and to permit the same to be done on the Bergner and Sears Tracts, (ii) to add and exclude land and improvements from the Landlord's Tract and to permit the same to be done with respect to the Bergner and Sears Tracts; (iii) to remove or relocate the whole or any part of any building or other improvement on the Landlord's Tract and to permit the same to be done on the Bergner and Sears Tracts; and (iv) to require Tenant to join in the execution with Landlord of an agreement, in recordable form, modifying this Lease by amending Exhibit B to reflect any of the changes, alterations, additions or exclusions effected by Landlord and which Landlord permits to be effected as hereinabove set forth; provided, however, the foregoing shall not be construed as permitting: (x) Landlord to make any changes, additions or alterations which would preclude reasonable and necessary vehicular access to and from the Demised Premises from the remainder of Landlord's Tract, (y) Landlord to relocate any curb cuts between the Shopping Center and adjacent public roads without the prior written consent of Tenant, which consent Tenant agrees not to unreasonably withhold, or (z) Landlord to make any material changes, additions or alterations within the area outlined in green on Exhibit B, without the prior written consent of Tenant, which consent Tenant agrees not to unreasonably withhold; provided, further, the construction of buildings and improvements within any Future Building Area shown on Exhibit B shall not be in breach of the foregoing. Any improvements hereafter constructed on the Landlord's Tract which front on the Mall shall be architecturally harmonious with the other improvements thereon.

(G) The parking areas, sidewalks, aisles, streets and driveways and other Common Facilities on the Entire Tract as the same shall exist from time to time shall be maintained and operated as such during the term of this Lease and shall not be fenced or otherwise obstructed and shall be kept open at all times for the free use thereof as intended in this Lease. They shall not be used for the display or sale of merchandise or for any other purpose not contemplated by this Lease, except for Center-wide promotions consistent with good shopping center practice and except that Landlord may construct and lease kiosks in the Mall, provided no kiosk shall, without Tenant's prior approval, be located within the Restricted Kiosk Area shown on Exhibit B and no kiosk in the Restricted Kiosk Area shall be used for the sale of food (other than packaged food for off the premises consumption); provided, further, no more than 4 kiosks shall be constructed within the area outlined in blue on Exhibit B and no more than 3 of such kiosks shall be permanent in nature (the other such kiosk to be seasonal in nature).

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PERMITTED USES - PARCEL "A"

Landlord agrees that Parcel "A" shown on Exhibit B shall be used only for retail and financial service facilities exclusive of funeral establishments, auto fender or body repair shops, shooting galleries, miniature and slot-cars and slot-car racing, bowling alleys, head shops, veterinary hospitals or coin-operated laundromats. Whenever any construction is undertaken on Parcel "A", an appropriate barricade shall be constructed around the construction site. Any improvements constructed on Parcel "A" shall be architecturally harmonious with Tenant's Building.

Landlord agrees to insert in any lease of Parcel "A" a clause substantially in the following form:

"Tenant covenants and agrees that it will: not place or maintain any merchandise, vending machines or other articles outside the building on the premises; store garbage, trash, rubbish and other refuse in rat-proof and insect-proof containers inside the building on the premises, and remove the same frequently and regularly and, if directed by Landlord, by such means and methods and at such times and intervals as are reasonably designated by Landlord, all at Tenant's cost; not permit any sound system, audible or objectionable advertising medium visible outside the building on the premises; keep all mechanical equipment free of vibration and noise; not commit or permit waste or a nuisance upon the premises; not permit or cause offensive odors to emanate or be dispelled from the premises; not solicit business in the common areas nor distribute advertising matter to, in or upon any common area; not permit the loading or unloading or the parking or standing of delivery vehicles outside any area designated therefor, nor permit any use of vehicles which will interfere with the use of any common area in the Shopping Center; comply with all laws, ordinances, rules and regulations of governmental, public, quasi-public and other authorities and agencies, including those with authority over insurance rates, with respect to the use or occupancy of the premises, and including but not limited to the Williams-Steiger Occupational Safety and Health Act; and not permit any noxious, toxic or corrosive fuel or gas, dust, dirt or fly ash on the premises."

In the event of the sale of Parcel "A" by Landlord, Landlord agrees to restrict Parcel "A" by recording an instrument containing covenants, intended to be binding on Landlord's grantees, substantially the same as those applicable to a tenant of Landlord as above set forth.

LA Nails

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2. EXCLUSIVE

(A) Provided Tenant named herein shall (i) continuously operate its business in the Leased Premises in accordance with the terms of the Lease, (ii) use the Leased Premises for the Permitted Uses, and (iii) not be in default under the Lease, and subject to subparagraphs (B) and (C) of this Section, Owner covenants that during the term it will not lease nor permit the occupancy of any store located in the Shopping Center (other than the Leased Premises) primarily for the operation of a nail manicure service.

(B) Notwithstanding anything to the contrary set forth above in subparagraph (A) of this Section, it is agreed that the restriction therein set forth shall not be (i) applicable to the Department Store Premises, (ii) construed to prohibit, nor shall such restriction prohibit any tenant (or such tenant's sublessees, concessionaires and licensees) from operating, as an incidental portion of such tenant's primary business, a nail manicure service, or (iii) applicable to leases for any premises in the Shopping Center which were executed prior to the date of the Lease.

Mastercuts

3. EXCLUSIVE.

(A) Provided Tenant shall (i) continuously operate its business in the Leased Premises in accordance with the terms of the Lease, (ii) use the Leased Premises for the Permitted Uses, and (iii) not be in default under the Lease, and subject to subparagraphs (B), (C), (D) and (E) of this Section, Owner covenants that during the term it will not lease nor permit the occupancy of more than 3 stores located in the Shopping Center (including the Leased Premises, but excluding the Department Store Premises) for the operation of a unisex haircutting salon.

(B) Notwithstanding anything to the contrary set forth above in subparagraph (A) of this Section, it is agreed that the restriction therein set forth shall not be (i) applicable to the Department Store Premises, or (ii) applicable to leases for any premises in the Shopping Center which were executed prior to the date of the Lease and contain permissive use clauses that would permit the operation of premises for a unisex haircutting salon.

Pretzel Twister

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1. EXCLUSIVE.

(A) Provided Tenant shall (i) continuously operate its business in the Leased Premises in accordance with the terms of the Lease, (ii) use the Leased Premises for the Permitted Uses, and (iii) not be in default under the Lease, and subject to paragraphs (B), (C), (D), (E), and (F) of this Section, Owner covenants that during the term of the Lease it will not lease nor permit the occupancy of any store located in the Shopping Center (other than the Leased Premises) to operate a business which is a "Competitor" (as defined herein).

(B) Notwithstanding anything to the contrary set forth above in paragraph (A) of this Section, it is agreed that the restriction therein set forth shall (i) not be applicable to leases for any premises in the Shopping Center which were executed prior to the date of the Lease, and (ii) not be applicable to the Department Store Premises.

(C) For the purposes of the Lease, the term "Competitor" shall refer to any tenant within the Shopping Center (except as excepted in paragraph [B] above) whose primary business is the sale of soft pretzels.

Sono Formal Wear

2. EXCLUSIVE.

(A) Provided Tenant shall (i) use the Leased Premises for the Permitted Uses, and (ii) not be in default under the Lease beyond any applicable notice and cure period, and subject to paragraphs (B), (C), (D) and (E) of this Section, Owner covenants that during the term of the Lease it will not lease nor permit the occupancy of any store located in the Shopping Center (other than the Leased Premises) primarily for the operation of a men's formal wear rental store (the "Exclusive Use").

(B) Notwithstanding anything to the contrary set forth above in paragraph (A) of this Section, it is agreed that the restriction therein set forth shall (i) not be applicable to leases for any premises in the Shopping Center which were executed prior to the date of the Lease and would allow the tenant under such lease to use its leased premises for the Exclusive Use, (ii) not be applicable to the Department Store Premises or Major Tenant Premises, and (iii) not be construed to prohibit, nor shall such restriction prohibit, any tenant (or such tenant's sublessees, concessionaires and licensees) from renting, as an incidental portion of such tenant's primary business, men's formal wear.

ULTA

students or trainees rather than retail customers. Notwithstanding the restrictions set forth in this Section 4.5, the uses set forth in Paragraph 1 of Exhibit G hereto ("Prohibited Uses") shall be prohibited throughout the Shopping Center in accordance with Exhibit G. If Landlord permits

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4.6 Landlord Covenant.

(a) From and after the date of the Lease, and during the Term thereof, Landlord covenants that it will not enter into any lease, license agreement or other similar agreement with a "Competitive Store" (hereinafter defined) for any other space in the Shopping Center. Landlord also covenants not to enter into any instrument of sale for land within the Shopping Center, which would permit the primary use of such premises to be as a Competitive Store. As used herein, the term "Competitive Store" shall mean a retail/service store which (i) sells cosmetics, health and beauty products, fragrances, professional hair care products, skin care products, and body care products, subject to subsection (h) below, and/or (ii) operates a full service beauty salon. A Competitive Store shall not apply to uses associated with the following

- (a) existing tenants or occupants in the Shopping Center who are entitled to sell such products and/or provide the services that are covered by this Section 4.6;
- (b) family hair care such as Great Clips, Fantastic Sam's, or other similar value oriented type operations;
- (c) department stores such as Dillard's, Sears, JC Penney, Bergner's, Macy's, Belk's, Kohl's, or Target;
- (d) any anchor tenant or occupant in excess of twenty-five thousand (25,000) square feet (e.g. Marshall's);
- (e) Victoria's Secret, Cold Water Creek, Bath and Body Works and/or other similar national or regional retailers that sell primarily their own "private label" brands of goods and/or provides the services that are covered by Tenant's rights under this Section 4.6 as a part of its normal business operations, but not as its primary use; provided however this exception shall not be deemed to permit any store or business which sells as its primary use (i) multiple brand-name product lines of cosmetics and/or professional hair care products, or (ii) single brand-name product lines of professional hair care products;
- (f) Aveda, a spa providing services similar to that of Aveda, or incidental spa services contained within the primary business of certain fashion retailers such as Cold Water Creek;
- (g) Regis, Trade Secret or similar hair care stores, provided that any such store is no more than 3,500 square feet in size; and
- (h) incidental sales of the products that comprise Tenant's Primary Business (less than five percent (5%) of their total gross floor area, not to exceed a total of 250 square feet); provided, however, Landlord and Tenant covenant and agree that "Landlord's Covenant" as set forth above in this Section 4.6 prohibits stores whose primary use is the sale of one hundred percent (100%) mineral based nationally known branded make-up.

Landlord's Covenant shall continue only for so long as Tenant is operating the Premises as a "Typical Ultra Store", except that said right shall continue in full force and effect during the period prior to the initial construction of Tenant's improvements, until such time as same can be repaired, restored and/or completed. In the event that (i) a Competitive Store shall commence

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7.2 **Certain Restrictions on Use of Common Area.** Except as otherwise expressly provided herein, or for temporary events sponsored by Landlord, the parking spaces in the Common Area as it exists from time to time, shall be used only for the parking of private automobiles or similar vehicles of customers, agents, contractors, invitees, licensees, subtenants and employees of Tenant and Landlord or any other tenants or occupants of the Shopping Center while such persons are present at the Shopping Center. Notwithstanding anything contained herein to the contrary, in no event shall any temporary events be permitted in that certain "Area of Concern" designated on Exhibit A, without Tenant's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. In addition, the access, perimeter and through roads, streets, drives and walkways, including areas for truck access, maneuvering and loading as they exist from time to time, shall be used only for pedestrian and vehicular traffic and no other purpose, and, except for emergency situations or repairs required to be performed by Landlord pursuant to the terms hereof or by governmental authorities, Landlord shall keep such access ways open and unobstructed at all times provided that Landlord provides an alternate accessway for pedestrian and vehicular traffic during such temporary periods. Without limiting the foregoing, except as otherwise expressly provided herein, no portion of Tenant's Protected Area may be used by other tenants or Landlord for special promotions, sidewalk sales, seasonal sales, truck parking, inventory storage, do-it-yourself or demonstration areas, park and ride or car pooling arrangements or for any other purposes, except the common purposes for which such portion of the Common Area was designed. Any area designated by Landlord within the Shopping Center as "Employee Parking" shall be no closer than two hundred (200) feet from the front entrance to the Premises, and Landlord shall use diligent efforts to enforce such parking restrictions on a uniform basis.

EXHIBIT G

PROHIBITED USES AND EXCLUSIVE USES

1. **Prohibited Uses.** Subject to existing leases and agreements with tenants and occupants of the Shopping Center, the following uses (collectively referred to as "Prohibited Uses" and individually as a "Prohibited Use") are prohibited during the Term of the Lease in the Shopping Center: nuisance; use causing loud noises or offensive odors (not including ordinary cooking odors); manufacturing facility; dry cleaner (except facilities for drop off and pick up of clothing cleaned at another location); automobile repair shop (other than a car stereo/radio or electronic installation or repair facility associated with an electronics store) or service station or any facility storing or selling gasoline or diesel fuel in or from tanks; used clothing or thrift store or liquidation outlet (excluding Black Lion, Tuesday Morning and similar stores); massage parlor (except as part of a health club or spa, and except for first class therapeutic massage parlors such as those operated by Massage Envy); adult book shop or adult movie house; mortuary or funeral parlor; coin operated laundry; cocktail lounge, bar or tavern or sale of alcoholic beverages, whether or not packaged, except in conjunction with a restaurant or entertainment venue such as House of Blues, Dave & Busters and Jillians; night club; cinema or theater (but excluding any such use where the main entrance does not front on Tenant's Parking Area); drug store/pharmacy (but excluding the pharmacy express ("RX Express") (type stores); or place of recreation within the Area of Concern (including, but not limited to, a bowling alley, skating rink, carnival, game arcade, swimming pool, hot tub, gym, but excluding a health club, health spa or exercise facility); or a church. Further, Landlord shall not engage in or undertake any surface mining or other extraction of coal, minerals, oil, gas, uranium, thorium, or other materials determined to be essential to the production of fissionable material, or any processing related thereto upon the surface of any land owned by Landlord in the Shopping Center.

JC Penney

out

It is further understood and agreed, that Landlord shall not, throughout the term of Tenant's lease, or any extension thereof, lease or permit to be leased in said Center space to any tenant, or other occupant, that: (a) has more than twenty-five per cent (25%) greater first floor store area than that Tenant has at the time such other tenant area is planned, or (b) has greater store frontage facing on the enclosed mall than Tenant, without Tenant's written approval in advance of construction of such facilities.

NOISES AND ODORS. Landlord shall not rent or use any property adjoining the demised premises if any be now owned or hereafter acquired by Landlord, nor any part of the building of which the demised premises are a part, for uses whereby noises will be created or obnoxious odors emitted, or which will increase the fire hazard.

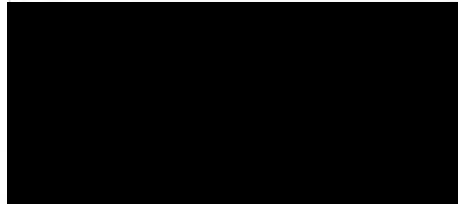
dwr

EXHIBIT "B"
BASE RENT SCHEDULE



CONFIDENTIAL

Lease Years 1 through 5
Lease Years 6 through 10
Lease Years 11 through 15
Lease Years 16 through 20
Lease Years 21 through 25
Lease Years 26 through 30



PERCENTAGE RENT BREAKPOINTS

Lease Years 1 through 5
Lease Years 6 through 10
Lease Years 11 through 15
Lease Years 16 through 20
Lease Years 21 through 25
Lease Years 26 through 30



CONFIDENTIAL

des

EXHIBIT "C"

INTENTIONALLY DELETED.

EXHIBIT "D"
INTENTIONALLY DELETED.

dis

EXHIBIT "E"

WHEN RECORDED MAIL TO:

Outback Steakhouse of Florida, LLC
2202 N. West Shore Blvd., 5th Floor
Tampa, Florida 33607
Attention: Sr. Director of Asset Management

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

MEMORANDUM OF LEASE

Eastland Mall, LLC, a Delaware limited liability company with an address of CBL Center, Suite 500, 2030 Hamilton Place Boulevard, Chattanooga, TN 37421, as "**Landlord**" and Outback Steakhouse of Florida, LLC, a Florida limited liability company with an address of 2202 North West Shore Blvd., 5th Floor, Tampa, FL 33607, as "**Tenant**", entered into a Lease with an Effective Date of _____, 2017 (the "**Lease**"). In accordance with the terms and provisions of the Lease, Landlord has leased to Tenant and Tenant has leased from Landlord certain Premises (more particularly described below) at Eastland Mall (the "**Shopping Center**"), located in Bloomington, Illinois. Landlord and Tenant are recording this Memorandum of Lease (i) to confirm and ratify the Lease and the granting of Tenant's leasehold estate in the Premises and Tenant's Appurtenant Use Rights under the Lease; (ii) to provide record notice of the Lease and all of Tenant's rights under the Lease; and (iii) to confirm that the portion of the Shopping Center owned by Landlord is subject to Tenant's leasehold estate in the Premises and Tenant's Appurtenant Use Rights under the Lease, as well as the other terms, covenants, conditions and restrictions contained in the Lease, as covenants and restrictions running with the land for the entire Term of the Lease.

The Lease includes, among others, the following terms and provisions:

Grant: Landlord has granted and conveyed to Tenant a leasehold interest in the Premises and certain Appurtenant Use Rights (both as more particularly described below). Tenant shall also have the benefit of any rights and easements of record appurtenant to the Shopping Center or any part thereof that includes the Premises.

Premises: The Premises is a portion of the Shopping Center more particularly described in the Lease and generally shown on the Site Plan attached to this Memorandum of Lease as Exhibit "A."

Appurtenant Use Rights: Tenant has certain rights to use certain portions of the Shopping Center outside the Premises, which are defined in the Lease as Tenant's Appurtenant Use Rights. Tenant's Appurtenant Use Rights are set out in Subsection 1.1B of the Lease.

Commencement Date: The Commencement Date of the Initial Term of the Lease shall commence on the date that is the earlier of: (a) one hundred eighty (180) days after the later of (i) the Tender Date and (ii) Tenant's written waiver (or earlier expiration) of all the Tenant Contingencies set forth in Section 1.5 of the Lease; or (b) the date Tenant first opens for business to the general public.

Term: The Term of the Lease is for ten (10) Lease Years (as defined in Section 1.3F of the Lease) beginning on the Commencement Date. The Term may be extended as provided for in the Lease or by agreement of Landlord and Tenant.

Renewal Options: Tenant has four (4) Renewal Options to renew the Lease and extend the Term, each for a period of five (5) years.

Net

Certain Tenant Protections. Section 1.4 of the Lease provides for certain rights and protections in favor of Tenant, which include, but are not limited to: (i) restrictions on Landlord's ability to make or permit certain changes to the Protected Area within Shopping Center; (ii) the prohibition of certain uses in the Shopping Center; and (iii) an exclusive in favor of Tenant.

This Memorandum of Lease is not intended to set out any of the terms or provisions of the Lease in their entirety, but is intended to be sufficient to put third parties on notice of such terms and provisions.

Interested persons may obtain additional information concerning the terms and provisions of this Lease by written request to Tenant, at the Tenant's address set out above made to the attention of the Sr. Director of Asset Management.

[Signature Page Follows]

des

IN WITNESS WHEREOF the parties have executed this Memorandum of Lease as of the dates set forth in their respective acknowledgments.

WITNESS:

"Landlord"

Eastland Mall, LLC,
a Delaware limited liability company
By: CBL & Associates Management, Inc.,
a Delaware corporation, managing agent

By: _____

Name: Jeffery V. Curry

Title: Chief Legal Officer

Date: _____

WITNESS:

"Tenant"

Outback Steakhouse of Florida, LLC,
a Florida limited liability company

By: _____

Name: _____

Title: Authorized Agent - Real Estate

Date: _____

des

[Acknowledgment of Landlord]

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Jeffery V. Curry, as Chief Legal Officer of CBL & Associates Management, Inc., a Delaware corporation, managing agent of Eastland Mall, LLC.

{Signature of Notary Public}
Printed Name: _____
{Name to be printed or stamped}

(Notary Seal)

☐ personally known to me or ☐ produced identification. {applicable box to be checked}

Identification produced: _____
{if identification was produced, type of identification provided to be inserted}

[Acknowledgment of Tenant]

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as Authorized Agent – Real Estate of Outback Steakhouse of Florida, LLC, a Florida limited liability company, for and on behalf of the limited liability company.

{Signature of Notary Public}
Printed Name: _____
{Name to be printed or stamped}

(Notary Seal)

☐ personally known to me or ☐ produced identification. {applicable box to be checked}

Identification produced: _____
{if identification was produced, type of identification provided to be inserted}

62

Exhibit "A" to EXHIBIT "E"

Site Plan

See

EXHIBIT "F"
RULES AND REGULATIONS

(a) In the event Tenant is or becomes a generator of medical waste, Tenant shall be solely responsible for complying with all federal, state and local laws, whether existing now or established in the future, relating in any way to the storage, containment, treatment, transfer, transportation and disposal of medical waste (including the use of licensed medical waste management companies) and shall indemnify and hold Landlord harmless for Tenant's noncompliance or violations thereof. For purposes hereof, "medical waste" shall mean any solid, semisolid or liquid waste which is generated in the diagnosis, treatment (e.g., provisions of medical services), immunization or performance of a service to the body of human beings or animals, in research pertaining thereto or in the production or testing of biologicals. "Generator" shall mean any person or entity whose act or process produces medical waste as hereinbefore defined.

(b) The plumbing facilities shall not be used for any other purpose than that for which they are constructed; no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant. All grease traps, if any, shall be installed and maintained in accordance with applicable law.

(c) Intentionally deleted.

(d) Tenant shall store and/or stock in the Premises only such merchandise as Tenant is permitted to offer for sale in the Premises pursuant to this Lease. Tenant shall not violate applicable federal and state laws prohibiting the sale or display of products which infringe on the patents, trademarks, service marks or copyrights of others.

(e) Tenant shall not conduct or permit any fire, bankruptcy, auction, or "going out of business" sale (whether real or fictitious) or any other sale that conveys to the public that business operations are to be discontinued at the Premises, or utilize any unethical method of business operation. Tenant shall not use the Premises as a clearance, outlet or wholesale center.

(f) Tenant shall not use any forklift truck, tow truck, or other powered machine for handling freight in the Shopping Center except in such manner and in those areas in the Shopping Center as may be approved by Landlord in writing. All such equipment shall have rubber wheels only.

(g) Tenant shall not place a load on any floor in the Premises, or in any area of the Shopping Center, exceeding the floor load which such floor was designed to carry, nor shall Tenant install, operate, or maintain therein any heavy item or equipment except in such manner as to achieve a proper distribution of weight.

(h) Tenant shall not install, operate, or maintain in the Premises or in any other area of the Shopping Center any electrical equipment which would overload the electrical system or any part thereof beyond its capacity for proper and safe operation as reasonably determined by Landlord.

(i) Tenant shall not store, display, sell, or distribute any dangerous materials (including without limitation fireworks) unless specifically permitted in this Lease, except as are commonly used in connection with the operation of a restaurant and are permitted by law.

(j) Notwithstanding the foregoing, to the extent of any conflict between the Rules and Regulations and any provision of the Lease, the terms of the Lease shall control.

(k) Tenant's use of the Common Areas shall be subject at all times during the Term to reasonable rules and regulations adopted by Landlord not in conflict with any of the express provisions hereof governing the use of the Common Areas, parking areas, malls, walks, driveways, passageways, signs, exteriors of buildings, lighting, and other matters affecting other tenants in and the general management and appearance of the Shopping Center, so long as such rules and regulations apply uniformly to all tenants of the Shopping Center, do not conflict with this Lease, do not cause Tenant to incur material additional costs, and do not

dan

unreasonably interfere with the operation of Tenant's business. Any such rules and regulations, amendments or supplements shall be delivered to Tenant in writing at least thirty (30) days prior to their effective date. Notwithstanding anything to the contrary herein, in the event of a conflict between any rules or regulations and the provisions of this Lease, the provisions of this Lease shall control. Tenant agrees to comply with all such rules and regulations upon notice to Tenant from Landlord.

Def

EXHIBIT "G-1"

GUARANTY OF LEASE

In consideration of, and as an inducement for, the granting, execution and delivery of the Lease dated _____, 2017 (the "Lease"), by and between Eastland Mall, LLC, a Delaware limited liability company ("Landlord") and Outback Steakhouse of Florida, LLC, a Florida limited liability company ("Tenant"), for that certain premises located at Eastland Mall in Bloomington, Illinois (the "Premises"), and in further consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, Bloomin' Brands, Inc., a Delaware corporation ("Guarantor"), hereby covenants and agrees as follows:

1. Guarantor guarantees to Landlord, its successors and assigns, the full and prompt payment of all Base Rent, Real Estate Taxes and the Operating Expense Payments and any arrears thereof due under the Lease (collectively, the "Guaranty Rent"); provided, however, that upon release or termination of Tenant's obligations under the Lease, Guarantor's obligations under this Guaranty shall simultaneously cease and be of no further force or effect.
2. Guarantor waives notice of default by Tenant or demand by Landlord and agrees to be responsible for ascertaining whether Tenant is paying rent as required by the Lease.
3. Any act of Landlord, or the successors or assigns of Landlord, consisting of a waiver of any of the terms and conditions of the Lease, or the giving of any consent to any manner or thing relating to the Lease, or the granting of any indulgences or extensions of time to Tenant, may be done without notice to Guarantor and without releasing or affecting the obligations of Guarantor hereunder.
4. The obligations of Guarantor hereunder shall not be released by Landlord's receipt, application or release of security given for the performance and observance of covenants and conditions in this Lease contained on Tenant's part to be performed or observed, nor by any modification of the Lease, but in case of such modification, the liability of Guarantor shall be deemed modified in accordance with the terms of any such modifications of the Lease, but shall in no event be greater than that existing prior to such modification unless such modification was agreed to by Guarantor in writing.
5. Guarantor shall pay Landlord's costs, including, but not limited to, all reasonable attorney's fees, incurred in the enforcement of Landlord's rights under this Guaranty.
6. Guarantor acknowledges that this Guaranty is supported by good and valuable consideration and that Landlord would not enter into the Lease absent this Guaranty, and the execution of the Lease confers a real and substantial benefit on Guarantor.
7. The obligations of Guarantor set forth herein shall automatically inure to the benefit of any successors or assigns of Landlord, including but not limited to, any purchaser (whether by sale, foreclosure or conveyance in lieu of foreclosure) of the Shopping Center of which the Premises are a part.
8. Landlord may, without notice, assign this Guaranty or the Lease in whole or in part, and no assignment or transfer of this Guaranty or the Lease by Landlord shall operate to extinguish or diminish the liability of Guarantor.
9. This Guaranty may not be changed, modified, discharged or terminated except in a written agreement signed by Guarantor and Landlord. Unless otherwise defined herein, all capitalized terms shall have the definition set forth in the Lease.
10. This Guaranty shall be governed by and construed in accordance with the laws of the State in which the Premises is located.

11. Notwithstanding the release of the assigning Tenant provided for in Section 8.6B above, the Guarantor shall remain liable under the Lease as a guarantor of the Guaranteed Sums for the Guaranty Period (both as defined below). The "Guaranteed Rent (as defined in Paragraph 1 above) due and payable during the Guaranty Period and the "Guaranty Period" means (a) as to a transfer under Section 8.3 (iii) and 8.3 (v) of the Lease if such transferee demonstrates the net worth test as set forth in Section 8.1C (iv) above, and as to an approved assignment under Section 8.1C, the later to occur of (i) five (5) years following the Commencement Date or (ii) two (2) years following an approved assignment under Section 8.1C or Section 8.3 (iii) or 8.3 (v) of the Lease, as applicable, commencing on the date of the assignment and ending on the second (2nd) anniversary of the date of the assignment and (b) as to a transfer under Section 8.3(i), (ii), and (iv) of the Lease, the Term of the Lease and as to a transfer under Section 8.3 (iii) and 8.3 (v) of this Lease if such transferee fails to demonstrate the net worth test as set forth in Section 8.1C(iv) above, the Term of the Lease.

DATED this ____ day of _____, 2017.

Bloomin' Brands, Inc., a Delaware corporation

By: _____
Name: _____
Title: Authorized Agent – Real Estate

Witness:

EXHIBIT "G-2"

GUARANTY OF COMPLETION OF IMPROVEMENTS

This Guaranty of Completion of Improvements (this "Guaranty") is made and entered into as of this _____ day of _____, 2017, by and between Eastland Mall, LLC, a Delaware limited liability company ("Landlord") and Outback Steakhouse of Florida, LLC, a Florida limited liability company ("Tenant"), for that certain premises located at Eastland Mall in Bloomington, Illinois (the "Premises"), and in further consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, Bloomin' Brands, Inc., a Delaware corporation ("Guarantor"), hereby covenants and agrees as follows:

WITNESSETH:

WHEREAS, Tenant and Landlord have entered into that certain lease agreement dated _____ (the "Lease") for the Premises; and

WHEREAS, in order to induce Landlord to enter into the Lease with Tenant, Guarantor has agreed to deliver this Guaranty to insure completion of the improvements required to be constructed by Tenant under Section 5.2 of the Lease (the "Improvements").

NOW, THEREFORE, for and in consideration of the premises and the Lease and for other good and valuable consideration, the receipt whereof is hereby acknowledged, Guarantor hereby covenants and agrees with Landlord for the benefit of Landlord, its successors and assigns as follows:

1. Guarantor hereby irrevocably and unconditionally guarantees to Landlord, subject to Tenant's satisfaction of all the Tenant Contingencies (as defined in the Lease), Tenant's obligation to complete the Improvements in accordance with the terms of Section 5.2 of the Lease ("Tenant's Construction Obligations").
2. In addition, Guarantor hereby irrevocably and unconditionally guarantees to Landlord that any liens or claims of lien which are filed against the property of Landlord arising out of any labor or material furnished or alleged to have been furnished to Tenant or Guarantor in connection with the construction of the Improvements shall be discharged in accordance with Section 4.4 of the Lease ("Tenant's Lien Discharge Obligations").
3. All remedies afforded to Landlord by reason of this Guaranty are separate from and cumulative with the remedies available to Landlord under the Lease. Landlord need not make demand on Tenant or exhaust its remedies against Tenant or any other party before making demand upon Guarantor hereunder.
4. It is understood and agreed that until the Improvements are completed, Guarantor shall not be released from its obligations hereunder. Upon completion of the Improvements, Guarantor shall automatically be released from its obligations hereunder and this Guaranty shall terminate and be of no further force or effect. The Improvements shall be deemed completed and Guarantor released upon the receipt of a certificate of occupancy (or local equivalent) for the Improvements.
5. Guarantor hereby waives notice of acceptance of this Guaranty by Landlord.
6. Any notice, demand or request by Landlord to Guarantor or from Guarantor to Landlord shall be in writing and shall be deemed to have been duly given or made on the third (3rd) business day following the day mailed by certified or registered mail, return receipt requested or on the next business day following the day sent by nationally recognized overnight courier service, to the address set forth in the introductory paragraph of this Guaranty (or to a more current address of which notice was provided in accordance with this paragraph). Notice by fax or e-mail shall not be deemed notice.
7. This Guaranty shall be binding upon the undersigned Guarantor, and its successors and assigns and shall inure to the benefit of the Landlord and its successors and assigns.

8. This document represents the entire agreement between the Landlord and the Guarantor with respect to the construction and completion of the Improvements and Guarantor's obligations in connection therewith and no modifications hereof shall be effective unless in writing and signed by Landlord and Guarantor.

9. This Guaranty shall be construed, enforced and interpreted according to the laws of the State in which the Premises is located.

10. Guarantor acknowledges that it has reviewed a copy of the Lease and has reviewed (or assumes the responsibility to review once completed) the plans and specifications for the Improvements.

IN WITNESS WHEREOF, Guarantor has duly executed and delivered this Guaranty the day and year first above written.

Dated this _____ day of _____, 2017.

"Guarantor"

Bloomin' Brands, Inc., a Delaware corporation

By: _____
Name: _____
Title: Authorized Agent – Real Estate

Witness:

Handwritten mark

EXHIBIT "H"

TERMINATION OF MEMORANDUM OF LEASE

WHEN RECORDED MAIL TO:

Outback Steakhouse of Florida, LLC
2202 N. West Shore Blvd., 5th Floor
Tampa, Florida 33607
Attention: Sr. Director of Asset Management

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

TERMINATION OF MEMORANDUM OF LEASE

Eastland Mall, LLC ("Landlord") and Outback Steakhouse of Florida, LLC ("Tenant") hereby agree to terminate that certain Memorandum of Lease recorded on _____, _____, in Official Records Book _____, Page _____, of the Public Records of McLean County, Illinois. The Memorandum shall be of no further force and effect.

IN WITNESS WHEREOF, the parties have executed this Termination of Memorandum of Lease as of the date set forth in their respective acknowledgments.

LANDLORD:

Eastland Mall, LLC,
a Delaware limited liability company
By: CBL & Associates Management, Inc.,
a Delaware corporation, managing agent

Witness:

By:

Name: Jeffery V. Curry
Title: Chief Legal Officer

TENANT:

Outback Steakhouse of Florida, LLC
a Florida limited liability company

Witness:

By:

Name: _____
Title: Authorized Agent - Real Estate

den

(Acknowledgment of LANDLORD)

THE STATE OF TENNESSEE

)

COUNTY OF HAMILTON

)

Personally appeared before me, a Notary Public in and for the above County and State, Jeffery V. Curry known personally by me and acknowledged by me to be on the date of execution, Chief Legal Officer of CBL & Associates Management, Inc., the managing agent for Eastland Mall, LLC, a Delaware limited liability company, and he executed the foregoing for and on behalf of said company.

Witnessed by hand and this notarial seal, this ____ day of _____ 20____.

NOTARY PUBLIC

My Commission Expires:

(Acknowledgment of TENANT)

THE STATE OF FLORIDA

)

COUNTY OF HILLSBOROUGH

)

Personally appeared before me, a Notary Public in and for the above County and State, _____ known personally by me and acknowledged by me to be on the date of execution, Authorized Agent – Real Estate of Outback Steakhouse of Florida, LLC, a Florida limited liability company, and she executed the foregoing for and on behalf of said company.

Witnessed by hand and this notarial seal, this ____ day of _____ 20____.

NOTARY PUBLIC

My Commission Expires:

Jan

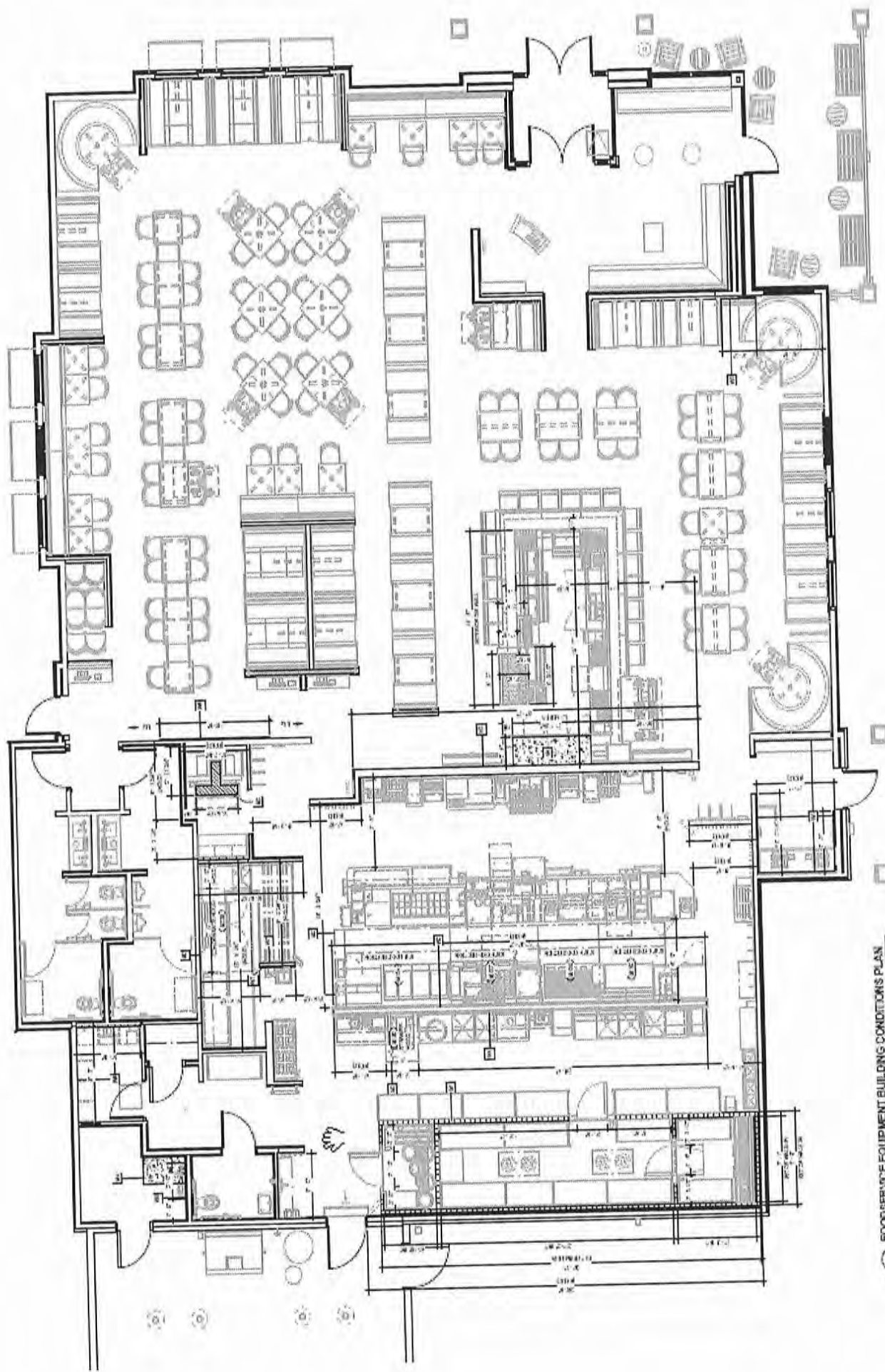
Attachment #11: Site Plans & Floor Plans



OUTBACK STEAKHOUSE (1454)

055 954 L.L. WOOD 2013.1

1815 E. EMPIRE ST. (OUTPARCEL)
BLOOMINGTON, IL 61701

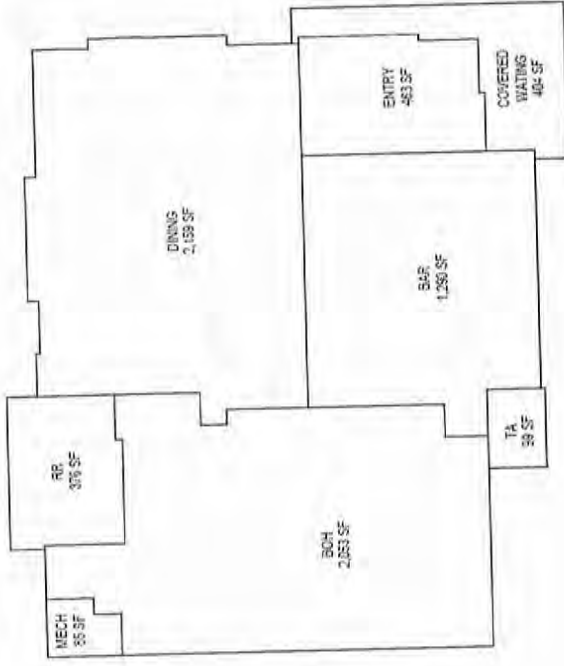


RESTAURANT SEATING

BAR	TABLES	SEATS
BARSTOOLS	N/A	21
3 TOP TABLES	1	2
4 TOP TABLES	13	52
5 TOP TABLES	2	10
6 TOP TABLES	0	0
SUBTOTAL	16	65
DINING	TABLES	SEATS
2 TOP TABLES	13	26
4 TOP TABLES	27	52
5 TOP TABLES	1	5
6 TOP TABLES	5	30
SUBTOTAL	41	153
COVERED WAITING	TABLES	SEATS
2 TOP TABLES	0	0
4 TOP TABLES	0	0
SUBTOTAL	0	0
TOTALS	TABLES	SEATS
INTERIOR	59	236
EXTERIOR / PATIO	0	0

SQUARE FOOTAGE CALCULATION

BUILDING SQUARE FOOTAGE	SIZE	sq
ENTRY / TAKE AWAY	582	0
BOH	2,053	31
RESTROOMS	376	6
BAR	1,250	30
DINING	2,159	33
MECHANICAL ROOM	65	1
TOTAL	6,525	100
PATIO SQUARE FOOTAGE	SIZE	
PATIO-DINING	0	
PATIO-WAITING	404	

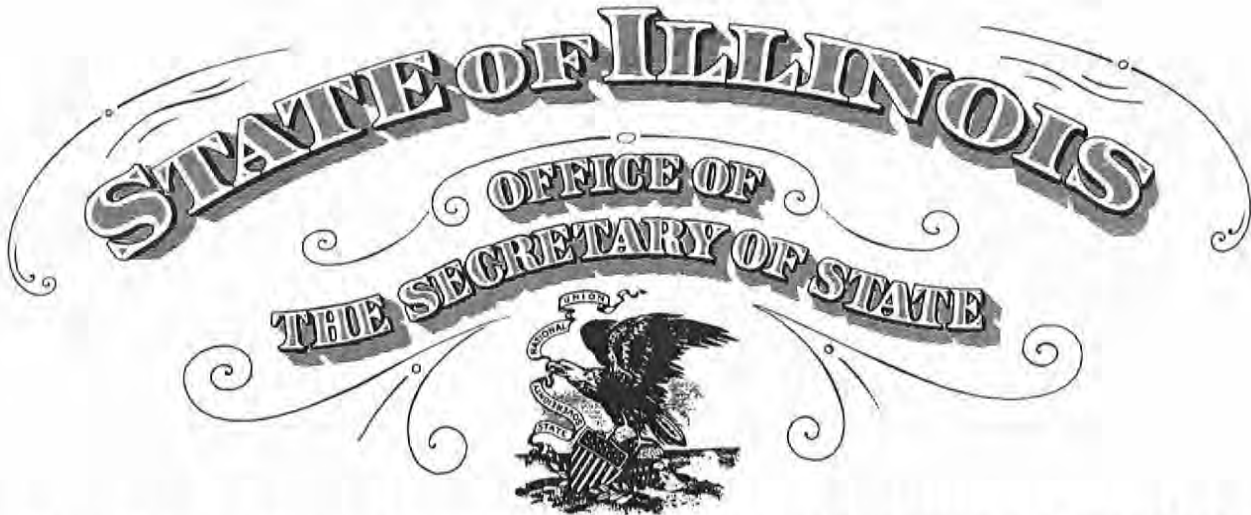


Attachment #12: BASSETT Certificates

Placeholder – copies of these certificates are in the process of being organized by the restaurant manager and are forthcoming.

Attachment #13: Certificate of Good Standing

File Number [REDACTED]



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that

OUTBACK STEAKHOUSE OF FLORIDA, LLC, A FLORIDA LIMITED LIABILITY COMPANY HAVING OBTAINED ADMISSION TO TRANSACT BUSINESS IN ILLINOIS ON AUGUST 21, 2007, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A FOREIGN LIMITED LIABILITY COMPANY ADMITTED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.



In Testimony Whereof, I hereto set
my hand and cause to be affixed the Great Seal of
the State of Illinois, this 24TH
day of SEPTEMBER A.D. 2018 .

Jesse White

SECRETARY OF STATE

Attachment: Ownership Structure for
Outback Steakhouse of Florida, LLC

Owner/Applicant:

OUTBACK STEAKHOUSE OF FLORIDA, LLC

a Florida limited liability company

2202 North West Shore Boulevard, 5th Floor, Tampa, Florida 33607

Charter Number and Date: [REDACTED] 8/27/87, EIN [REDACTED]

*Outback Steakhouse of Florida, LLC is a wholly owned subsidiary of OSI Restaurant Partners, LLC,
a Delaware limited liability company*

Name	Chief Positions
David J. Deno	Chief Financial and Administrative Officer, Executive Vice President
Joseph J. Kadow	Chief Legal Officer, Executive Vice President, Assistant Secretary

OSI RESTAURANT PARTNERS, LLC

a Delaware limited liability company

2202 North West Shore Blvd, 5th Floor, Tampa, Florida 33607

Charter Number and Date: 2260998; 4/23/91, EIN 59-3061413

Chief and Executive Officers

Name	Chief Positions
OSI HoldCo, Inc.	Member
David J. Deno	Chief Financial and Administrative Officer, Executive Vice President
Joseph J. Kadow	Chief Legal Officer, Executive Vice President, Assistant Secretary

OSI HOLDCO, INC., *which is owned 100% by*

OSI HOLDCO I, INC., *which is owned 100% by*

OSI HOLDCO II, INC., *all of these entities have*

the same directors/officers and are both Delaware corporations

2202 North West Shore Blvd, 5th Floor, Tampa, Florida 33607

Name	Chief Positions
Elizabeth A. Smith	Director, Chief Executive Officer
David J. Deno	Chief Financial and Administrative Officer, Executive Vice President
Joseph J. Kadow	Chief Legal Officer, Executive Vice President, Secretary
Kelly B. Lefferts	Assistant Secretary

Bloomin' Brands, Inc. formerly known as Kangaroo Holdings, Inc.

Publicly traded on NASDAQ under the symbol "BLMN"

and filings with Securities and Exchange Commission

a Delaware limited liability company

2202 North West Shore Blvd, 5th Floor, Tampa, Florida 33607

Name	Chief Positions
PUBLICLY TRADED	Shareholder
James R. Craigie	Director
David R. Fitzjohn	Director
Mindy Grossman	Director
Tara W. Levy	Director
R. Michael Mohan	Director
John J. Mahoney	Director
Wendy A. Beck	Director
Elizabeth A. Smith	Director, Chairperson, Chief Executive Officer
David J. Deno	Chief Financial and Administrative Officer, Executive Vice President
Joseph J. Kadow	Chief Legal Officer, Executive Vice President, Assistant Secretary
Kelly B. Lefferts	Secretary, US General Counsel, Group Vice President

Customer Ad Proof

60000796 CITY OF BLOOMINGTON

Order Nbr 16225

Publication	BLM Pantagraph		
Contact	CITY OF BLOOMINGTON	PO Number	
Address 1	109 E OLIVE ST PO BOX 3157	Rate	Open
Address 2		Order Price	161.16
City St Zip	BLOOMINGTON IL 61702	Amount Paid	0.00
Phone	3094342215	Amount Due	161.16
Fax			
Section	Legals	Start/End Dates	09/29/2018 - 09/29/2018
SubSection		Insertions	1
Category	0991 Legal Inside	Size	51
Ad Key	16225-1	Salesperson(s)	Linda Connelly
Keywords	16225 CITY OF BLOOMINGTON PUBL	Taken By	Sheila Powers
Notes			

Ad Proof 16225
CITY OF BLOOMINGTON
PUBLIC HEARING NOTICE

On Tuesday, October 9, 2018 at 4:00 p.m., in the Council Chambers located at 109 E. Olive St, the Bloomington Liquor Commission will hold a Public Hearing on the application of Outback Steakhouse of Florida, LLC d/b/a Outback Steakhouse Restaurant located at 1637 E. Empire Street; Bloomington, requesting a Restaurant All Types and Sunday Sales (RAS) liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week.

All persons interested in said application may attend and be heard on the application.

In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact the City Clerk, preferable no later than five days before the hearing.

The City Clerk may be contacted either by letter at 109 E. Olive St, Bloomington, IL 61701, email at cityclerk@cityblm.org, or by telephone at (309) 434-2240. The City Hall is equipped with a text telephone (TTY) that may also be reached by dialing (309) 829-5115.

Cherry L. Lawson, C.M.C., City Clerk

Publication Date: September 29, 2018, Pantagraph Newspaper



CONSENT AGENDA ITEM NO. 7K

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: City Clerk's Office

SUBJECT: Consideration of an Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a Wedding Reception at Davis Lodge at Lake Bloomington on November 17, 2018, as provided by the request from Ian Galloway and Jennifer Chedister to allow moderate consumption of beer and wine, as requested by the City Clerk's Office.

RECOMMENDATION/MOTION: The Ordinance Suspending Portions of Section 701 of Chapter 31 and Section 26(d) of Chapter 6 of the City Code for a Wedding Reception at Davis Lodge at Lake Bloomington on November 17, 2018 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

STRATEGIC PLAN LINK: Goal 5. Great place – livable, sustainable City.

STRATEGIC PLAN SIGNIFICANCE: Objective 5.d. Appropriate leisure and recreational opportunities responding to the needs of residents.

BACKGROUND: Commissioner Tari Renner called a hearing on the request to allow beer and wine at the Davis Lodge for a November 17, 2018, wedding reception.

Commissioners Tari Renner, Jim Jordan, and Lindsey Powell were present. The requestor did not attend the meeting. Commissioner Renner asked whether the Legal Department or Commissioners had any concerns with the request. Mr. Boyle stated no as did Commissioners Powell and Jordan.

Motion by Commissioner Jordan second by Commissioner Powell to approve sending this item to the Council with a positive recommendation for its consideration.

Commissioner Renner directed the Clerk to call the roll.

Ayes: Commissioners Powell, Jordan and Renner.

Nays: None

Motion carried.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: N/A

FINANCIAL IMPACT: N/A

COMMUNITY DEVELOPMENT IMPACT: N/A

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:
N/A

Respectfully submitted for Council consideration.

Prepared By: Cherry L. Lawson, City Clerk

Reviewed By: Robert Yehl, PE, Water Director

Finance Review By: Chris Tomerlin, Budget Manager
Scott Rathbun, Finance Director

Legal Review By: George D. Boyle, Assistant Corporation Counsel

Recommended By:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized, looping flourish at the end.

Tim Gleason
City Manager

Attachments:

- Ordinance
- Application

ORDINANCE NO. 2018 -

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 701 OF CHAPTER 31 AND SECTION 26(d) OF CHAPTER 6 OF THE CITY CODE FOR A WEDDING RECEPTION ON OCTOBER 6, 2018 AT DAVIS LODGE AT LAKE BLOOMINGTON

WHEREAS, Ian Galloway and Jennifer Chedister desire to allow moderate consumption of beer and wine at their November 17, 2018 wedding reception to be held at Davis Lodge at Lake Bloomington from 4:00 PM to 8:00 PM; and

WHEREAS, Ian Galloway and Jennifer Chedister have requested permission from the City to serve beer and wine during this event; and

WHEREAS, in order to legally possess alcohol in a City Park, Sections 701(a), (b) and (c) of Chapter 31 of the Bloomington City Code, which prohibits the drinking, selling and possessing of alcoholic beverages within the City parks and Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits possession of open alcohol on public property must be suspended:

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

Section 1: That Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, are suspended as those ordinances pertain to the Davis Lodge at Lake Bloomington, for the wedding reception on November 17, 2018 from 4:00 PM to 8:00 PM.

Section 2: Except for the date, location and times set forth in Section 1 of this Ordinance, Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, shall remain in full force and effect. Nothing in this Ordinance shall be interpreted as repealing said Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code.

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

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this _____ day of October 2018.

APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, C.M.C., City Clerk



CITY OF
Bloomington
ILLINOIS

**REQUEST FOR
BEER/WINE AT A
CITY OWNED
PROPERTY**

My event will be held at (Please Check One) ☐ Miller Park Pavilion ☒ Davis Lodge

APPLICANT INFORMATION

Name(s) of applicants (Specify how they are related to the event):

Ian Galloway
Jennifer Chestler

Groom
Bride

Applicant Contact Information:

Phone Number: [REDACTED] Email Address: [REDACTED]

Address: [REDACTED]

City: Normal State: IL Zip Code: [REDACTED]

CATERER INFORMATION

Name of Caterer: Rosatis Pizza (Kelli) Contact Number: 309 888 4949

Address: 1720 Bradford Ln

City: Normal State: IL Zip Code: 61761

EVENT INFORMATION

Type of Event: Wedding

Date/Time of Event: 11/17/18 4:00-8:00

Number of Attendees: 75

Have you secured a date with the venue checked above? ☒ YES ☐ NO

If yes, please provide a copy of the contract and receipt you were given.

[Signature]
Applicant Signature

9/19/18
Date

Please email the completed form to cityclerk@cityblm.org, fax to 309-434-2628, or mail to: City Clerk,
109 E Olive St, Bloomington, IL 61701

OFFICE USE ONLY

Liquor Commission Date: 10/09/2018

➤ Date Approved for Council: _____

City Council Meeting Date: _____

➤ Date Council Approved: _____

➤ Ordinance Number: _____

Confirmed Reservation and Deposit with Event Location: ☒ YES ☐ NO

Caterer has a Current City of Bloomington License: ☐ YES ☒ NO -Requestor has been informed

Water/Parks Departments have been notified: ☒ YES ☐ NO to contact their caterer and have the em contact the City.

Date Received: 09/24/2018 **Staff Initials:** alara



Water Department
603 W. Division Street
Bloomington, IL 61701
Phone: 309-434-2426
833

Davis Lodge Receipt for Payment

Name and/or Organization

Reserving Lodge: Jennifer Chedister

Event Date: 11/17/18

Event Type: Wedding

CITY OF BLOOMINGTON
603 W. DIVISION
BLOOMINGTON, IL 61701

Merchant ID: 7137
Form #: 0002

Store #: 0000
Ref #: 0001

Phone Order

XXXXXXXXXX3039

VISA

Entry Method: Manual

Total: \$ 900.00

09/18/18 15:46:06

Inv #: 000001 Appr Code: 00210C

Transaction ID: 300261747663813

Apprval: OnLine Batch#: 000008

AVS Code: EXACT MATCH Y

CVV2 Code: MATCH N

Customer Copy



City of Bloomington
Water Administration - Division Street
109 East Olive Street
Bloomington, IL 61701
309 - 434 - 2426
Welcome

117339-0001 Tara G. 09/19/2018 08:15AM

MISCELLANEOUS

Description: WATER DAVIS
LODGE RENTAL
FEES/DEPOSITS (WA0021)
Reference 1: 11-17-2018
2019 Item: WA0021
1 @ 900.00

900.00

Payment Id: 387127

900.00

Subtotal

900.00

Total

900.00

CREDIT CARD

900.00

Change due

0.00

Paid by: Wilber

Comments: Lodge Deposit/Rental Fees
11-17-2018

Signature: _____

Thank you for your payment.

CUSTOMER COPY
DUPLICATE RECEIPT

Have a nice, safe time. Thank!

FAILURE TO COMPLY WITH THESE, ANY STATE LAW, CITY ORDINANCE OR OTHER REGULATIONS
COULD RESULT IN LOSS OF DEPOSIT, REMOVAL FROM PREMISES AND/OR PROSECUTION BY LAW

REGULAR AGENDA



REGULAR AGENDA ITEM NO. 8A

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: City Council

SUBJECT: Consideration and action on an ordinance addressing the payment of accrued sick leave for grandfathered employees to limit artificial pension increases.

RECOMMENDATION/MOTION: The Ordinance Addressing the Payment of Accrued Sick Leave for Grandfathered Employees to Limit Artificial Pension Increases, be approved and the Mayor and City Clerk authorized to execute the Ordinance.

STRATEGIC PLAN LINK: Goal 1. Financially sound City providing quality basic services

STRATEGIC PLAN SIGNIFICANCE: Objective 1a. Budget with adequate resources to support defined services and level of services.

BACKGROUND: City Staff has continued to explore impacts if modifications are made to the City's employment practice regarding payment of accumulated, unused sick leave hours to eligible "grandfathered" employees prior to retirement. Changes made would limit the significant direct and indirect financial costs associated with the City's current practice. To date, accrued sick leave payments made to eligible employees were based on a discretionary employment policy adopted by a prior City Manager and the City's collective bargaining agreements, the terms of which have varied over the years.

Under the City's policy from 1995, employees were eligible to have accrued sick leave paid out over the three month period preceding their departure if they had 75 years of combined service and age with a minimum of 15 years of continuous service as a City employee. City staff estimates that there are approximately 198 employees remaining at the City that are grandfathered under this practice. Of those employees, it is believed there are approximately 39 employees that are eligible as of today's date to have sick leave paid out at departure. Note that the amount of sick leave accrued for these employees varies as noted in the chart.



The proposed ordinance gives direction to the City Manager to begin addressing the payment of accrued sick leave to grandfathered employees. Specifically, the ordinance

requires the City Manager to begin negotiating the benefit out of the City's collective bargaining agreements. Then, consistent with the changes made within the collective bargaining agreements, the City Manager is directed to implement similar policies in relation to the City's eligible classified employees.

Essentially, the ordinance provides clear direction and a mandate to the City Manager to begin the process of changing the City's policies on when accrued sick leave is paid, and accordingly address artificial pension increases. No renewal of a collective bargaining agreement will be brought before the Council unless this is addressed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Employee forum meetings were held on this topic most recently in September 2018 and October 2018.

FINANCIAL IMPACT: City staff anticipates a number of retirements may start to occur based on the passage of the ordinance. This could result in an increased number of sick leave buyback and accelerated payment notices becoming due over the course of the next several years, estimated around \$3,000,000 to \$4,000,000. Although this will be offset by either limited reductions in work force and/or decreased salaries, Fund Balance may need to be used for this one-time large expense to stop the practice.

COMMUNITY DEVELOPMENT IMPACT: N/A

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:
N/A

Respectfully submitted for Council consideration.

Prepared By: Jeffrey R. Jurgens, Corporation Counsel

Reviewed By: Nicole Albertson, HR Director

Finance & Budgetary Review By: Scott Rathbun, Finance Director

Recommended by:



Tim Gleason
City Manager

Attachments:

- ADMIN 1B - Ordinance

ORDINANCE 2018 - _____

AN ORDINANCE ADDRESSING THE PAYMENT OF ACCRUED SICK LEAVE FOR GRANDFATHERED
EMPLOYEES TO LIMIT ARTIFICIAL PENSION INCREASES

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

WHEREAS, the City of Bloomington is a home-rule municipality located in the County of McLean, State of Illinois; and

WHEREAS, beginning in 1995, the City began to allow eligible employees (those with 75 years of combined service and age with a minimum of 15 years of continuous service as a City employee) to structure the payout of any accrued sick leave over their last three months of service; and

WHEREAS, by 2012, through concerted efforts of labor negotiations and changes to policy, the City eliminated the ability of new employees, both classified and non-sworn, to receive payouts for accrued sick leave; and

WHEREAS, there are approximately 198 “grandfathered” employees remaining at the City that pre-date the change to the payout structure for accrued sick leave; and

WHEREAS, a structured payout of accrued sick leave over a multi-month period has the effect of increasing an eligible employee’s pensionable earnings preceding the employee’s departure from City employment, causing the City to incur immediate significant direct and indirect financial costs as a result; and

WHEREAS, it is counter to Illinois public policy to pay a benefit in a manner that artificially increases an employee’s pension; and

WHEREAS, several laws have been enacted by the Illinois legislature designed to prevent and discourage public bodies from policies that artificially increase employee pensions; and

WHEREAS, the City has paid approximately \$2,221,500 to the Illinois Municipal Retirement Fund for the present value of certain pension benefits where the reported earnings for the final year of earning for an employee exceeded those from the previous 12-months by the greater of 6% or 1.5 times the increase in the CPI-urban; and

WHEREAS, the continued payment of the present value of artificially increased pension benefits is not financially sustainable by the City, even if restructuring the payment of accrued sick leave requires significant payouts over the next several years due to the potential retirement of multiple employees; and

WHEREAS, the Illinois Appellate Court for the Fourth District of Illinois recently ruled in 2017 that a municipality can change the way it pays out benefits even if it diminishes pension benefits; and

WHEREAS, as a result of the fiscal crisis currently facing the City, including the need to address projected structural deficits in the upcoming fiscal years and declining revenues, the City Council finds it is imperative that steps be taken to address the artificial increase of employee pension benefits within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE City Council of the City of Bloomington, McLean County, Illinois, as follows:

SECTION 1. The above stated recitals are incorporated herein by reference.

SECTION 2. The City Manager shall not bring to the City Council any renewal of a collective bargaining agreement unless it modifies the timing of how accrued sick leave is paid to eligible employees to significantly reduce the artificial inflation of employee pensions. This restriction shall apply to all bargaining units that have grandfathered employees eligible for the structured payout of sick leave and that are included in the IMRF pension fund. Consistent with policies negotiated with the City's collective bargaining units, the City Manager shall implement similar policies in relation to the City's eligible classified employees.

SECTION 3. Except as provided herein, the Bloomington City Code, 1960, as amended shall remain in full force and effect.

SECTION 4. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 5. The City Clerk is hereby authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 6. This Ordinance shall be effective immediately after the date of its publication as required by law.

SECTION 7. 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 October, 2018.

APPROVED this _____ day of October, 2018.

APPROVED:

Tari Renner, Mayor

ATTEST:

Cherry Lawson, City Clerk



REGULAR AGENDA ITEM NO. 8B

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Public Works

SUBJECT: Consideration of a Resolution of Financial Commitment and Administration to apply for the Cycle 2019 Safe Routes to School grant, as requested by the Public Works Department.

RECOMMENDATION/MOTION: The Resolution of Financial Commitment and Administration to apply for the Cycle 2019 Safe Routes to School grant be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

STRATEGIC PLAN LINK: Goal 1. Financially Sound City Providing Quality Basic Services; Goal 2. Upgrade City Infrastructure and Facilities; Goal 3. Strong Neighborhoods; Goal 5. Great Place to Live – Livable, Sustainable City

STRATEGIC PLAN SIGNIFICANCE: Objective 1d. City services delivered in a cost-effective manner; Objective 1e. Partnering with others for the most cost-effective service delivery; Objective 2a. Better quality roads and sidewalks; Objective 3a. Residents feeling safe in their homes and neighborhoods; Objective 3d. Improved neighborhood infrastructure; Objective 5d. Appropriate leisure and recreational opportunities responding to the needs of residents; Objective 5e. More attractive City: commercial areas and neighborhoods.

BACKGROUND: Public Works is recommending the approval of a Resolution of Financial Commitment, which establishes that, should the Illinois Safe Routes to School Program award the City of Bloomington with a \$200,000 Cycle 2019 Illinois Safe Routes to School Grant, the City Council will appropriate the funds to construct and repair sidewalks near Sheridan Elementary School and receive reimbursement from the Illinois Safe Routes to School Program.

What is the Illinois Safe Routes to School Program?

The U.S. federal government established Safe Routes to School (SRTS) as a stand-alone Federal-Aid program in August 2005 through the passage of SAFETEA-LU, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The Illinois Safe Routes to School Program is administered by the Illinois Department of Transportation.

SRTS uses a multidisciplinary approach to improve conditions for students who walk or bike to school. The program has three main goals:

- 1) to enable and encourage children, including those with disabilities, to walk and bicycle to school
- 2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and
- 3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity (within 2 miles) of both public and private primary and middle schools (grades K-8).

For the SRTS Funding Cycle 2019, these goals will be achieved by providing 100 percent reimbursable funding for infrastructure projects and non-infrastructure projects. Each infrastructure project is limited to \$200,000, whereas each non-infrastructure project is limited to \$50,000.

What is the focus of the proposed project?

Sheridan Elementary School in Bloomington, Illinois, is a focal point for a neighborhood on the city's west side. The public school and three nearby city parks serve as beacons to a portion of the city that is home to working-class families but also to working poor and to people who are not working at all. For the City of Bloomington government and for the Sheridan and District 87 Schools, the goal is to use resources to elevate, through expectations and opportunities, the minds and bodies of the young people in the neighborhood.

The school administration stresses respectful behavior. The acronym for the SHARKS mascot is Sheridan Has Achieving Responsible Kind Students. The Bloomington Parks, Recreation, and Cultural Arts Department in 2018 celebrates its 50th year of providing healthy outlets for all ages. Together, Bloomington municipal government and District 87/Sheridan Elementary School will request \$200,000 in Safe Routes to School Grant money in furtherance of our goals of healthy minds and healthy bodies.

The City's Public Works Department initiated the grant effort and approached District 87 with the idea of a Sheridan project for three reasons:

Age of the Sidewalks

While some of the sidewalk in the surrounding neighborhood has been replaced over the years, much has not. Bloomington's municipal sidewalk program must answer the needs for the entire City and cannot devote \$200,000 to a given area within a short period of time. The school zone needs the type of concerted effort that a SRTS grant can provide. The students' en-route safety from wrongdoing is ensured by the Bloomington Police crossing-guard program. The "Safe" issue in safe routes to Sheridan involves the physical condition of the sidewalk. Progress measurement for the Sheridan Sidewalk Project will be based on the decreasing of linear feet of sidewalks that are rated as subpar (rated 1 through 4 on a scale of 10).

Health and Education of Students

It goes without saying that walking or bicycling safely a short distance to school is desirable compared to getting a ride. The Sheridan Sidewalk Project, however, has the secondary benefit of improving safe access to O'Neil Park, Evergreen Park, and White Oak Park for the students and their families. It also will provide safer access to the non-profit Western Avenue Community Center, which provides after-school snacks, tutoring, and open-gym time.

Needs of the Students

Students living near the school must walk to school because of unavailability of cars in their households. Of 355 Sheridan students, 83 percent were listed as being in low-income households in the 2007 Illinois Report Card. Two public housing areas, Evergreen Place and Holton Homes, will be served by the Sheridan Sidewalk Project.

What does the proposed project include?

If awarded, the City will use the entire \$200,000 grant to improve sidewalk connectivity near Sheridan Elementary School. The grant will enable the City or School District to:

- Construct sidewalk improvements along key routes that bring students to and from Sheridan Elementary School, while also improving connectivity to O'Neil Park, White Oak Park, Evergreen Park, and the Western Avenue Community Center. While the goal of Safe Routes to School (SRTS) is helping students travel to and from school, the secondary benefits will help secure a grant.
- Promote student health and education by linking them to healthy, enriching activities at Sheridan Elementary School and surrounding facilities. Health is also a key emphasis of the SRTS program.
- Emphasize serving students from low-income households in which walking and bicycling are primary modes of transportation.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Bloomington City Manager Tim Gleason met with School District 87 Superintendent Barry Reilly on August 30, 2018. The City and School District will work together to gather all necessary documents as well as input from parents, teachers, and students at Sheridan Elementary School. For example, teachers will need to fill out student tally sheets in order to provide the necessary data for the grant. Another example of required information is parent surveys, which will need to be sent home with students or mailed to parents.

FINANCIAL IMPACT: There is no financial impact to apply for the grant. However, if the City receives the grant, the City Council will be required to appropriate \$200,000 of reimbursable funding in order to utilize the grant funding. Council will be asked to approve this amount at a later date.

COMMUNITY DEVELOPMENT IMPACT:

The Neighborhoods, Education, Health, and Transportation chapters of the City's Comprehensive Plan 2035 (Adopted August 24, 2015) includes multiple goals and objectives related to repairing and constructing sidewalk near Sheridan Elementary School:

N-1 Ensure the compact development of the City through denser, mixed-use developments and reinvestment in the established older neighborhoods

N-1.1 Enhance the livability of all Bloomington neighborhoods

N-1.2 Prioritize, with urgency, the revitalization of the neighborhoods in the regeneration area

EDU-1 Increased coordination between the City and the school districts to maintain high quality educational opportunities equitably for all students within the City

EDU-1.2 The City will partner with District 87 to revitalize the established neighborhoods in the core of the City

HL-1 Create a park and green space system that provides for a variety of active and passive recreational and wellness activities for current and future residents

HL-1.3 Enhance the walking, jogging and bike trails system

HL-2 Ensure maximum usage of the City's parks and recreational facilities and associated resources

HL-2.1 Ensure easy access and availability of park facilities for residents as well as community groups

HL-3 Ensure a healthy environment and accessibility of parks and open spaces

HL-3.1 Eliminate barriers that discourage people from walking and biking to parks and recreational facilities

HL-3.2 Ensure accessibility of parks, open spaces and other recreational facilities to all residents

TAQ-1 A safe and efficient network of streets, bicycle- pedestrian facilities and other infrastructure to serve users in any surface transportation mode

TAQ-1.3 Safe and efficient off-road bicycle trails integrated with direct on-road routes, connecting residential areas to activity centers, developing areas and all other modes of transportation.

TAQ-1.4 Pedestrian safety for users of all transportation facilities with a Sidewalk Master Plan, and sidewalk system that provides safe access throughout the transportation network

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION:

N/A

Respectfully submitted for Council consideration.

Prepared By: Michael Hill, Miscellaneous Technical Assistant
Steve Arney, Engineering Technician

Reviewed By: Jim Karch, P.E., MPA, Director of Public Works

Finance & Budgetary Review By: Chris Tomerlin, Budget Analyst

Water/Community Dev. Review By: Bob Mahrt, Community Development Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized flourish at the end.

Tim Gleason
City Manager

Attachments:

- PW 7B RESOLUTION Sheridan Elementary Safe Routes to School 09242018

RESOLUTION NO. 2018 - ____

**A RESOLUTION OF FINANCIAL COMMITMENT AND ADMINISTRATION
TO APPLY FOR THE CYCLE 2019 SAFE ROUTES TO SCHOOL GRANT**

WHEREAS, the Illinois Safe Routes to School Program is administered by the Bureau of Programming in the Illinois Department of Transportation (IDOT) and funds both infrastructure (engineering) and non-infrastructure (education, encouragement, enforcement and evaluation) initiatives; and

WHEREAS, Cycle 2019 Illinois Safe Routes to School grants offer up to \$200,000 in reimbursements per project and require no local matching funds; and

WHEREAS, the Illinois Safe Routes to School Program requires a Resolution of Financial Commitment and Administration from the sponsoring municipality in order to apply for said grant; and

WHEREAS, the City Council is supportive of applying to the Cycle 2019 Illinois Safe Routes to School grant to construct and repair sidewalk near Sheridan Elementary School, which will cost \$200,000; and

WHEREAS, the City of Bloomington is dedicated to responsible project administration, including timely bid letting and oversight of design and construction; and

WHEREAS, it is the finding of the City Council that the decision to approve this Resolution of Financial Commitment is in the best interest of the City of Bloomington and in furtherance of its Strategic Plan and Comprehensive Plan; and

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

SECTION 1. That the City Council is committed to appropriating \$200,000 in reimbursable funds to construct and repair sidewalk near Sheridan Elementary School, if awarded a Cycle 2019 Illinois Safe Routes to School grant.

SECTION 2. That the City of Bloomington is committed to administering the project, should the aforementioned grant be awarded, including ensuring bid letting is timely and overseeing design and construction.

Passed this 22th day of October 2018. Approved this ____ day of October 2018.

CITY OF BLOOMINGTON:

ATTEST:

Tari Renner, Mayor

Cherry L. Lawson, City Clerk



REGULAR AGENDA ITEM NO. 8C

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Public Works

SUBJECT: Consideration of the purchase of one (1) year of Routeware Premium solid waste route optimization software with hardware and software support, going live on December 10, 2018, from Routeware, Inc. of Portland, Oregon, using HGACBuy (exp. 2/28/19), in the amount of \$103,358, and an Ordinance amending the an Ordinance amending the Fiscal Year 2019 Budget to allocate funds to the Solid Waste Fund.

RECOMMENDATION/MOTION: Recommend that: (1) the Ordinance amending the Fiscal Year 2019 Budget, in the amount of \$103,358.00 to allocate funds to the Solid Waste Fund be approved, and the Mayor and City Clerk be authorized to execute the Ordinance; and (2) the one (1) year of Routeware Premium solid waste route optimization software with hardware and software support, in the amount of \$103,358, be approved, and the Procurement Manager be authorized to issue a Purchase Order.

STRATEGIC PLAN LINK: Goal 1. Financially Sound City Providing Quality Basic Services;

STRATEGIC PLAN SIGNIFICANCE: Objective 1d. City services delivered in the most cost-effective, efficient manner

BACKGROUND: Public Works is recommending the approval of an Ordinance amending the FY 2019 budget to allocate funds to the Solid Waste Operations-Other Purchased Services (54404400-70690) account and the purchase of one (1) year of Routeware Premium solid waste optimization software with hardware and software support. The purchase includes \$97,358 to order software, hardware, and support. It also includes not to exceed \$6,000 for travel and freight expenses, which will be invoiced by Routeware, Inc. as they are incurred. The initial year will begin December 10, 2018 and end December 9, 2019. Future years will need to be approved by Council for the Fiscal Year 2020 budget and beyond to continue using Routeware Premium.

On February 26, 2018, the Bloomington City Council adopted Ordinance 2018-12, which states that adjustment to solid waste fees and programming are necessary to maintain the Solid Waste Enterprise Fund balance at financially responsible levels, to eliminate subsidies from the General Fund, to fund services provided, to fund necessary maintenance operations, and to provide proper staffing. The proposal

included the implementation of route optimization software and tablets to increase route and billing efficiency and effectiveness.

City staff identified top producers of solid waste route optimization software and has identified Routeware Premium and the compatible hardware from Routeware, Inc. as the software and hardware that will most directly meet the needs of the City.

If approved, the Solid Waste Division will use Routeware Premium on 13 automated refuse trucks. The combination of hardware, software, and support services will enable management, crews, and office staff to view and monitor routes, photos and videos of each solid waste pickup, and other pieces of information to improve the efficiency and cost-effectiveness of the Solid Waste Division.

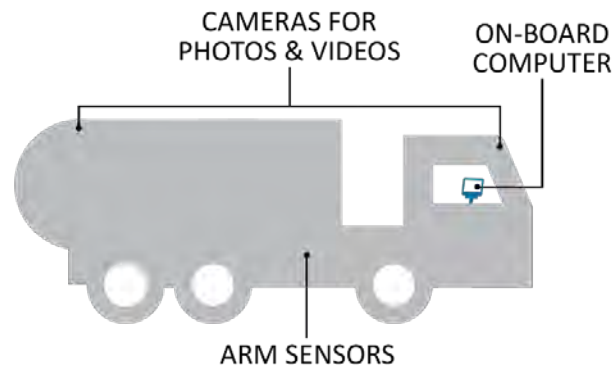
Oftentimes, Solid Waste Program users will call the office to report that a crew missed picking up their solid waste. Without videos, photos, or other information, it's difficult for office staff to determine whether a crew missed a pickup or whether the program user placed the solid waste on the curb after a crew passed their property. Routeware will promote accountability among crews and program users and ensure improved customer service. Routeware's picture service documents safety issues and events that are normally challenged by customers like skips (container blocked or not out), and charges for extra services, such as bulk waste. Routeware will store the picture for future reference and pass it immediately to the billing/customer service system.



Crews will also be able to view routes and other information shown on the mounted tablet. One example of the usefulness of Routeware is that crews will be able to more easily cover unfamiliar routes if the division is short-staffed. In addition, management will be able to view routes and reports in order to find additional ways to improve routes and schedules.



This purchase includes 9.7” regular duty Android tablets, digital cameras, arm sensors, and the on-board computer, that will be installed on 13 of our automated refuse collection trucks. Tablets include all necessary cabling, mounts, cradles, skins, and power devices. With driver-friendly screens, these systems capture pickups, skips, routes, and other information. The additional hardware will work with the current GPS and RFID readers to turn our automated solid waste collection trucks into “smart trucks.” These systems work together to create a complete routing system to manage the trucks, drivers, and routes in real-time.



If approved, the signed agreement will take effect on November 1, 2018. Between November 8, 2018 and December 6, 2018, Routeware will hold a kickoff meeting, order hardware, prep and ship hardware, visit the install site, develop the interface, and setup and configure servers. Routeware will perform installation, testing, and training on-site beginning December 6, 2018 until the go-live date of December 10, 2018.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: N/A

FINANCIAL IMPACT: The FY2019 Budget includes a contribution to Fund Balance of \$125,755. YTD FY2019 actual activity indicates no material deviations from the FY2019 Budget. If approved, this ordinance will allocate \$103,358 from the Contribution to Fund Balance account (54404400-79196) to the Solid Waste Operations-Other Purchased Services account (54404400-70690). Stakeholders can locate information on these accounts in the Budget Book titled “Other Funds & Capital Improvement” on pages 153 through 160.

COMMUNITY DEVELOPMENT IMPACT: The Natural Environment chapter of the City’s Comprehensive Plan 2035 (Adopted August 24, 2015) includes multiple goals and objectives related to approving this utility easement dedication:

NE-5 Provide more efficient and sustainable municipal solid waste management

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION: N/A

Respectfully submitted for Council consideration.

Prepared By: Michael Hill, Miscellaneous Technical Assistant

Reviewed By: Jim Karch, P.E., CFM, Director of Public Works

Finance & Budgetary Review By: Chris Tomerlin, Budget Analyst
Scott Rathbun, Finance Director

Water/Community Dev. Review By: Bob Mahrt, Community Development Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:



Tim Gleason
City Manager

Attachments:

- PW 4B ORDINANCE Routeware Purchase 20181022
- PW 4C EXHIBIT Routeware Purchase 20181022
- PW 4D HGAC ORDER Routeware Purchase 10222018
- PW 4E HGAC CONTRACT Routeware Purchase 10222018
- PW 4F TIMELINE Routeware Purchase 10222018

ORDINANCE NO. 2018 - _____

**AN ORDINANCE AMENDING THE BUDGET ORDINANCE
FOR THE FISCAL YEAR ENDING APRIL 30, 2019**

WHEREAS, on April 9, 2018 by Ordinance Number 2018-23, the City of Bloomington passed a Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2019, which Ordinance was approved by Mayor Tari Renner on April, 10, 2018; and

WHEREAS, a Budget Amendment, in the amount of \$103,358.00, is needed to allocate funds for the Public Works Solid Waste Division to purchase Routeware Premium solid waste route optimization software with hardware and software support.

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

Section One: Ordinance Number 2018- 23 (the Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2019) is further hereby amended by inserting the following line item and amount presented in Exhibit #1 in the appropriate place in said Ordinances.

Section Two: Except as provided for herein, Ordinance Number 2018-23 shall remain in full force and effect, provided, that any budgeted or appropriated amounts which are changed by reason of the amendments made in Section One of this Ordinance shall be amended in Ordinance Number 2018-23

Section Three: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this 22nd day of October 2018.

APPROVED this ____ day of October 2018.

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk

FY 2019 Budget Amendment-Exhibit

Account #	Fund	Account Description	Amount	Comments
54404400-79196	Solid Waste Operations	Contribution to Fund Balance	\$ (103,358.00)	
54404400-70690	Solid Waste Operations	Other Purchased Services	\$ 103,358.00	
Net Transaction:			\$ -	

**CONTRACT PRICING WORKSHEET**
For Catalog & Price Sheet Type Purchases**Contract
No.:****FL03-17****Date
Prepared:****9/7/2018**

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Bloomington	Contractor:	Routeware, Inc.
Contact Person:	Jim Karch	Prepared By:	Shanna Peralta
Phone:	(309) 434-2385	Phone:	503-906-8589
Fax:		Fax:	503-906-8544
Email:	jkarch@cityblm.org	Email:	speralta@routeware.com

Catalog / Price Sheet Name:	Routeware Premium G07-SaaS (Software as a Service)
General Description of Product:	

A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary

Quan	Description	Unit Pr	Total
13	Regular Duty Tablet	750	9750
13	Camera Hardware	355	4615
13	Camera License	156	2028
1	Software Interface	10000	10000
1	PM&T (Project Management, Server SW Install, Training)	10000	10000
13	Vehicle Installation (Per Vehicle)	275	3575
13	Camera Installation (Per Vehicle)	100	1300
13	SaaS Fee (12 months)	2220	28860
1	Cloud Hosting Up to 50 Vehicles (12 months)	7140	7140
13	Camera System Fee (12 months)	60	780
			0
			0
Total From Other Sheets, If Any:			-
Subtotal A:			78048

B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary

(Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)

Quan	Description	Unit Pr	Total
1	Routemaker and Support for 12 months	14875	14875
13	Camera Hardware - increase for Android compatible version	95	1235
13	Proximity Switch	100	1300
1	Interface Support (12 months)	1900	1900
Total From Other Sheets, If Any:			
Subtotal B:			19310

Check: Total cost of Unpublished Options (B) cannot exceed 25% of the total of	For this transaction the percentage is:	25%
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C. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Subtotal C:	0

Delivery Date:	TBD	D. Total Purchase Price (A+B+C):	97358
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A CONTRACT BETWEEN
HOUSTON-GALVESTON AREA COUNCIL
Houston, Texas
AND
ROUTEWARE, INC.
Portland, Oregon

This Contract is made and entered into by the **Houston-Galveston Area Council of Governments**, hereinafter referred to as **H-GAC**, having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, AND, **RouteWare, Inc.**, hereinafter referred to as the **CONTRACTOR**, having its principal place of business at 16575 Southwest 72nd Avenue, Portland, Oregon 97224.

ARTICLE 1:**SCOPE OF SERVICES**

The parties have entered into a **Fleet Services Equipment** Contract to become effective as of March 1, 2017, and to continue through February 28, 2019 (the "**Contract**"), subject to extension upon mutual agreement of the **CONTRACTOR** and **H-GAC**. **H-GAC** enters into the Contract as Agent for participating governmental agencies, each hereinafter referred to as **END USER**, for the purchase of **Fleet Services Equipment** offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell **Fleet Services Equipment** through the **H-GAC** Contract to **END USERS**.

ARTICLE 2:**THE COMPLETE AGREEMENT**

The Contract shall consist of the documents identified below in order of precedence:

1. The text of this Contract form, including but not limited to, Attachment A
2. General Terms and Conditions
3. Bid Specifications No: **FL03-17**, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: **FL03-17**, including but not limited to, prices and options offered

All of which are either attached hereto or incorporated by reference and hereby made a part of this Contract, and shall constitute the complete agreement between the parties hereto. This Contract supersedes any and all oral or written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Contract cannot be modified without the written consent of both parties.

ARTICLE 3:**LEGAL AUTHORITY**

CONTRACTOR and **H-GAC** warrant and represent to each other that they have adequate legal counsel and authority to enter into this Contract. The governing bodies, where applicable, have authorized the signatory officials to enter into this Contract and bind the parties to the terms of this Contract and any subsequent amendments thereto.

ARTICLE 4:**APPLICABLE LAWS**

The parties agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, directives, issuances, ordinances, and laws in effect or promulgated during the term of this Contract.

ARTICLE 5:**INDEPENDENT CONTRACTOR**

The execution of this Contract and the rendering of services prescribed by this Contract do not change the independent status of **H-GAC** or **CONTRACTOR**. No provision of this Contract or act of **H-GAC** in performance of this Contract shall be construed as making **CONTRACTOR** the agent, servant or employee of **H-GAC**, the State of Texas or the United States Government. Employees of **CONTRACTOR** are subject to the exclusive control and supervision of **CONTRACTOR**. **CONTRACTOR** is solely responsible for employee payrolls and claims arising therefrom.

ARTICLE 6:**END USER AGREEMENTS**

H-GAC acknowledges that the **END USER** may choose to enter into an End User Agreement with the **CONTRACTOR** through this Contract and that the term of said Agreement may exceed the term of the **H-GAC** Contract. However this acknowledgement is not to be construed as **H-GAC's** endorsement or approval of the End User Agreement terms and conditions. **CONTRACTOR** agrees not to offer, agree to or accept from **END USER** any terms or conditions that conflict with or contravene those in **CONTRACTOR's** **H-GAC** contract. Further, termination of this Contract for any reason shall not result in the termination of the underlying End User Agreements entered into between **CONTRACTOR** and any **END USER** which shall, in each instance, continue pursuant to their stated terms and duration. The only effect of termination of this Contract is that **CONTRACTOR** will no longer be able to enter into any new End User Agreements with **END USERS** pursuant to this Contract. Applicable **H-GAC** order processing charges will be due and payable to **H-GAC** on any End User Agreements surviving termination of this Contract between **H-GAC** and **CONTRACTOR**.

ARTICLE 7:**SUBCONTRACTS & ASSIGNMENTS**

CONTRACTOR agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Contract or any right, title, obligation or interest it may have therein to any third party without prior written notice to **H-GAC**. **H-GAC** reserves the right to accept or reject any such change. **CONTRACTOR** shall continue to remain responsible for all performance under this Contract regardless of any subcontract or assignment. **H-GAC** shall be liable solely to **CONTRACTOR** and not to any of its Subcontractors or Assignees.

ARTICLE 8:**EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS**

CONTRACTOR shall maintain during the course of its work, complete and accurate records of items that are chargeable to **END USER** under this Contract. **H-GAC**, through its staff or its designated public accounting firm, the State of Texas, or the United States Government shall have the right at any reasonable time to inspect copy and audit those records on or off the premises of **CONTRACTOR**. Failure to provide access to records may be cause for termination of this Contract. **CONTRACTOR** shall maintain all records pertinent to this Contract for a period of not less than five (5) calendar years from the date of acceptance of the final contract closeout and until any outstanding litigation, audit or claim has been resolved. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. **CONTRACTOR** further agrees to include in all subcontracts under this Contract, a provision to the effect that the subcontractor agrees that **H-GAC'S** duly authorized representatives, shall, until the expiration of five (5) calendar years after final payment under the subcontract or until all audit findings have been resolved, have access to, and the right to examine and copy any directly pertinent books, documents, papers, invoices and records of such subcontractor involving any transaction relating to the subcontract.

ARTICLE 9:**REPORTING REQUIREMENTS**

CONTRACTOR agrees to submit reports or other documentation in accordance with the General Terms and Conditions of the Bid Specifications. If **CONTRACTOR** fails to submit to **H-GAC** in a timely and satisfactory manner any such report or documentation, or otherwise fails to satisfactorily render performance hereunder, such failure may be considered cause for termination of this Contract.

ARTICLE 10:**MOST FAVORED CUSTOMER CLAUSE**

If **CONTRACTOR**, at any time during this Contract, routinely enters into agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to **H-GAC** on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to **H-GAC**, **CONTRACTOR** shall notify **H-GAC** within ten (10) business days thereafter of that offering and this Contract shall be deemed to be automatically amended effective retroactively to the effective date of the most favorable contract, wherein **CONTRACTOR** shall provide the same prices, warranties, benefits, or terms to **H-GAC** and its **END USER**. **H-GAC** shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If **CONTRACTOR** is of the opinion that any apparently more favorable price, warranty, benefit, or term charged and/or offered a customer during the term of this Contract is not in fact most favored treatment, **CONTRACTOR** shall within ten (10) business days notify **H-GAC** in writing, setting forth the detailed reasons **CONTRACTOR** believes aforesaid offer which has been deemed to be a most favored treatment, is not in fact most favored treatment. **H-GAC**, after due consideration of such written explanation, may decline to accept such explanation and thereupon this Contract between **H-GAC** and **CONTRACTOR** shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties, benefits, or terms to **H-GAC**.

The Parties accept the following definition of routine: A prescribed, detailed course of action to be followed regularly; a standard procedure.

EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, proposer or contractor, which are not within bidder's/ proposer's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.

ARTICLE 11:**SEVERABILITY**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 12:**DISPUTES**

Any and all disputes concerning questions of fact or of law arising under this Contract, which are not disposed of by agreement, shall be decided by the Executive Director of **H-GAC** or his designee, who shall reduce his decision to writing and provide notice thereof to **CONTRACTOR**. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, **CONTRACTOR** requests a rehearing from the Executive Director of **H-GAC**. In connection with any rehearing under this Article, **CONTRACTOR** shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. **CONTRACTOR** may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, **CONTRACTOR** shall proceed diligently with the performance of this Contract and in accordance with **H-GAC'S** final decision.

ARTICLE 13: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the **CONTRACTOR** and an **END USER**, **CONTRACTOR**'s total liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify **H-GAC** described in Article 14, is limited to the price of the particular products/services sold hereunder, and **CONTRACTOR** agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will **CONTRACTOR** be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. **CONTRACTOR** understands and agrees that it shall be liable to repay and shall repay upon demand to **END USER** any amounts determined by **H-GAC**, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Contract.

ARTICLE 14: LIMIT OF H-GAC'S LIABILITY AND INDEMNIFICATION OF H-GAC

H-GAC's liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will **H-GAC** be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless **H-GAC**, its board members, officers, agents, officials, employees, and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgments, and liens arising as a result of **CONTRACTOR**'s negligent act or omission under this Contract. **CONTRACTOR** shall notify **H-GAC** of the threat of lawsuit or of any actual suit filed against **CONTRACTOR** relating to this Contract.

ARTICLE 15: TERMINATION FOR CAUSE

H-GAC may terminate this Contract for cause based upon the failure of **CONTRACTOR** to comply with the terms and/or conditions of the Contract; provided that **H-GAC** shall give **CONTRACTOR** written notice specifying **CONTRACTOR**'s failure. If within thirty (30) days after receipt of such notice, **CONTRACTOR** shall not have either corrected such failure, or thereafter proceeded diligently to complete such correction, then **H-GAC** may, at its option, place **CONTRACTOR** in default and the Contract shall terminate on the date specified in such notice. **CONTRACTOR** shall pay to **H-GAC** any order processing charges due from **CONTRACTOR** on that portion of the Contract actually performed by **CONTRACTOR** and for which compensation was received by **CONTRACTOR**.

ARTICLE 16: TERMINATION FOR CONVENIENCE

Either **H-GAC** or **CONTRACTOR** may cancel or terminate this Contract at any time by giving thirty (30) days written notice to the other. **CONTRACTOR** may be entitled to payment from **END USER** for services actually performed; to the extent said services are satisfactory to **END USER**. **CONTRACTOR** shall pay to **H-GAC** any order processing charges due from **CONTRACTOR** on that portion of the Contract actually performed by **CONTRACTOR** and for which compensation is received by **CONTRACTOR**.

ARTICLE 17: CIVIL AND CRIMINAL PROVISIONS AND SANCTIONS

CONTRACTOR agrees that it will perform under this Contract in conformance with safeguards against fraud and abuse as set forth by **H-GAC**, the State of Texas and the acts and regulations of any funding entity. **CONTRACTOR** agrees to notify **H-GAC** of any suspected fraud, abuse or other criminal activity related to this Contract through filing of a written report promptly after it becomes aware of such activity.

ARTICLE 18: GOVERNING LAW & VENUE

This Contract shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with this Contract shall lie exclusively in Harris County, Texas. Disputes between **END USER** and **CONTRACTOR** are to be resolved in accord with the law and venue rules of the state of purchase. **CONTRACTOR** shall immediately notify **H-GAC** of such disputes.

ARTICLE 19: PAYMENT OF H-GAC ORDER PROCESSING CHARGE

CONTRACTOR agrees to sell its products to **END USERS** based on the pricing and other terms of this Contract, including, but not limited to, the payment of the applicable **H-GAC** order processing charge. On notification from an **END USER** that an order has been placed with **CONTRACTOR**, **H-GAC** will invoice **CONTRACTOR** for the applicable order processing charge. Upon delivery of any product/service by **CONTRACTOR** and acceptance by **END USER**, **CONTRACTOR** shall, within thirty (30) calendar days or ten (10) business days after receipt of payment, whichever is less, pay **H-GAC** the full amount of the applicable order processing charge, whether or not **CONTRACTOR** has received an invoice from **H-GAC**. For sales made by **CONTRACTOR** based on this contract, including sales to entities without Interlocal Contracts, **CONTRACTOR** shall pay the applicable order processing charges to **H-GAC**. Further, **CONTRACTOR** agrees to encourage entities who are not members of **H-GAC**'s Cooperative Purchasing Program to execute an **H-GAC** Interlocal Contract. **H-GAC** reserves the right to take appropriate actions including, but not limited to, contract termination if **CONTRACTOR** fails to promptly remit **H-GAC**'s order processing charge. In no event shall **H-GAC** have any liability to **CONTRACTOR** for any goods or services an **END USER** procures from **CONTRACTOR**.

ARTICLE 20:**LIQUIDATED DAMAGES**

Any liquidated damages terms will be determined between **CONTRACTOR** and **END USER** at the time **END USER's** purchase order is placed.

ARTICLE 21:**PERFORMANCE AND PAYMENT BOND FOR INDIVIDUAL ORDERS**

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB), and offered pricing should reflect this cost saving. However, **CONTRACTOR** must be prepared to offer a PPB to cover any specific order if so requested by **END USER**. **CONTRACTOR** shall quote a price to **END USER** for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of **END USER's** purchase order.

ARTICLE 22:**CHANGE OF CONTRACTOR STATUS**

CONTRACTOR shall immediately notify **H-GAC**, in writing, of **ANY** change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name, and shall also advise whether or not this Contract shall be affected in any way by such change. **H-GAC** shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Contract.

ARTICLE 23:**LICENSING REQUIRED BY TEXAS MOTOR VEHICLE BOARD /IF APPLICABLE/**

CONTRACTOR will, for the duration of this Contract, maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Contract period, any **CONTRACTOR'S** license is not renewed, or is denied or revoked, **CONTRACTOR** shall be deemed to be in default of this Contract unless the Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to **H-GAC** upon request.

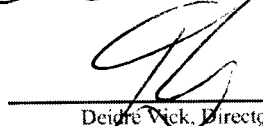
IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives.

Signed for **Houston-Galveston**
Area Council, Houston, Texas:



Jack Steele, Executive Director

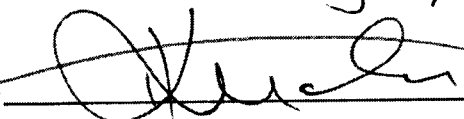
Attest for **Houston-Galveston**
Area Council, Houston, Texas:



Deidre Wick, Director of Public Services

Date: February 27, 2017

Signed for **Routeware, Inc.**
Portland, Oregon:



Printed Name & Title: Thomas M. Malone, CEO

Date: 2/24, 2017

Attest for **Routeware, Inc.**
Portland, Oregon:



Printed Name & Title: Shanna Peralta, Secretary

Date: 2/24, 2017

Attachment A
Routeware, Inc.
Fleet Services Equipment
Contract No.: FL03-17

HGAC PRODUCT CODE	MANUFACTURER AND CATALOG / MODEL / SYSTEM	HGAC PRICE
G: Fleet GPS Tracking / Fleet Management Software Solutions		
G06	Routeware: "Basic" solution (per vehicle license, priced as a single vehicle; home office license): web based fleet management; cloud hosted; GPS; real-time; cellular (CDMA & GSM/GPRS); light duty vehicle applications; Xirgo XT-2050C GPS transponder-cellular modem (OBDII interface); home office software includes dashboards, reports, mapping, route playback, geofencing, breadcrumb trails; vehicle proximity to landmarks and addresses; Alerts & notifications include speeding, idling, engine on/off, mileage, time	\$500; required services as per Form-E (installation/vehicle and initial setup)
G07	Routeware: "Premium" solution (per vehicle license, priced as a single vehicle; home office license): web based fleet management; operations efficiency; cloud hosted and onsite server options; inclusive of Basic solution features; GPS; real-time; cellular (CDMA & GSM/GPRS); light duty vehicle applications; Sierra Wireless GX400 GPS transponder-cellular modem (OBDIII interface); touch screen computer options; driver records pickups, skips, extras, timers, comments; turn-by-turn directions; route based or work order based; home office software includes: dashboards, route management, work order management, alerts, driver messaging interface, route details, customer service, mapping, reporting; mapping functionality includes: bread crumb trails, route playback, geofencing, proximity to landmarks and addresses; alerts and notifications include speeding, idling, engine on/off, mileage, time, behind schedule, off route, timers	\$3,750; required services as per Form-E (Command & Control software, project management and training services, etc.)



ROUTEWARE®

AN INTEGRATED TECHNOLOGY SOLUTIONS PROVIDER
Focused Exclusively On the Waste Industry for Over 19 Years

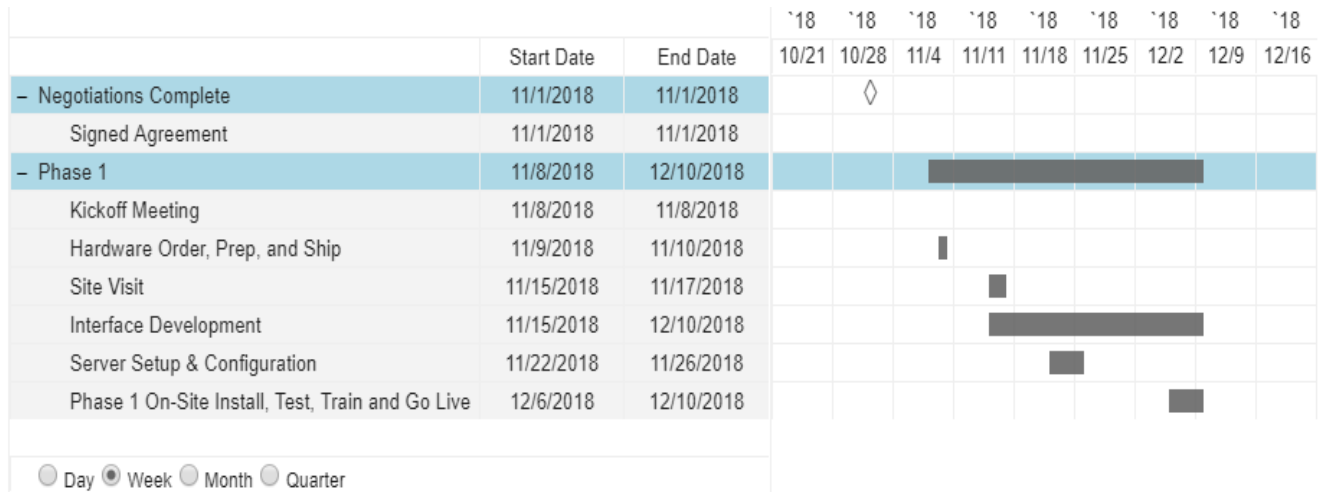
Response to Request for Schedule:
CITY OF Bloomington
October 12, 2018

www.routeware.com

Project Schedule

Proposed Work Schedule

The **City of Bloomington's (COB) Fleet Automation** project timeline shown below represents an estimated start date of November 1, 2018. The project timeline is subject to change based on, but not limited to, vehicle and facility availability, software interface specifications and development, and contract negotiations.



Deployment Plan

Task	Completion	Assignment
Project Kickoff Meeting with Customer Team	Four weeks prior to Install	
Discuss Deployment Plan		RouteWare / COB Team
Discuss Need for Site Visit		RouteWare / COB Team
Schedule Weekly Project Meetings		RouteWare / COB Team
Provide Server Specifications (if hosted on-site)		RouteWare / COB IT
Provide Informational Go-Live Spreadsheet		COB Team
Review Truck Installation/Training Terms per Contract		RouteWare / COB Team
Set Project Schedule		RouteWare / COB Team

Modem Requirements (if customer responsible)	Four weeks prior to Install	
Define Coverage Requirements		Routeware / COB Team
Discuss Carrier Service		Routeware / COB IT
Obtain Quote and Setup Contract		COB IT
Modem ESN Numbers Provided To Customer		Routeware
Provide ESN Numbers to Service Provider		COB IT
Activate Modems & Provide Static IP Address		Carrier / COB IT
Configure and Test Modems		Routeware
Modem Requirements (if RW responsible)		
Configure and Test Modems		Routeware
Site Visit (if required)	Three weeks prior to Install	
Confirm Time/Date and Location		Routeware / COB Team
Site Visit Results		Routeware
Server (if hosted on-site)	Two weeks prior to Install	
Purchase Server		COB IT
Install Server		COB IT
Configure Server		Routeware / COB IT
Assign IP Address for VPN Access		COB IT
Server Testing w/Modems over Cell		Routeware
Server (if hosted in the cloud)		
Make Cloud Arrangements		Routeware
Configure and Install RCC		Routeware
Provide URL's and Allow Firewall Access		Routeware / COB IT
Test & QA		Routeware
Route Management System (RMS) Interface	Three weeks prior to Install	
Define RMS Import/Export Interface		Routeware
Receive Routes from Customer		COB Operations
Create RMS Program Interface		Routeware
Custom Development		Routeware
Run Routes In Test Environment		Routeware
Final Test & QA		Routeware

RouteWare Control Center	Two weeks prior to Install	
Perform Customer Configuration		RouteWare
Users, Vehicles, Routes		RouteWare
Landfills, Timers, Extras, Skips, Messages		RouteWare
Provide RCC URL and Passwords to RouteWare Champion		RouteWare
Test & QA		RouteWare
Hardware Preparation & Shipment	Two weeks prior to Install	
RouteWare On-Board Computer System Unit Setup		RouteWare
Modem Configuration		RouteWare
Hardware QA & Burn-In		RouteWare
Test & QA		RouteWare
Pack & Ship Equipment		RouteWare
On-Site Deployment	Installation	
RouteWare On-Board Computer System Unit Setup Placement Approval		RouteWare Installers/ COB Operations
Truck Hardware Installation		RouteWare Installers/ COB Mechanics
Modem Testing		RouteWare Installers/ COB Mechanics
Mechanic Training		RouteWare Installers/ COB Mechanics
Validate RMS Import to RouteWare		RouteWare
Validate Communications to and from unit		RouteWare Installers/ COB Mechanics
Confirm URL's active at each workstation		RouteWare/COB IT
Daily Field Report To Office		RouteWare / COB Mgmt
Final QA Inspection		RouteWare / COB Operations



REGULAR AGENDA ITEM NO. 8D

FOR COUNCIL: October 22, 2018

SPONSORING DEPARTMENT: Parks, Recreation and Cultural Arts

SUBJECT: Consideration of a Contract with Stark Excavating, Inc. for construction of Miller Park Zoo additional parking and concessions (Bid #2019-15) in the amount of \$1,058,924, as requested by the Parks, Recreation, and Cultural Arts Department.

RECOMMENDATION/MOTION: The Contract with Stark Excavating, Inc., in the amount of \$1,058,924, for construction services provided for the Miller Park Zoo additional parking and concessions be approved, and the City Manager and City Clerk be authorized to execute the contract.

STRATEGIC PLAN LINK: Goal 2: Upgrade City Infrastructure and Facilities; Goal 4: Strong Neighborhoods; Goal 5: Great Place – Livable, Sustainable City

STRATEGIC PLAN SIGNIFICANCE: Objective 2e. Investing in the City's future through a realistic, funded capital improvement program; Objective 5b: City decisions consistent with plans and policies; Objective 5d: Appropriate leisure and recreational opportunities responding to the needs of residents

BACKGROUND: On October 9, 2018, at 11:00 AM, bids were publicly opened and read for the construction of the additional parking lot and concession stand.

Three proposals were received from the following companies:

FIRM	Base Bid	Alternate #1 Steel Roof	Total	Local Preference	Total for considerati on
Zobrist	\$952,490	\$105,000	\$1,057,490	N/A	\$1,057,490
CAD	\$1,009,800	\$110,000	\$1,119,800	N/A	\$1,119,800
Stark	\$945,824	\$113,100	\$1,058,924	-\$50,000	\$1,008,924

The City Council approved the Contract for Architectural and Engineering Services on September 28, 2017. The Zoo Master Plan was approved by City Council in 2012. The first project of the Master Plan was a Greater Flamingo Exhibit, which has proven to be very successful. This exhibit was predicted to raise attendance by 5%. The actual number was an 8% increase above the previous year's attendance that set the all-time annual attendance record. The first infrastructure project prioritized in the Zoo

Master Plan is this project with an additional parking lot and a concessions stand. One of the goals of the Master Plan is to make the Zoo more sustainable and less reliant on the City's General Fund.

Safety is another crucial aspect of this project. Something to keep in mind is that every person that visits the Zoo (unless they walked), must cross the street to enter and exit the Zoo. Since many of our guests are young kids, they do not necessarily always look before crossing the street. They are excited to get to the Zoo or the playground/spray park. This road is also duplication. The main road that goes down the center of the park is actually a faster route to get to the bandstand and Miller Park Pavilion.

This project greatly improves the two biggest concerns we hear from guests: (1) the lack of parking, and, (2) lack of food and drink. Staff believe that the Zoo (and the park) lose visitation when someone can't find a parking space. They give up and go home instead of using any number of the park amenities. The additional parking lot will provide more opportunities for parking, not only for the Zoo, but the entire park. This project should increase parking by approximately fifty (50) spaces which is about 55% greater than the parking spaces that currently exist. The last two Association of Zoos and Aquariums (AZA) Accreditation inspections have listed parking as a major concern.

This project will include a new roof for the Zoo's Entrance Building. The building is 28 years old with the original roof still in service. There are a number of leaks and many shingles that have blown off over the years. The alternate bid being recommended by the Staff is for a steel roof which has a much longer roof life of 30 to 40 years versus a shingle roof which generally only has a warranty life of 15 to 20 years. The City is also investigating alternative energy sources and a steel roof would offer a suitable situation in the future to place solar arrays and harness the natural energy resource.

This project also includes the concession stand that shall provide food and drink for Zoo guests but also to the entire Miller Park and its neighbors. The concession stand will have a service window inside the Zoo and another on the outside of the Zoo facing the playground/spray ground.

Business Plan completed by Park staff and presented to Council on December 18, 2017 goes into detail about the revenue and expense projections when the concession stand opens. The plan estimates an additional \$147,000 in added revenues and \$61,888 in additional expenses with an annual profit of \$85,112. This plan is fairly conservative in terms of estimating the numbers. Only \$10,000 is currently projected from guests outside of the Zoo. Staff do not have projections on how many people visit Miller Park in a given year. Staff suspect that more than \$10,000 will be brought in from outside of the Zoo.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Miller Park Zoological Society, Ewing Zoo Foundation. A request for bids was sent out via normal City of

Bloomington Purchasing procedures. Zoo staff also provided a list of construction firms from around the nation. The request was received by 19 different groups or individuals.

This work was advertised in *The Pantagraph* on 24 September 2018 and a pre-bid meeting was held at 9:00 AM on 26 September 2018 in the Main Classroom at the Miller Park Zoo.

FINANCIAL IMPACT: Total cost (design and construction) are expected to be approximately \$1,200,000. The funds requested are not in the FY 2019 budget. Funds would be sourced as follows:

- \$100K State Grant
- \$100K Park Dedication Funds – permanent use
- \$400K Park Dedication Funds – borrowed at zero percent and paid back over 15 years = approximately \$27K per year
- \$600K Bank Loan – approximate debt service of \$50K per year (15 years, 3.25%)

Combined debt service for the Park Dedication and Bank loans would be approximately \$77K; which would be funded from the additional approximate \$85K annual Concession profits as outlined above. If the State Grant is delayed, additional Bank loan borrowing would raise the annual debt service to approximately \$86K; which concession profits would be expected to cover.

Stakeholders can locate information related to the Miller Park Zoo in the FY2019 Budget Book titled “Budget Overview & General Fund Adopted” starting on page 213.

COMMUNITY DEVELOPMENT IMPACT: HL-2 Ensure maximum usage of the City’s parks and recreational facilities and associated resources.

FUTURE OPERATIONAL COST ASSOCIATED WITH NEW FACILITY CONSTRUCTION: Not counting a loan re-payment, this construction project will generate \$85,112 in profit each year.

Respectfully submitted for Council consideration.

Prepared By: Jay Tetzloff, Director-Parks, Recreation and Cultural Arts

Finance & Budgetary Review By: Scott Rathbun, Finance Director

Water/Community Dev. Review By: Bob Mahrt, Community Development Director

Legal Review By: Jeffrey R. Jurgens, Corporation Counsel

Recommended by:

A handwritten signature in black ink, appearing to read 'Tim Gleason', with a stylized flourish at the end.

Tim Gleason
City Manager

Attachments:

- PRCA1B - Contract Miller Park Zoo Parking and Concessions
- PRCA 1C - Bid Tab

**CITY OF BLOOMINGTON
CONTRACT WITH**

FOR

Miller Park Zoo Parking & Concessions

THIS AGREEMENT, dated this 22 day of October, 2018, is between the City of Bloomington (hereinafter "CITY") and (hereinafter "CONTRACTOR").

NOW THEREFORE, the parties agree as follows:

Section 1. Recitals. The recitals set forth above are incorporated into this Section 1 as if specifically stated herein.

Section 2. Incorporation of Bid/RFP/RFO & Proposal Terms / Prevailing Wage. This work was subject to the following procurement initiative by the CITY:
Miller Park Zoo Parking & Concessions (Bid 2019-15) (hereinafter "Request")

Accordingly, the provisions of the Request and the proposal submitted by CONTRACTOR (hereinafter collectively referred to as "Procurement Documents" and attached as Exhibit A), shall be incorporated into this Contract and made a part thereof and shall be considered additional contractual requirements that must be met by CONTRACTOR. In the event of a direct conflict between the provisions of this contract and the incorporated documents, the provisions of this contract shall apply. This contract calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's web site for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties.

Section 3. Description of Services. CONTRACTOR shall provide the services/work identified in the Procurement Documents, and specifically as follows: All work as shown and described in the Miller Park Zoo Parking & Concessions (Bid 2019-15) documents.

Section 4. Payment. For the work performed by CONTRACTOR under this Contract, the CITY shall pay CONTRACTOR one of the following:

- ☐ A flat fee of \$_____ as set forth in the Procurement Documents.
- ☒ Fees as set forth in the Procurement Documents up to the Contract amount of \$ 1,058,924.00.

Section 5. Default and Termination. Either party shall be in default if it fails to perform all or any part of this Contract. If either party is in default, the other party may terminate this Contract upon giving written notice of such termination to the party in default. Such notice shall be in writing and provided thirty (30) days prior to termination. The non-defaulting party shall be entitled to all remedies, whether in law or equity, upon the default or a violation of this Contract. In addition, the prevailing party shall be entitled to reimbursement of attorney's fees and court costs.

Section 6. Representations of Vendor. CONTRACTOR hereby represents it is legally able to perform the work that is subject to this Contract.

Section 7. Assignment. Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

Section 8. Compliance with Laws. CONTRACTOR agrees that any and all work by CONTRACTOR shall at all times comply with all laws, ordinances, statutes and governmental rules, regulations and codes.

Section 9. Compliance with FOIA Requirements. CONTRACTOR further explicitly agrees to furnish all records related to this Contract and any documentation related to CITY required under an Illinois Freedom of Information Act (ILCS 140/1 et. seq.) ("FOIA") request within five (5) business days after CITY issues notice of such request to CONTRACTOR. CONTRACTOR agrees to not apply any costs or charge any fees to the CITY regarding the procurement of records required pursuant to a FOIA request. CONTRACTOR shall be responsible for any damages/penalties assessed to CITY for CONTRACTOR'S failure to furnish all documentation in CONTRACTOR'S possession responsive and related to a request within five (5) days after CITY issues a notice of a request.

Section 10. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State of Illinois.

Section 11. Joint Drafting. The parties expressly agree that this agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing it terms prior to execution. Therefore, this agreement shall be construed neither against nor in favor of either party, but shall construed in a neutral manner.

Section 12. Attorney Fees. In the event that any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

Section 13. Paragraph Headings. The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

Section 14. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

CITY OF BLOOMINGTON

By: _____
Its City Manager

By: _____
Its _____

ATTEST:

By: _____
City Clerk

By: _____
Its _____



CITY CLERK
109 EAST OLIVE STREET
BLOOMINGTON, IL 61702-3157
309.434.2240 tel
309.434.2802 fax

RECORD OF BID OPENING FOR:

BID #2019-15
Miller Park Zoo Parking and Concessions

TIME: 11:00 a.m.

DATE: October 9, 2018

Rec'd Date/Time & Staff Initials	Bidder's Name	City, State	City Documents	Bid Signed	Bid Bond	Addendum #1	Base Bid	Base Bid + ALT IIA
10/09/18 10:55am alaw	Zabrist	MORTON IL	yes, exception Bid Copy	✓	✓	✓	\$ 952,490.00	\$ 1,057,490.00
10/09/18 10:55 a.m. alaw	CHAD	TRENTON IL	✓	✓	✓	✓	\$ 1,009,800.00	\$ 1,119,800.00
10/09/18 10:55 a.m. alaw	STARK	BLOOMINGTON, IL	✓	✓	✓	✓	\$ 945,824.00	\$ 1,058,924.00
10/09/18 10:55 a.m. alaw	SAME - COPIES							

WITNESSES:

Amber Molen
Carla J. Mollen
Russell Walker
Jay Hoff
John Hoff

*Disclaimer: This is a Bid tabulation for record of the Bid opening. Bids have not been reviewed and have not been presented to council. This does not represent any Award. Prices or options/alternates will not be included on the tabulation.