

2011-336
11/002141

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING TEMPORARY LICENSE AGREEMENT FOR WERNER
PARK, AS AMENDED

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, Neb. Rev. Stat. §23-2901 to 2905 (Reissue 2007), confers the power to counties, for the benefits of its citizens, to acquire facilities for social, athletic, and recreational purposes; and,

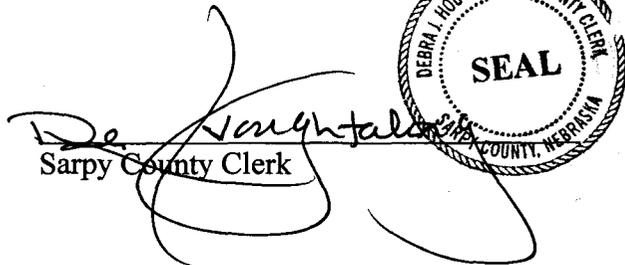
WHEREAS, as allowed by the Stadium Use & Lease Agreement, as amended, Sarpy County may use the Werner Park Baseball Stadium for certain County-sponsored events; and,

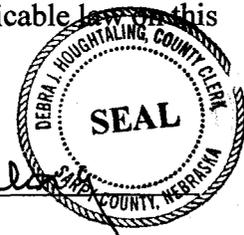
WHEREAS, Temporary License Agreement has been proposed for the use of the Stadium for such a County-sponsored event with a handwritten change in the hours of the event, making the new hours from 8 a.m. to 6 p.m.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that the attached Temporary License Agreement for the use of the Werner Park Baseball Stadium, as amended, is hereby approved, and the Chair and Clerk are hereby authorized to sign the same and to initial the change in the hours of the event.

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this 4th day of October, 2011.


Chairman, Sarpy County Board


Sarpy County Clerk



Temporary License Agreement

This License Agreement ("Agreement") is made on this 4th day of October, 2011 by and between the County of Sarpy, Nebraska, ("**Lessor**") and Toyota "2012 Camry Competitive Drive" ("**Lessee**") whose address for notices is 11111 NW Airworld Dr, Kansas City, MO 64153. Attention: Chris Tenebehn with a business telephone number of 816-746-2182 and an e-mail address of tiffany_watkins@toyota.com.

RECITALS:

Whereas, Lessor and Lessee enter into a Temporary License Agreement to occupy the Licensed Area of the Werner Park Baseball Stadium, as further described herein.

1. **Licensed Area.** Lessor grants Lessor a license to occupy that portion of Werner Park and related common areas of access, identified on the attached Exhibit A, and generally described as the Parking Lot of the Werner Park Baseball Stadium. (the "Licensed Area").

2. **Term.** The Installation, Exhibition, and Removal term shall be for a total of 2 days.

The Installation Period shall begin Friday October 28th at 8a.m. and end at 5pm.

The Exhibition Period will be 1 day(s) in duration and during this period; the Licensed Area may be utilized only during the following date and hours:

Exhibit Hours:

Saturday, October 29th, 2011

8 AM - 6 PM
10:00am-5:00pm

Initials

T.R.
Tom Richard

D.H.
Deb Houghtaling

The Removal Period shall end Saturday, October 29th, 2011 no later than 7:00p.m.

3. **Rent.** In consideration of this license, Lessee shall pay the following sums as Rent:

- (A) Base Rent: \$ 2,500.00 (includes Installation and Removal Period, restroom usage and credit card service fee).
- (B) The Base Rent shall be paid on the following schedule:
100% of total base rent to be paid upon execution of this Agreement
- (C) The Lessee will not charge any admission fee or other charge to the general public for admission or participation in the Lessee's activities, or participate in a transaction that constitutes a taxable sale under the law of the State of Nebraska in the Licensed area during the term of this Agreement. Lessee shall be responsible for all charges or taxes that may arise as a result of Lessee's activities under this Agreement.

(D) Additional Charges: The Base Rent described above shall entitle the Lessee and Lessee's guests and invitees to the use of restroom facilities during the Exhibition Period. The restroom facilities are shown on Exhibit "A." Charges for ordinary maintenance and janitorial service for the restroom facilities are included in the Base Rent price. No electrical service is included.

4. Use. (The "Permitted Use") of the facility is solely for and shall be under the name of 2012 Camry Competitive Drive. Lessee shall not mention or refer to Lessor, the Omaha StormChasers, or any related entity as being a promoter of, affiliated with, or in any way responsible for, the use of any product of any operation in the Licensed Area. Lessee shall use the Licensed Area only for the following purposes: of 2012 Camry Competitive Drive related industry sales and demonstrations. Under no circumstances will any of the booth operators, show promoters or persons associated directly or indirectly with 2012 Camry Competitive Drive permit the use or sale of illegal or illicit material. Lessor reserves the right to immediately terminate contract without refund in the event it determines or suspects such activity is reported. Lessee and Lessee's guest and invitees shall obey all applicable laws, rules and regulations while present on the Licensed Area.

7. Services and Utilities.

(A) All installation and removal services, janitorial, maintenance, cleaning services, electrical and plumbing services, other than those described in paragraph 3(D) above, shall be performed by Lessee or Lessee's designee, at Lessee's cost, such costs to be paid by Lessee.

(B) Lessee shall be solely responsible for providing adequate security during show and non-show hours, and/or as deemed necessary by lessor (such security personnel shall be subject Lessor's approval), and Lessor shall have no obligation thereof.

(C) Lessee shall not cause any holes to be drilled, cored or punched into the pavement or structure located on any property of the Lessor, and shall remove all property, garbage and debris brought into the Licensed area upon the expiration of the Removal period.

(C) Lessor shall not be liable for damages, or otherwise, for any interruption or defect in any utilities, services or equipment failure required to be furnished pursuant to this Agreement.

8. Condition of Licensed Area. Lessor shall deliver the Licensed Area to Lessee at the beginning of the Installation Period in clean condition, and upon the expiration of the Removal Period, Lessee shall surrender the Licensed Area to Lessor in clean condition. Without limiting Lessor's other rights and remedies (including the right to compel removal), if any of Lessee's property is remaining upon Lessor's Property following the Removal Period, Lessor may treat such property as abandoned and may remove and

dispose of the same (at Lessee's sole expense) without liability to Lessee or any other party claiming an interest in such property after two days written notice to Lessee. If the Premises are not delivered to Lessor in clean condition, Lessee shall pay Lessor's reasonable expenses for the cleanup costs.

9. Assignment. Lessee's rights under this Agreement may not be transferred or assigned.

10. Casualty Damage. If any portion of the Lessor's property shall be damaged by casualty or otherwise rendered untenable, then Lessor shall have the right to terminate this Agreement without liability to Lessee; however, (i) Lessor shall promptly refund to Lessee any prepaid Rent, and (ii) Lessor shall make such election within a reasonable period of time following the occurrence of such condition.

11. Insurance and Indemnity.

HOLD HARMLESS. Lessee, and it's licensee's, subtenants and invitees and any other permitted user, shall indemnify and hold harmless Lessor, the Omaha StormChasers, and their respective members, agents and other representatives, against and from (i) any and all claims arising from Lessee's use of the Premises for the conduct of it's business or from any activity, work or things done, permitted or suffered by the Lessee in or about the Premises, the Building and the property upon which the Building is located, (ii) any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this License, or arising from any act or negligence of the Lessee, and (iii) all costs, attorney's fee's, expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon. In the event any case, action or proceeding be brought against Lessor the Omaha StormChasers or Permitted Users by reason of any such claim, Lessee shall, upon written notice from Lessor defend the same at the Lessee's sole cost and expense.

Lessor or it's agents shall not be liable to Lessee or to Lessee's officers, employees, agents, licensees or invitees, or to any other person whomsoever for any loss or damage to any property or any injury to or damage to persons resulting from any part of the Licensed Area is or related improvements or appurtenances thereto becoming out of repair, and defect in or failure of pipes or wiring, the backing up of any drains or the bursting or leaking of any pipes, faucets and plumbing fixtures, and gas, water, steam, electricity, oil or rain leaking, escaping or flowing into the Licensed Area from other place resulting from dampness or any other cause whatsoever, theft, fire, explosion, act of God, riot, war, insurrection, court order or order of government authority or any matter beyond the control of Lessor. Lessor or its agents shall not be liable for interference with or any loss of business by Lessee or its permitted users, not shall Lessor be liable for any latent defect in the in the Licensed Area. . Lessee shall give prompt notice to Lessor in the case of fire or accidents in the Licensed Area or of defects herein or in the fixtures or equipment located therein.

(C) Lessee shall maintain a policy of comprehensive public liability insurance, including property damage, with respect to the Licensed Area and the activities conducted therein pursuant to this License Agreement, in which the limits of coverage for bodily injury and property damage shall be not less than \$1,000,000 (combined single limits), and Lessee shall also maintain workmen's compensation insurance as required by law. The liability policy shall name as additional insured's Lessor, County of Sarpy, Nebraska and the Omaha StormChasers (collectively "Beneficiaries") and shall include contractual insurance, insuring Lessee's performance of the indemnity set forth in paragraph (A) above. At least 30 days prior to the Commencement Date, Lessee shall furnish Lessor with a Certificate of Insurance, evidencing the foregoing coverage.

(D) Neither Lessor nor the Beneficiaries shall be liable to Lessee, or Lessee's Users for loss or damage to its and their property in or about the Licensed Area caused by any of the perils or casualties enumerated in or insurable under an all risk transportation or equipment floater policy (whether or not such coverage is carried by Lessee's and Lessee's Users), or under any physical damage policy carried by Lessee or Lessee's Users with respect to such Beneficiaries, their agents, servants and employees with respect thereto.

12. Default.

(A) The occurrence of any of the following events shall constitute an "Event of Default";

(i) Failure to pay any installment of Rent after ten days written notice of no-payment;

(ii) Failure to perform any of the other obligations binding on Lessee under this Agreement, if such default is not promptly rectified after 20 days written notice from Lessor (which may be oral or written) from Lessor.

(B) Upon an event of Default, Lessor shall have the right (i) to terminate this Agreement and Lessee's rights hereunder, (ii) deny admittance to the Licensed Area, and deny use of the Licensed Area to Lessee, Lessee's Users, and invitees, (iii) retain any Rent in Lessor's possession, (iv) collect any balance of the Rent not yet paid (whether or not accrued), and (v) collect any damages suffered by Lessor by reason of such default, all such remedies being in addition to any rights and remedies otherwise available to Lessor at law or in equity. See Clause (i) below for cancellation fees. If suit is brought to enforce the provisions of this Agreement, the prevailing party in such action shall be entitled to recover all of its cost and expenses incurred in connection therewith, including its reasonable attorney's fees. In an Event of Default, Lessor shall have the right to rectify such default at Lessee's expense, in which case, the reasonable cost of rectifying such default shall be immediately due and payable by Lessee to Lessor as Rent. Any amounts not paid when due shall bear interest from the due date thereof until paid at a rate per annum equal to the lesser of (i) the highest rate that may be charged to Lessee under the laws of the State of Nebraska, or (ii) 18% per annum.

(i) If Lessee cancels this Agreement, the following cancellation fees will apply:

Cancellation at 120 days	Deposit Retained
Cancellation at 90 days	50% of Total Base Rent
Cancellation at 60 days	75% of Total Base Rent
Cancellation at 30 days or less	100% of Total Base Rent

(C) If Lessee or Lessee's Users shall commit any act or omission that results in Lessor being unable to timely provide the Licensed Area or any lesser or greater space to the licensee next having the license to use such space, Lessee shall be liable to Lessor for the amount of damages sustained by Lessor by reason thereof. Without limiting the foregoing, and without being deemed a consent to any holding over by Lessor, in addition to Lessor's other remedies, if Lessee or Lessee's Users shall occupy any portion of the Licensed Area beyond the expiration of the Removal Period, Lessee shall pay Lessor an additional fee equal to 150% of the Base Rent set forth in Section 3 for each day, or period thereof, that such holdover continues.

13. Lessor shall not be liable for any failure to, or delay in providing the licensed area if such failure is due to any construction or repairs being made on or about the licensed area or by reason of strikes or other labor troubles, riots, insurrection, or any other causes commonly referred to as force majeure. The rights and responsibilities under this Agreement may be assigned by the Lessor and the terms and provisions of this Agreement are to apply to and benefit the successors and assigns of the Lessor.

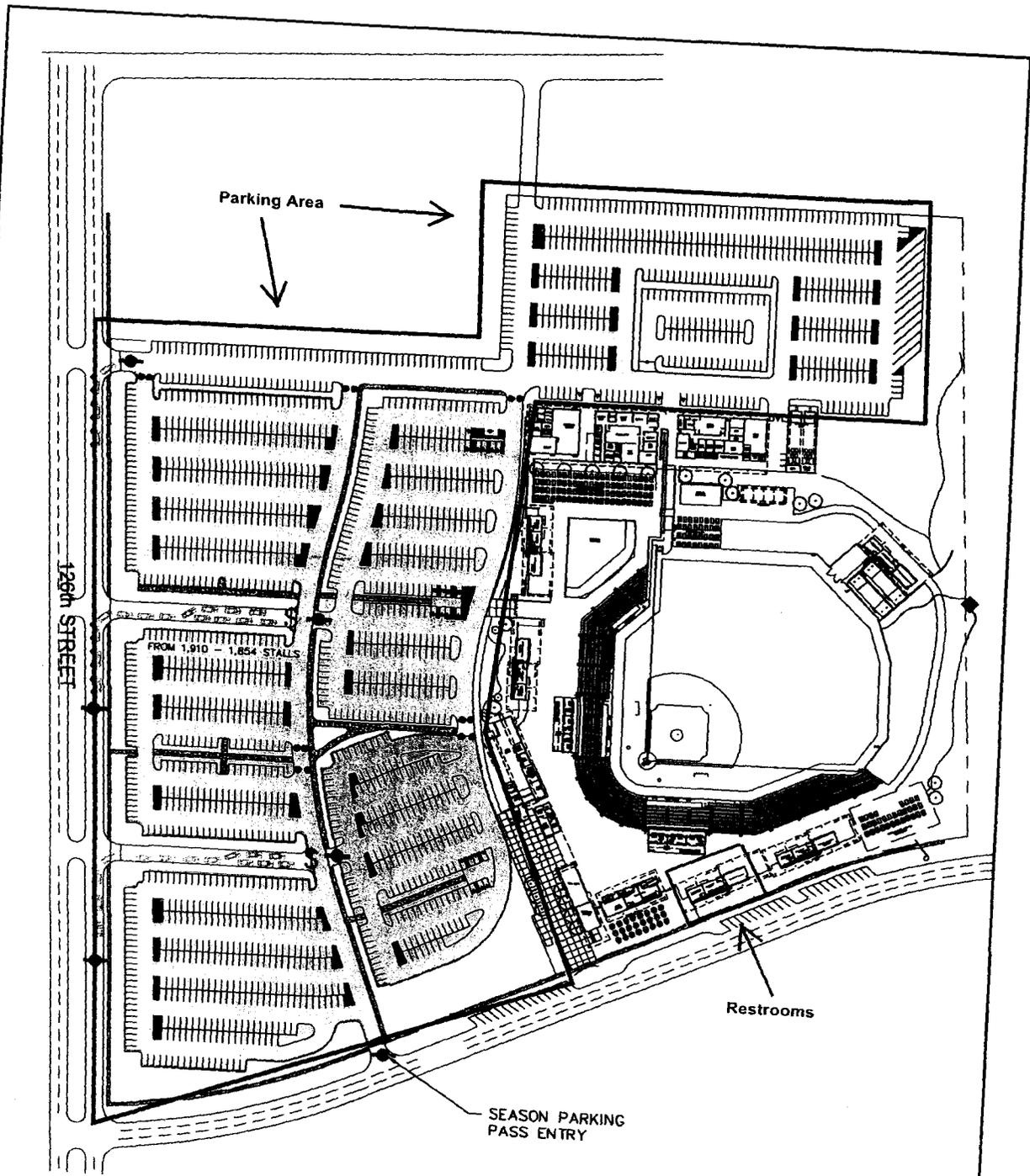
This Agreement is to be effective as of the date first above written.

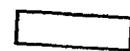
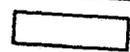
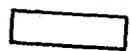
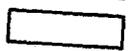
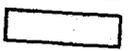
County of Sarpy, Nebraska

By: Tom Richard 10/4/2011
Chair, County Board of Commissioners

LESSEE:

By: [Signature]
Title: Sales Training Manager
Date: 9/29/11



-  EMPLOYEE PARKING
64 STALLS
-  FREE PARKING
497 STALLS
-  \$2 PARKING
803
-  \$5 PARKING
306 STALLS
-  SEASON PARKING PERMIT
184 STALLS

-  MONEY COLLECTION
-  STAFF
-  PRE-GAME
TRAFFIC CONE

DATE: 9-3-09
 DRAWN BY: BAL
 PROJECT NO: 009-0733
 1115 Lincoln Med., Suite 111
 P.O. Box 94089
 Lincoln, NE 68501-4008
 TEL: 402.474.8311
 FAX: 402.474.8190

PROJECT NO: 009-0733
 DRAWN BY: BAL
 DATE: 9-3-09

PARKING FLOW EXHIBIT

MOLSSON
 ASSOCIATES

1115 Lincoln Med., Suite 111
 P.O. Box 94089
 Lincoln, NE 68501-4008
 TEL: 402.474.8311
 FAX: 402.474.8190

EXHIBIT
 1

Sarpy County Board of Commissioners

1210 GOLDEN GATE DRIVE
PAPILLION, NE
593-4155
www.sarpy.com

ADMINISTRATOR Mark Wayne
DEPUTY ADMINISTRATOR Scott Bovick
FISCAL ADMIN./PURCHASING AGT. Brian Hanson



COMMISSIONERS

Rusty Hike District 1
Jim Thompson District 2
Tom Richards District 3
Jim Nekuda District 4
Jim Warren District 5

MEMO

To: Sarpy County Board of Commissioners

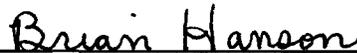
From: Brian Hanson

Re: Stadium Parking Lot Lease

At the October 4, 2011 Board meeting, the County Board will be asked to approve the attached Temporary License Agreement with Toyota for a promotional event related to the introduction of the 2012 Toyota Camry. Toyota will have use of the Stadium parking lot and certain restrooms. The date of the event is October 29, 2011. Toyota will pay Sarpy County \$2,500 for the lease. \$500 will cover payment to the Storm Chasers for use of the restrooms and other expenses. The remaining \$2,000 will be placed in the Stadium Debt Service fund to help retire the Stadium bonds.

Please contact Mark Wayne if you have any questions.

September 30, 2011



Brian E. Hanson

BEH/dp

cc: Mark Wayne
Scott Bovick
Deb Houghtaling
Mike Smith