

RESOLUTION NUMBER 7272

WHEREAS, beverages are sold at the concession stands on property owned by the City of Beatrice ("City"), specifically at Hannibal Park and at the Big Blue Waterpark; and

WHEREAS, the City desires to enter into an Exclusive License Agreement with LinPepCo Partnership d/b/a Pepsi-Cola Lincoln wherein the City shall receive a license fee and a rebate per case sold at these locations in exchange for exclusively selling Pepsi products at these locations.

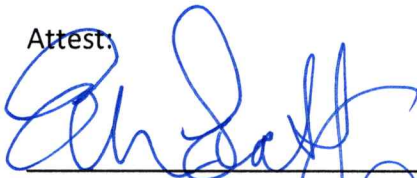
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. That the Mayor and City Clerk are hereby authorized to execute the Exclusive License Agreement between the City of Beatrice, Nebraska and LinPepCo Partnership d/b/a Pepsi-Cola Lincoln, wherein the City agrees to exclusively sell Pepsi products at these locations in exchange for receipt of a license fee and a rebate per case sold. A copy of said Exclusive License Agreement, marked as Exhibit "A", is attached hereto and incorporated by reference.

SECTION 2. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

RESOLUTION PASSED AND ADOPTED this 15th day of April, 2024.

Attest:



Erin Saathoff, CMC, City Clerk



Mike McLain, Acting Mayor

Exhibit "A"

EXCLUSIVE LICENSE AGREEMENT


LinPepCo Partnership d/b/a Pepsi-Cola of Lincoln ("**Supplier**") and City of Beatrice ("**Customer**") headquartered in Beatrice, NE, hereby agree as follows:

1. **Venue.** Customer owns Hannibal Park and the Beatrice Water Park, both located in the City of Beatrice, Nebraska.
2. **Term.** The term of this Agreement will be for a period of five (5) years beginning on March 1, 2024, and will continue through February 28, 2029 (the "**Term**").
3. **Scope.** During the Term, Customer shall purchase from Supplier (i) Pepsi-Cola's and Dr Pepper's corporate branded postmix products, as listed in Exhibit A, for use in preparing fountain beverage products sold under the trademarks of Pepsi-Cola and Dr Pepper (the "**Fountain Products**"); and (ii) Pepsi-Cola's corporate branded packaged beverage products (including carbonated soft drinks, waters, isotonic, juices, juice drinks and/or coffee based beverages), as listed in Exhibit B (the "**Packaged Products**"), (collectively the "**Beverage Products**") to be sold in each of the Customer's existing, as noted in Exhibit C, and after-acquired venues (collectively the "**Venues**"). Supplier reserves the right to amend from time to time the Beverage Products listed on Exhibits A and B.
4. **Exclusive License.** Customer hereby grants to Supplier an exclusive license with respect to the Beverage Products at Venues as follows: the Beverage Products distributed by Supplier shall be the exclusive products of their respective types sold, dispensed or otherwise made available in any manner or form, including vending machines, coolers, and fountain, or in any way displayed, represented or promoted at or in connection with Customer and/or Venues (the "**Exclusive License**").
5. **Equipment.** Equipment relating to the Beverage Products shall be provided, maintained, and repaired at Supplier's expense. At all times, legal title to the Equipment shall belong to Supplier.
6. **Advertising.** The Exclusive License shall include the right of Supplier to be the sole advertiser of Beverage Products at Venues.
7. **License Fee.** In consideration of the Exclusive License, Supplier shall pay Customer on or before April 1, beginning April 2025, of each year (i) the sum of one thousand dollars (\$1,000); and (ii) the sum of \$7.00 multiplied by the number of cases (24 pack) of Packaged Products sold during the preceding year (collectively the "**License Fee**").

8. **Pricing.** A current delineation of the prices charged for the Beverage Products is set forth on Exhibits A and B attached hereto. Any changes to the pricing of the Beverage Products shall be mutually determined by both parties; provided, Supplier reserves the right to increase prices due to any increase in the prices it pays for Beverage Products. The prices in Exhibits A and B do not reflect applicable deposit laws or beverage fees and taxes imposed on the sale of Beverage Products ("Beverage Taxes"). Supplier shall collect Beverage Taxes as required from the parties that purchased the Beverage Products.
9. **Breach & Cure.** Failure of either party to this Agreement to abide by any provision set forth herein shall constitute a breach of this Agreement. In such event, the non-breaching party may provide written notice to the breaching party describing the breach. The breaching party shall rectify, cure, or refute the alleged breach within thirty (30) calendar days. If the breaching party fails to rectify, cure, or refute with thirty (30) calendar days after receiving notice of said breach, the non-breaching party may terminate this agreement without notice.
10. **Termination.** This Agreement may be terminated by either party if the other party shall be in breach or default under any one or more of its covenants or agreements contained herein and such breach or default is not cured within thirty (30) days after written notice to the defaulting party.
11. **Remedies.** In the event of a default by a party, the non-defaulting party may exercise any and all rights and remedies allowed by law and/or equity.
12. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

DATED: 4/5/24

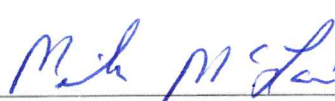
LinPepCo Partnership

By 

Print SCOTT R. NIMETZ

Title FS KAR

City of Beatrice

By 

Print Mike McLain

Title Acting Mayor

Exhibit A

PACKAGE	PRODUCT	GAL	BIB
1 gal BIB	Flavor Works Cherry Shot	\$ 32.48	\$ 32.48
	Flavor Works Lemon Shot	\$ 32.48	\$ 32.48
	Flavor Works Strawberry Shot	\$ 32.48	\$ 32.48
	Flavor Works Vanilla Shot	\$ 32.48	\$ 32.48
2 gal BIB Juice/Mixer	Citrus Springs Cranberry Juice	\$ 41.97	\$ 83.94
	Citrus Springs Energy Tyme Shot	\$ 43.50	\$ 87.00
	Citrus Springs Orange Juice 100%	\$ 83.32	\$ 166.64
	Citrus Springs Pineapple Juice	\$ 52.92	\$ 105.84
3 gal BIB	Cool Attitudes Ginger Beer	\$ 46.65	\$ 93.30
	Bubly Lime	\$ 26.18	\$ 78.54
	Cherry Pepsi	\$ 26.18	\$ 78.54
	Crush Orange	\$ 26.18	\$ 78.54
	Diet Mountain Dew	\$ 26.18	\$ 78.54
	Diet Pepsi	\$ 26.18	\$ 78.54
	Diet Pepsi Free	\$ 26.18	\$ 78.54
	Gatorade Fruit Punch	\$ 26.88	\$ 80.64
	Gatorade Grape	\$ 26.88	\$ 80.64
	Gatorade Orange	\$ 26.88	\$ 80.64
	Lipton Brisk Tea	\$ 24.98	\$ 74.94
	Lipton LC Tea Sweetened	\$ 33.73	\$ 101.19
	Lipton LC Tea Unsweetened	\$ 29.87	\$ 89.61
	Lipton Raspberry Tea	\$ 26.18	\$ 78.54
	Lipton Strawberry Melon Tea	\$ 26.18	\$ 78.54
	Mountain Dew	\$ 26.18	\$ 78.54
	Mountain Dew Code Red	\$ 26.18	\$ 78.54
	Mountain Dew Goji Strawberry	\$ 26.18	\$ 78.54
	Mountain Dew Major Melon	\$ 26.18	\$ 78.54
	Mountain Dew Zero	\$ 26.18	\$ 78.54
	Mug Root Beer	\$ 26.18	\$ 78.54
	Pepsi	\$ 26.18	\$ 78.54

Exhibit A (cont.)

PACKAGE	PRODUCT	GAL	BIB
3 gal BIB	Pepsi Zero	\$ 26.18	\$ 78.54
	SoBe LW Yumberry Pomegranate	\$ 26.47	\$ 79.41
	Squirt	\$ 26.18	\$ 78.54
	Tonic Generic	\$ 26.18	\$ 78.54
	Tropicana Fruit Punch	\$ 26.18	\$ 78.54
	Tropicana Pink Lemonade	\$ 26.18	\$ 78.54
	Tropicana Yellow Lemonade	\$ 26.18	\$ 78.54
3 gal BIB FCB	Mountain Dew FCB	\$ 28.52	\$ 85.56
	Pepsi FCB	\$ 28.52	\$ 85.56
	Siberian Chill Blue Raspberry	\$ 50.86	\$ 152.58
	Siberian Chill Cherry	\$ 50.86	\$ 152.58
3 gal BIB Juice/Mixer	Citrus Springs Apple Juice 100%	\$ 50.29	\$ 150.87
	Cool Attitudes Alert Mixer	\$ 80.48	\$ 241.44
	Cool Attitudes Margarita Mixer	\$ 52.06	\$ 156.18
	Cool Attitudes Sweet & Sour Mixer	\$ 52.06	\$ 156.18
	Viva Sol Horchata	\$ 27.76	\$ 83.28
	Viva Sol Jamaica	\$ 27.76	\$ 83.28
	Viva Sol Melon	\$ 27.76	\$ 83.28
	Viva Sol Pina	\$ 27.76	\$ 83.28
	Cherry Pepsi	\$ 25.64	\$ 128.20
	Diet Dr Pepper	\$ 25.64	\$ 128.20
5 gal BIB	Diet Pepsi	\$ 25.64	\$ 128.20
	Dr Pepper	\$ 25.64	\$ 128.20
	Mountain Dew	\$ 25.64	\$ 128.20
	Pepsi	\$ 25.64	\$ 128.20
	Starry	\$ 25.64	\$ 128.20
	Tropicana Lemonade	\$ 25.64	\$ 128.20
	CO2 Tank	\$ 48.45	\$ 48.45
CO2 20#	CO2 Tank	\$ 90.10	\$ 90.10
CO2 50#	CO2 Tank	\$ 50.00	\$ 50.00
CO2 Deposit	CO2 Tank		

Exhibit B

Product	Units	Invoice Cost	Unit Cost
Aquafina 16.9oz 24pk P	24	\$ 7.00	\$ 0.29
Aquafina 1L 15pk P	15	\$ 22.25	\$ 1.48
Aquafina 20oz 24pk P	24	\$ 31.20	\$ 1.30
Aquafina PET Bottles 12oz 8pk P	24	\$ 12.55	\$ 0.52
Bubly 12oz 8pk C	24	\$ 12.30	\$ 0.51
Bundaberg 375ML 6/4pk G	24	\$ 35.00	\$ 1.46
Celsius 12oz 12pk C	12	\$ 21.20	\$ 1.77
Celsius Essentials 16oz 12pk C	12	\$ 22.70	\$ 1.89
CSD Cans 12oz 2/12pk	24	\$ 12.90	\$ 0.54
CSD Cans 12oz 4/6pk	24	\$ 12.90	\$ 0.54
CSD Cans 16oz 12pk	12	\$ 14.85	\$ 1.24
CSD Cans 7.5oz 4/6pk	24	\$ 14.25	\$ 0.59
CSD PET Bottles 12oz 3/8pk	24	\$ 13.80	\$ 0.58
CSD PET Bottles 1L 15pk	15	\$ 27.95	\$ 1.86
CSD PET Bottles 20oz 24pk	24	\$ 33.85	\$ 1.41
CSD PET Bottles 2L 8pk	8	\$ 16.55	\$ 2.07
Dole 10oz 24pk	24	\$ 24.50	\$ 1.02
Dole/Ocean Spray 15.2oz 12pk	12	\$ 16.85	\$ 1.40
Gatorade 12oz 4/6pk	24	\$ 24.70	\$ 1.03
Gatorade 20oz 24pk	24	\$ 33.95	\$ 1.41
Gatorade 24oz 24pk	24	\$ 44.00	\$ 1.83
Gatorade 28oz 15pk	15	\$ 27.00	\$ 1.80
Gatorade Fast Twitch 12oz 1/12 P	12	\$ 23.70	\$ 1.98
Gatorade Gatorlyte 20oz 12pk	12	\$ 26.80	\$ 2.23
Gatorade Protein Bars	12	\$ 24.85	\$ 2.07
Gatorade Zero Protein 16.9oz 12pk	12	\$ 24.45	\$ 2.04
Hog Wash 10oz 12pk	12	\$ 8.65	\$ 0.72
Klarbrunn 1L 15pk	15	\$ 30.25	\$ 2.02

Exhibit B (cont.)

Product	Units	Invoice Cost	Unit Cost
Klarbrunn 20oz	24	\$ 25.90	\$ 1.08
Klarbrunn Bubbl'r 12oz 12pk C	12	\$ 13.60	\$ 1.13
Klarbrunn Ubr Water 23.67oz 24pk	24	\$ 25.00	\$ 1.04
Klarbrunn Vita Ice Bottles 17oz 12pk	12	\$ 8.30	\$ 0.69
Life WTR 1L 12pk	12	\$ 34.85	\$ 2.90
Life WTR 20oz 24pk	24	\$ 42.05	\$ 1.75
Life Wtr 500ML 6pk P	24	\$ 27.65	\$ 1.15
Life WTR 700ML 12pk	12	\$ 21.45	\$ 1.79
Lipton Brisk 1L 15pk	15	\$ 16.95	\$ 1.13
Lipton Pure Leaf 18.5oz 12pk	12	\$ 20.35	\$ 1.70
Lipton Singles 20oz 24pk	24	\$ 33.85	\$ 1.41
Mtn Dew AMP 16oz 12pk C	12	\$ 22.65	\$ 1.89
Mtn Dew Kickstart 16oz 12pk C	12	\$ 12.50	\$ 1.04
Muscle Milk Pro Series 40 14oz 12pk	12	\$ 40.80	\$ 3.40
Muscle Milk 14oz 12pk	12	\$ 35.30	\$ 2.94
Pepsi Nitro 13.65oz 12pk	12	\$ 22.00	\$ 1.83
Propel Fitness Water 1L 12pk	12	\$ 21.25	\$ 1.77
Propel Fitness Water 20oz 12pk	12	\$ 15.20	\$ 1.27
Rockstar 12oz 12pk	12	\$ 23.75	\$ 1.98
Rockstar 16oz 12pk	12	\$ 23.75	\$ 1.98
Schweppes 10oz 4/6pk	24	\$ 19.40	\$ 0.81
Schweppes 1L 15pk	15	\$ 21.40	\$ 1.43
Schweppes 7.5oz 4/6pk	24	\$ 12.85	\$ 0.54
Starbucks DoubleShot 6.5oz 12pk C	12	\$ 29.00	\$ 2.42
Starbucks Energy/Coffee 11oz 4pk C	12	\$ 30.50	\$ 2.54
Starbucks Energy/Coffee 15oz 12pk C	12	\$ 30.50	\$ 2.54
Starbucks Frappuccino 13.7oz 12pk G	12	\$ 31.95	\$ 2.66
Starbucks Iced Espresso 14oz 12pk P	12	\$ 33.00	\$ 2.75
Starbucks Nitro 9.6oz 12pk C	12	\$ 41.95	\$ 3.50

Exhibit C

Hannibal Ball Park
East Hoyt Street
Beatrice, NE 68310

Beatrice Water Park
1219 Scott St
Beatrice, NE 68310