

RESOLUTION NO. R-62-2024

A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS AND CHICKS DIG SCARS, LLC; AUTHORIZING THE EXECUTION OF THE REIMBURSEMENT AGREEMENT PREPONDERANCE STUDY; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Las Vegas in the County of Clark and State of Nevada (the "City") is a political subdivision of the State duly organized and operating as a city under the provisions of Nevada Revised Statutes ("NRS") Chapter 268 and an act entitled "An Act incorporating the City of Las Vegas in Clark County, Nevada, under a charter; defining the boundaries thereof; and providing other matters properly relating thereto," cited as Chapter 517, Statutes of Nevada, 1983, as amended; and

WHEREAS, the Las Vegas City Council is evaluating the creation of a tourism improvement district to be known as the "Arts District Area Tourism Improvement District" (the "District") for the development of property within the jurisdiction of the City as proposed at the July 17, 2024 City Council Meeting, R-39-2024, and further described as parcels adjacent to and generally bounded by Charleston Boulevard to the South, Union Pacific Railroad to the West, Bonneville Avenue and East Gass Avenue to the North, and South Main Street and South 3rd Street to the East; and

WHEREAS, the City selected an independent consultant, C.H. Johnson Consulting, Inc. ("Johnson Consulting") from a list of independent consultants provided by the Commission on Tourism for the purposes of providing a report or reports for the City Council to consider (i) making the findings specified in Subsections 2, 3 and 5 of NRS 271A.080, and (ii) approving the use of monies pursuant to paragraph (a) of Subsection 3 of NRS 360.855; and

WHEREAS, the form of the Reimbursement Agreement between the City and Chicks Dig Scars, LLC (the "Agreement"), attached hereto as **Exhibit A**, setting forth the terms and conditions under which the City shall be reimbursed by Chicks Digs Scars, LLC for the Johnson Consulting costs to prepare the studies to be conducted for the District that will be presented to the City Council for future consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA:

Section 1. Approval of Agreement. The Agreement hereby is approved in substantially the form attached hereto as **Exhibit A**,

Section 2. Delegation of Authority. The Mayor and the City Clerk hereby are authorized to execute the Agreement on behalf of the City and to do all things necessary to take all action necessary to perform and carry out the terms thereof.

Section 3. Ratification. All action taken previously by the Council, its officers and the staff of the City directed toward the Agreement, is hereby ratified, approved, and confirmed.

Section 4. Repealer. All resolutions, bylaws and orders, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution, bylaw or order, or part hereof, heretofore repealed.

Section 5. Severability. If any section, paragraph, clause or provision of this Resolution shall for

any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 6. Effective Date. This Resolution shall be effective and shall be in force immediately upon its adoption.

Section 7. Execution. Upon adoption of this Resolution by the Council, it shall be signed by the Mayor and attested to by the City Clerk.

PASSED, ADOPTED AND APPROVED BY THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA, ON THIS ____ DAY OF _____, 2024.

CITY OF LAS VEGAS

By: _____
Carolyn G. Goodman, Mayor

Date of City Council Approval: _____

Attest:

By: _____
LuAnn D. Holmes, MMC
City Clerk

Approved as to Form: **John S. Ridilla**
Chief Deputy City Attorney

By: John S. Ridilla 10/1/24
Deputy City Attorney Date

Resolution No. R- _____

City Council Meeting Date: _____
Item No. _____

EXHIBIT A

[REFERENCE ATTACHED REIMBURSEMENT AGREEMENT]

**REIMBURSEMENT AGREEMENT
ARTS DISTRICT AREA TOURISM IMPROVEMENT DISTRICT
PREPONDERANCE STUDY**

This REIMBURSEMENT AGREEMENT made and entered into as of the date last signed below (this "Agreement") by and between CHICKS DIG SCARS, LLC, a Nevada limited liability company (the "Company"), and the CITY OF LAS VEGAS, a Nevada municipal corporation (the "City"). Company and City are sometimes collectively referred to herein as the "Parties" and individually as a "Party."

RECITALS:

WHEREAS, the City will enter into an agreement with an independent third-party consultant, C.H. Johnson Consulting, Inc., for the preparation of a preponderance study and related analyses (collectively, the "Study") in regards to designating the area noted in the Exhibit A (the "Site Map"), a portion of which is under the ownership of the Company, as a Nevada Revised Statute Chapter 271A Tourism Improvement District ("TID").

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. REIMBURSEMENT OF PREPONDERANCE STUDY COSTS

The Company agrees to reimburse the City a sum not to exceed EIGHTY SIX THOUSAND THREE HUNDRED AND SEVENTY FIVE DOLLARS (\$86,375.00) for the cost of the Study.

2. REIMBURSEMENT TIMING

The Company shall reimburse the City for all costs stipulated above in Section 1 within thirty (30) calendar days after the Study has been completed, written evaluations have been submitted in total to both the City and the Company, and the appropriate billing/invoice(s) have been received from the consultant conducting the Study. The Company agrees that such reimbursement shall be made notwithstanding the results and/or conclusions of the Study.

3. OBLIGATIONS ABSOLUTE

The obligation of the Company under this Agreement shall be absolute, and shall be performed irrespective of the existence of any claim, setoff, defense or other rights which the Company may otherwise have against the City; provided, however, that nothing contained herein shall act as a waiver of any rights or claims that Company may have against the City.

4. MISCELLANEOUS

A. NOTICE.

Any notice required to be given hereunder shall be deemed to have been given when written notice is (i) received by the Party to whom it is directed by personal service; (ii) three (3) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the Party to be notified at the address for such Party; or (iii) one (1) day after deposit with a nationally recognized air courier service such as FedEx. All notices shall be effective upon receipt by the

Party to which notice is given. Either Party hereto may change its address by giving ten (10) days advance notice to the other Party as provided herein. Phone and fax numbers, if listed, are listed for information only:

If to City: Attn: City Manager
City of Las Vegas
495 S. Main Street, 7th Floor
Las Vegas, NV 89101

and Attn: City Attorney
City of Las Vegas
495 S. Main Street, 6th Floor
Las Vegas, NV 89101

If to Company: Attn: J Dapper
Chicks Dig Scars, LLC
5030 Paradise Road, Suite C-214
Las Vegas, NV 89119

and Attn: Jamie Thalgott
Brownstein Hyatt Farber Schreck, LLP
100 N. City Parkway, Suite 1600
Las Vegas, NV 89106

B. ENTIRE AGREEMENT; SECTION AND PARAGRAPH HEADINGS

This Agreement represents the entire and integrated agreement between the Company and the City. It supersedes all prior and contemporaneous understandings, negotiations, communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. The section and paragraph headings appearing in this Agreement are inserted for the purpose of convenience and ready reference; they do not purport to define, limit, or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

C. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

D. WAIVER

Waiver of any of the terms of this Agreement shall not be valid unless it is in writing signed by each Party. The failure of the either Party to enforce any of the provisions of this Agreement, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Agreement, or to affect the right of a Party to thereafter enforce each and every provision of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of this Agreement.

E. ASSIGNMENT

Except as otherwise contemplated in this Agreement, neither Party may assign their rights nor delegate their duties under this Agreement without the written consent of the other Party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any Party of its obligations under this Agreement.

F. GOVERNING LAW; JURY TRIAL WAIVER

This Agreement shall be governed by and construed in accordance with the laws of Nevada. The Parties shall first attempt to resolve any dispute arising out of or relating to this Agreement shall through good faith negotiations between the Parties. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY, CLAIM OR DISPUTE WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, TO THE FULLEST EXTENT LEGALLY PERMISSIBLE, EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE BREACH, TERMINATION OR VALIDITY OF THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT: (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) IT MAKES THIS WAIVER VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION. EACH PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. THIS SECTION SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT.

G. FORCE MAJEURE

Neither Party hereto shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, epidemic, pandemic, government quarantine restrictions, or acts of God, including without limitations, earthquakes, floods, winds or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse and the excused Party is obligated to perform promptly in accordance with the terms of this Agreement after the intervening cause ceases.

H. SEPARATE PARTIES

The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each Party hereto is and shall be a separate and distinct from the other Party and shall have the right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one Party whatsoever with respect to the indebtedness, liabilities, and obligations of the other Party or any other party.

I. NO THIRD-PARTY BENEFICIARIES

No term or provision of this Agreement is intended to benefit any person, partnership, corporation or other entity not a party hereto (including, without limitation, any broker), and no such other person, partnership, corporation or entity shall have any right or cause of action hereunder.

J. PUBLIC RECORDS/CONFIDENTIALITY

Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The Parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests. Each Party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that Party to the extent that such information is confidential by law or otherwise required by this Agreement.

K. AUTHORITY

The Parties represent and warrant that the person executing this Agreement on behalf of such Party has full power and authority to enter into this Agreement and that each Party is authorized by law to perform the services set forth herein.

L. ENTIRE AGREEMENT/MODIFICATION/AMENDMENT

This Agreement constitutes the entire agreement of the Parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the Parties unless the same is in writing and signed by the respective Parties.

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M. COUNTERPARTS; ELECTRONIC DELIVERY

This Agreement may be executed in multiple counterparts with the same effect as if all Parties had signed the same document. All counterparts so executed shall be deemed to be an original, shall be construed together and shall constitute one Agreement. The Parties agree that this Agreement may be electronically signed, including DocuSign, PDF signature, scan or facsimile, and that any electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility of the Agreement.

[LEFT BLANK INTENTIONALLY; SIGNATURES ON NEXT PAGE]

**REIMBURSEMENT AGREEMENT
PREPONDERANCE STUDY**

Signature Page

IN WITNESS WHEREOF, the parties have executed this Agreement as a as of the day and year last written below.

CHICKS DIG SCARS, LLC

By: _____

Date: _____

Printed Name: _____

Title: _____

CITY OF LAS VEGAS

By: _____

Printed Name: Carolyn G. Goodman

Title: Mayor

Date of City Council Approval: _____

Attest:

By: _____

Printed Name: Dr. LuAnn D. Holmes, MMC

Title: City Clerk

Approved as to Form:

By: John S. Ridilla 10/1/24

Date: _____

Printed Name: John S. Ridilla

Title: Assistant City Attorney



City Council Meeting Date: _____

Item No. _____

EXHIBIT A

SITE MAP
ARTS DISTRICT AREA TOURISM IMPROVEMENT DISTRICT
[BOUNDARY IS SHOWN IN YELLOW BELOW]

