

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 1, 2010 AGENDA**

Subject:	Type:	Submitted By:
AMEND LOTTERY OPERATOR AGREEMENT – HOURS OF OPERATION	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAMELA A. BUETHE CITY CLERK

SYNOPSIS

A resolution has been prepared to amend the Lottery Operator Agreement to allow the extension of hours of operation on any day beyond 1:00 a.m. to any time between 1:00 a.m. and 2 a.m.

FISCAL IMPACT

None.

RECOMMENDATION

Approval

BACKGROUND

Currently the Lottery Operator Agreement allows the hours of operation seven days a week until 1:00 a.m. This amendment would authorize the contractor extend hours of operation on any day beyond 1:00 a.m. to any time between 1:00 a.m. and 2:00 a.m. provided such change of closing time shall be subject to prior approval of the City Administrator.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN AMENDMENT TO THE LOTTERY OPERATOR AGREEMENT.

WHEREAS, the Nebraska State Legislature has recently passed legislation allowing the hours of sale for serving alcohol on the premises of a licensed establishment from 1:00 a.m. to 2:00 a.m.; and

WHEREAS, an amendment to the Lottery Operator Agreement has been prepared to allow the Contractor to extend hours of operation on any day beyond 1:00 a.m. to any time between 1:00 a.m. and 2:00 a.m. subject to prior approval of the City Administrator

WHEREAS, the City of La Vista has amended City Code Section 114.46 to change the hours of sale of liquor on the premises of a licensed establishment.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the amendment to the Lottery Operator Agreement dated August 8, 2008 is hereby approved and the Mayor and City Clerk are hereby authorized to execute said agreement on behalf of the City of La Vista.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of La Vista Nebraska that this amendment will go into effect on the same date as the ordinance allowing extended bar hours which will be July 15, 2010 or 15 days after passage of the ordinance whichever is last.

PASSED AND APPROVED THIS _____ DAY OF ____ 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk

**LOTTERY OPERATOR AGREEMENT
AMENDMENT NO. 1**

THIS AMENDMENT NO. 1 TO LOTTERY OPERATOR AGREEMENT is made and entered into this ____ day of _____, 2010, by and between La Vista Keno, Inc., a Nebraska corporation (hereinafter referred to as "Contractor") and the CITY OF LA VISTA, Sarpy County, Nebraska, a municipal corporation (hereinafter referred to as "City").

R E C I T A L S:

WHEREAS, a majority of the vote by the registered voters of the City of La Vista was cast in favor of authorizing the establishment of a municipal lottery in 1989; and

WHEREAS, the Mayor and City Council established a keno-type lottery and awarded successive contracts to operate said lottery, the current of which is the Lottery Operator Agreement between City and Contractor dated _____ ("Lottery Operator Agreement" or "Agreement"); and

WHEREAS, the Mayor and City Council of the City of La Vista and Contractor desire to amend said Lottery Operator Agreement to allow expanded hours of operation between 1 a.m. and 2 a.m.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge and agree, the parties hereto agree as follows:

I. Paragraph 8 of the Lottery Operator Agreement is hereby deleted and replaced in its entirety with the following:

"8. Hours of Operation. The Contractor shall operate the lottery only on the days and during the times set forth below:

Seven days per week from 9:00 a.m. to 1:00 a.m., with the following exceptions:

Closing will be 6:00 p.m. on Christmas Eve

Opening will be 6:00 p.m. on Christmas Day and Thanksgiving Day

Opening at 7:00 a.m. on Saturdays and Sundays

Any reduction in hours of operation requires City approval.

Notwithstanding anything in this Paragraph 8 to the contrary, Contractor shall be authorized to extend hours of operation on any day beyond 1:00 a.m. to any time between 1:00 a.m. and 2:00 a.m., and thereafter to periodically adjust closing time between 1:00 a.m. and 2:00 a.m.; provided, however, that any such change of closing time shall be subject to prior approval of the City Administrator."

II. Except as expressly modified herein, the Lottery Operator Agreement shall continue and remain in full force and effect in accordance with the terms and conditions set forth therein.

IN WITNESS WHEREOF, the Contractor and the City have executed this Amendment No. 1 on the date first written above.

ATTEST:

La Vista Keno, Inc., a Nebraska
corporation

Witness

By _____

Richard T. Bellino, President

ATTEST:

CITY OF LA VISTA, NEBRASKA, a Municipal
Corporation

City Clerk

By _____

Mayor

GUARANTY

By signing below, I, Richard T. Bellino, hereby personally guaranty full performance and all debts and obligations of La Vista Keno, Inc. ("Contractor") arising out of or resulting from the Lottery Operator Agreement between Contractor and the City of La Vista ("City"), as modified by Amendment No. 1 above; and I agree to hold the City harmless from, and indemnify it against, any and all claims, liabilities, losses, suits, judgments and expenses whatsoever (including, but not limited to, attorneys fees and court costs) arising out of or resulting from any breach, negligence, act or omission of, arising out of or resulting from said Agreement.

DATED this _____ day of _____, 2010.

Richard T. Bellino, Guarantor