

Date .....

RESOLUTION APPROVING THE NEGOTIATED SETTLEMENT  
 AGREEMENT BETWEEN  
 THE CITY OF DES MOINES AND KARTAR, LLC d/b/a UNIVERSITY GROCERIES

WHEREAS, On October 15, 2010 the City of Des Moines filed a complaint against Kartar, LLC d/b/a University Groceries with the Alcoholic Beverages Division of the Iowa Department of Commerce for allegations concerning criminal activity occurring on the University Grocery property located at 2121 University Ave.; and

WHEREAS, the City and University Grocery, through counsel, have negotiated the attached settlement agreement subject to Council approval and then approval of the State Alcoholic Beverages Division administrator; and

WHEREAS, approval of the negotiated settlement agreement is in the best interest of the City of Des Moines;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

The attached negotiated settlement agreement is hereby approved and the legal department is authorized to execute and file the agreement with the Iowa Department of Commerce Alcoholic Beverages Division for approval by its administrator.

MOVED BY \_\_\_\_\_ TO ADOPT.

FORM APPROVED:

\_\_\_\_\_  
 Douglas P. Philip  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED  
 \_\_\_\_\_ Mayor

\_\_\_\_\_ City Clerk

Date \_\_\_\_\_

Agenda Item 61

Roll Call # \_\_\_\_\_

STATE OF IOWA  
BEFORE THE IOWA DEPARTMENT OF COMMERCE  
ALCOHOLIC BEVERAGES DIVISION

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In re:	)	
	)	Docket No. S-2010-00023
Kartar, LLC	)	
d/b/a University Groceries	)	Negotiated Settlement
2121 University Avenue	)	Agreement
Des Moines, IA 50314	)	
	)	
License No. LE-1570	)	

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The City of Des Moines and licensee hereby enter into the following negotiated settlement agreement, subject to the approval of the Iowa Alcoholic Beverages Division.

1. Iowa Code §123.39 permits the Administrator of the Alcoholic Beverages Division to suspend or revoke a liquor control license of any licensee who violates any of the provisions of chapter 123.
2. Iowa Administrative Rule 185-4.8(123) states that the violation of the Act (Iowa Code Chapter 123) by any employee, agent, or servant of a licensee shall be deemed to be the act of the licensee or permittee and shall subject the license to suspension or revocation.
3. Iowa Code section 123.49(2)(j) provides that a person shall not knowingly permit or engage in any criminal activity on the licensed premises covered by a liquor license. "Premises" as used in this section includes parking lots and areas adjacent to the premises of a liquor licensee and used by patrons of the liquor licensee.

4. Des Moines Municipal Code section 70-31 provides that it is unlawful for three or more persons to assemble together for the purpose of or with the intent to injure or use unlawful force or violence against any person or property of individuals including disturbing the peace and quiet among other things.

5. It has been alleged among other things that on October 14, 2010 at approximately 10:11 P.M. employees or the owner of University Groceries violated section 70-31 in allowing a disorderly assembly at 2121 University on October 14, 2010 at approximately 10:11 P.M. which resulted in the death of a citizen. This agreement is to settle this contested case and licensee does not admit to any of the allegations by entering this agreement but wishes to resolve all issues concerning the complaint.

6. In order to resolve the complaint by settlement the licensee agrees to take the following management measures:

- a) Disallow consumption of alcoholic beverages anywhere on the grocery store property or the neighboring laundromat property or in the parking lots adjacent thereto; and,
- b) Keep the parking lot free of people who loiter, trespass, or remain in the parking lot after shopping inside the store or who just stop by to hang out; and
- c) Enforce trespassing against those who don't follow the rules outlined in a) and b) above by requesting them to leave and calling police if they don't leave immediately; and
- d) Hereby grant to the police department the authority to enforce the trespass law on persons, either in the grocery store lot or the adjacent laundromat property, who are

present after close of business of both the grocery store and the laundromat. Licensee will sign the attached trespass letter and will otherwise assist with the prosecution of trespassers upon request by police. Licensee also agrees that police may assist with enforcement of loitering and trespassing on the grocery or laundromat properties at any time.

e) Hire licensed private security personnel from the hours of 7 p.m. to close of business to enforce the rules outlined in a), b) and c) above on Thursday, Friday, and Saturday nights, and will in good faith work to resolve problems which may occur during times security is not present including calling police for immediate assistance and meeting with police if necessary for assistance in dealing with these issues.

f) Licensee has joined the neighborhood association and agrees to be a good neighbor and will work on any neighborhood issue with his neighborhood association and attend their meetings.

g) Upon completion of the expansion of University Groceries, additional lighting will be added to the side of the licensed premise.

7. Licensee and the City of Des Moines agree to suspend and lift the current emergency suspension order for a period of 24 months from the day of approval of this agreement subject to Licensee fulfilling the management measures stated in paragraph 6 (six) of this agreement. The City of Des Moines will file for reinstatement of the emergency suspension order and request a new date for hearing within the 24 month period if the management measures are not fulfilled

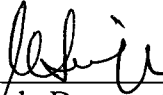
and will request dismissal of the case upon satisfactory fulfillment of the management measures at the end of the 24 month period.

8. The City will place the renewal of the liquor license on the November 8, 2010 council agenda.

9. Therefore, it is requested that the order accepting this agreement continue this case pending Licensee's satisfactory completion of the 24 month period.

10. Licensee acknowledges its right to hearing under Iowa Code § 123.39, but hereby waives that right to hearing and any right to appeal except these rights are preserved in the event that this case is not dismissed and is set for hearing pursuant to the terms set out in paragraph 7 above.

Iowa Code § 17A.10 (2009).


  
\_\_\_\_\_  
Harmala Dassan, Owner  
Kartar LLC

11/3/10  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Douglas P. Philip  
Assistant City Attorney  
City of Des Moines, Iowa

\_\_\_\_\_  
Date

Approved by:

  
\_\_\_\_\_  
Alfredo Parrish  
Attorney for Licensee

November 3, 2010  
\_\_\_\_\_  
Date

Copies to:

Doug Philip  
25 E. 1<sup>st</sup> Street  
Des Moines, Iowa 50309

Alfredo Parrish  
2910 Grand Ave.  
Des Moines, IA 50312

Date:

Judy Bradshaw  
Chief of Police  
Des Moines Police Department  
25 East First Street  
Des Moines, IA 50309

RE: Trespass

Dear Chief Bradshaw:

This letter is to advise you that I have posted my property located at 2121 University Ave. DM. Des Moines, with a sign prohibiting trespassing. Accordingly, if anyone is found on such premises during or after business hours, who is not actively engaged in or associated with productive activities or duties related to this property as requested or required by myself, it is without my permission.

I hereby request the assistance of the Des Moines Police Department, in first advising and then, if necessary, arresting and charging those persons for trespassing on my property.



POLICE DEPARTMENT  
VICE/NARCOTICS  
CONTROL SECTION  
25 EAST FIRST STREET  
DES MOINES, IOWA 50309  
(515) 283-4830

ALL-AMERICA CITY 1849, 1976, 1991

University Grocers'  
Business Name

[Signature]  
Owner's Signature

2121 University Ave.  
Owner's Address

Des Moines IA 50311  
City, State, Zip

515-288-2210  
Telephone (work & home)

11/3/10  
Date Signed