



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 22Ordinance/Resolution# 17-062For Meeting of _____
(Ordinance First Reading Date)For Meeting of October 3, 2016
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 0043, WITH ON PREMISE CONSUMPTION ONLY, TO INTEGRATED CONSTRUCTION SERVICES2, LLC D/B/A K-BOB'S STEAKHOUSE, LOCATED AT 1660 SOUTH VALLEY DRIVE, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION:

To approve or disapprove a liquor license transfer.

COUNCIL DISTRICT: 4		
<u>Drafter/Staff Contact:</u> Monica Campbell	<u>Department/Section:</u> Legal/City Attorney	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to state law, an application for the transfer of location of a liquor license must be accompanied by a resolution of the Las Cruces City Council approving of and consenting to the transfer after a public hearing.

Integrated Construction Services2, LLC d/b/a K-Bob's Steakhouse, applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a transfer of ownership and location, with on premise consumption only, of Liquor License No. 0043. Alcohol and Gaming granted preliminary approval of the license transfer by letter dated August 12, 2016.

The City Council is required to hold a public hearing within 45 days of receipt of the preliminary approval from Alcohol and Gaming. A public hearing to review this issue is scheduled for Monday, October 3, 2016, as part of the regular City Council meeting which begins at 1:00 p.m. in the City Council Chambers at City Hall, 700 North Main Street, Las Cruces, New Mexico. Notice of this public hearing was published in the *Las Cruces Bulletin* on September 2 and 9, 2016.

(Continue on additional sheets as required)

The City Council may approve or disapprove the transfer. However, the City Council's disapproval must be based on substantial evidence that the transfer of location of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces. The City Council may also fail to either approve or disapprove the license. If the City Council fails to approve or disapprove the license within 30 days after the public hearing, the Director of Alcohol and Gaming may give final approval to the transfer of the license.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Alcohol and Gaming's letter and the application.
3. Attachment "1", Notice of Intent to Adopt published in the *Las Cruces Bulletin*.
4. Attachment "2", Traffic Impact Report from the Traffic Engineering Section.
5. Attachment "3", Liquor License Impact Report (zoning) from Development Services.
6. Attachment "4", Business Registration Report from Development Services.
7. Attachment "5", Criminal Activity Report from the Las Cruces Police Department.
8. Attachment "6", Fire Safety Compliance Report from the Las Cruces Fire Department.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____.
	<input type="checkbox"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>1000-15315000-511300</u> in the amount of <u>\$600.00</u> for <u>FY17</u> .
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the transfer of ownership and location of Liquor License No. 0043 with on premise consumption only and Alcohol and Gaming will continue with the application process.
2. Vote "No"; this must be based on substantial evidence that the transfer of ownership and location of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.
3. Vote to "Amend"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.
4. Vote to "Table"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of October 3, 2016
(Adoption Date)

TITLE: A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 0043, WITH ON PREMISE CONSUMPTION ONLY, TO INTEGRATED CONSTRUCTION SERVICES2, LLC D/B/A K-BOB'S STEAKHOUSE, LOCATED AT 1660 SOUTH VALLEY DRIVE, LAS CRUCES, NEW MEXICO.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Monica Campbell</i>	541-2128	9-1-2016
Department Director	<i>[Signature]</i>	541-2128	1 Sept 2016
Other			
Assistant City Manager /CAO	<i>Audrey Macguigan</i>	541-2100	9/6/16
Management & Budget Manager	<i>[Signature]</i>	541-2107	9/1/16
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	9/9/16
City Attorney	<i>[Signature]</i>	541-2128	1 Sept 2016
City Clerk	<i>[Signature]</i>	541-2115	9-23-16

RESOLUTION NO. 17-062

A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 0043, WITH ON PREMISE CONSUMPTION ONLY, TO INTEGRATED CONSTRUCTION SERVICES2, LLC D/B/A K-BOB'S STEAKHOUSE, LOCATED AT 1660 SOUTH VALLEY DRIVE, LAS CRUCES, NEW MEXICO.

The City Council is informed that:

WHEREAS, Integrated Construction Services2, LLC d/b/a K-Bob's Steakhouse applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for a transfer of ownership and location of Liquor License No. 0043, with on premise consumption only, to 1660 South Valley Drive, Las Cruces, New Mexico; and

WHEREAS, Alcohol and Gaming granted preliminary approval for the transfer of ownership and location of the license; and

WHEREAS, pursuant to law, an application for the transfer of ownership and location of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the transfer after a public hearing upon reasonable notice of such hearing; and

WHEREAS, the City Council did on this date hold a public hearing after reasonable notice. The City Council has considered the transfer of ownership and location of the liquor license and it has determined that approval of said license is not detrimental to the public health, safety or welfare of the citizens of the City of Las Cruces.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the transfer of ownership and location of Liquor License No. 0043, with on

premise consumption only, to Integrated Construction Services2, LLC d/b/a K-Bob's Steakhouse, located at 1660 South Valley Drive, Las Cruces, New Mexico, as evidenced by Exhibit "A" attached hereto, is hereby approved.

(II)

THAT a copy of this resolution shall be conveyed to the Director of the Alcohol and Gaming Division of the Regulation and Licensing Department, Post Office Box 25101, Santa Fe, New Mexico 87504-5101.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED on this _____ day of _____, 20__.

APPROVED:

ATTEST:

Mayor

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Gandara: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Eakman: _____

Councillor Sorg: _____

Councillor Levatino: _____

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be 'W. B. G.', written over a horizontal line.

City Attorney

399



New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION

Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87504
PO Box 25101, Santa Fe, NM 87504-5101
(505) 476-4875 ▪ Fax (505) 476-4595 ▪ www.rld.state.nm.us

Susana Martinez
GOVERNOR

Robert "Mike" Unthank
SUPERINTENDENT

David Jablonski
DEPUTY
SUPERINTENDENT

Claudia Armijo
DEPUTY GENERAL
COUNSEL

Mary Kay Root
DIRECTOR

August 12, 2016

Certified Mail No.: 9171 9690 0935 0078 2658 27

City of Las Cruces
Esther Martinez, City Clerk
P.O. Box 20000
Las Cruces, NM 88004-0000

Re: License / Appl. No.: **License No. 0043 /Application No. 1009391**
Applicant Name: **Integrated Construction Services2, LLC**
Doing Business As: **K-Bob's Steakhouse**
Proposed Location: **1660 S. Valley Drive**
Las Cruces, New Mexico 88005

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses.

Greetings:

The Director of the Alcohol and Gaming Division has reviewed the referenced Application and granted **Preliminary Approval**. It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

While the law states that "within forty-five (45) days after receipt of a Notice from the Alcohol and Gaming Division, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer", we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement. Should the Local Governing Body be unable to meet one of these requirements, please send a Request for Waiver/Extension by email to the assigned AGD Hearing Officer listed on page 2.

Notice of the Public Hearing required by the Liquor Control Act **shall be given by the governing body by publishing a notice** of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications must occur before a hearing can be conducted.** The notice shall include:

- (A) Name and address of the Applicant/Licensee;
- (B) The action proposed to be taken by the Alcohol & Gaming Division;
- (C) The location of the licensed premises.

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

THE APPLICANT IS SEEKING A TRANSFER OF OWNERSHIP AND LOCATION OF LIQUOR LICENSE NO. 0043 WITH ON PREMISE CONSUMPTION ONLY.

Within thirty (30) days after the Public Hearing, the governing body shall notify the Alcohol and Gaming Division of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to the Alcohol and Gaming Division with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Sincerely,



Rose L. Garcia
Hearing Officer
NM Regulation & Licensing Dept.
Alcohol & Gaming Division
Phone: 505-476-4552
Fax: 505-476-4595
Email: rosel.garcia@state.nm.us

Enclosures:

1. Original Page 1 of the Application (must be signed and returned).
2. Copy of Page 2 of the Application.
3. Zoning Statement (only if transfer of location)



PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION
NMSA §60-6B-10

1. The land and building which is proposed to be the licensed premises is: (check one)

- Owned by Applicant, copy of deed/document attached
- Leased by Applicant, copy of lease/document attached
- Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

- A. Owner(s): Mesilla Valley Business Park, LLC
- B. Date and Term of Lease: April 16, 2013. 186 months + 2 consecutive 5 year renewal options.

3. Premises location is Zoned (example C-1, see Zoning Statement): C-2 Commercial Medium Intensity
 Zoning Statement attached, which must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. Distance* from nearest Church: (Property line of church to closest point of licensed premises—shortest distance)
 Name of Church: Heart For The World Church Miles/feet: 440 ft.
 Address/location of Church: 1605 S. Valley Drive, Las Cruces, NM 88005

5. Distance* from nearest School: (Property line of school to closest point of licensed premises—shortest distance)
 Name of School: Las Cruces High School Miles/feet: 3,400 Ft
 Address/location of School: 1755 El Paseo Rd., Las Cruces, NM 88005

6. Distance from military installation *(Property line of military installation to closest point of licensed premises—shortest distance.)
 Name of Military Installation, ^{circle one} Kirtland Air Force Base (Albuquerque), White Sands Missile Range (Las Cruces), Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis) 90 miles

7. Attach Detailed Floor Plan, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

8. Type of Operation: Hotel Lounge Package Grocery Restaurant Racetrack
 Small Brewer Craft Distiller Winery Wholesaler
 Other (specify): _____

*NOTE: If the distance is beyond 300 feet, but less than 400 feet, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.


STATEMENT OF ZONING

The property located at 1660 S. Valley Dr., and having Map Code Numbers or Parcel ID Numbers of 02-29440, in Las Cruces, New Mexico, is zoned as follows:

C-2 (Commercial Medium Intensity)

Comments: The C-2 district facilitates and encourages development of those uses which provide retail and service activities as a convenience to adjacent neighborhoods and whose use generally serves a population of 5,000 to 30,000. Food and beverage establishments with a dispenser's liquor license are permitted uses within this zoning district, providing that all requirements prescribed for liquor establishments by the State of New Mexico are met.

The above described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

June 22, 2016
Date

Lorenzo Vigil
Planning Technician, Sr.

Please be advised that the information presented on this document is taken from the City of Las Cruces Zoning Atlas. Nothing shall prevent the City of Las Cruces from amending this information if review of the Zoning Ordinance shows the Atlas to be in error.

RECEIVED

JUN 28 2016

ALCOHOL & GAMING DIVISION



AD FORM
LAS CRUCES BULLETIN
LEGAL CLASSIFIED

City contact: Monica Campbell; 541-2014 / 541-2128

Account No.: 977669 City Clerk, PO Box 20000, Las Cruces, NM 88004

Dates to Publish: September 2 and 9, 2016

Copy to publish:

NOTICE OF INTENT TO ADOPT

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of the transfer of ownership and location of Liquor License No. 0043, with on premise consumption only, to Integrated Construction Services2, LLC d/b/a K-Bob's Steakhouse, located at 1660 South Valley Drive, Las Cruces, New Mexico.

The Public Hearing will be held in conjunction with the regular meeting of the Las Cruces City Council scheduled for Monday, October 3, 2016, at 1:00 p.m. in the City Council Chambers, 700 North Main Street, City Hall. If passed, the State of New Mexico Regulation & Licensing Department may approve the transfer.

Witness my hand and seal of the City of Las Cruces on this the 25 day of August 2016.


Linda Lewis, CMC, City Clerk



MEMORANDUM

To: William "Rusty" Barbington, City Attorney

From: SooGyu Lee, P.E., Traffic Operations Engineer **Initials:** SL

Date: August 31, 2016 **File #:** STO-17-020

Subject: Traffic Investigation Report – Liquor License Application
1660 S. Valley Dr. – K-Bob's Steakhouse

As requested, Traffic Engineering has completed a traffic investigation for K-Bob's Steakhouse located at 1660 S. Valley Drive in Las Cruces, New Mexico. The following information is submitted for review:

- K-Bob's Steakhouse is located within a business park along S. Valley Drive. According to the Mesilla Valley MPO 2015 Traffic Flow Map, the most recent traffic volume on S. Valley Drive near this location is approximately 16,300 vehicles per day.
- The Mesilla Valley MPO classifies S. Valley Drive as a principal arterial near the subject location. S. Valley Drive primarily serves commercial and institutional uses near the property.
- The subject property is accessed from a private road network that serves the business park. Direct access to K-Bob's Steakhouse from a public road does not exist. The business park can be accessed from S. Valley Drive and Hickory Drive. No sight distance or operational problems are currently known at the access points.
- The speed limit along Valley Drive is 40 mph near the subject property.

The approval of a Liquor License Application at this location does not appear to adversely impact traffic operations along this roadway segment. Feel free to contact me at 575-541-2566 if additional information is needed.



TRANSPORTATION DEPARTMENT

AN EQUAL OPPORTUNITY EMPLOYER

**MEMORANDUM**

To: Rusty Babington, City Attorney
From: Lorenzo Vigil, Senior Planning Tech *LV*
Date: August 30, 2016 **File #:** M-16-201
Subject: Liquor License Impact Report, K-Bob's Steakhouse

Development Services staff has reviewed the request for a transfer of ownership of Liquor License No. 0043/Application No. 1009391 for Integrated Construction Services2 LLC, d/b/a/ K-Bob's Steakhouse at 1660 S. Valley Drive. Because this license is a transfer of ownership request and no actual change in the operation/activities at this location will occur, staff recommends approval of the request.

cc: Katherine Harrison-Rogers, Acting B&DS Administrator *KHR*
Robert Kyle, Acting Deputy Director *RK*



BUSINESS REGISTRATION REPORT – K-BOB’S STEAKHOUSE

From: Christina Abeyta
Subject: RE: License report request

1660 Valley – both the liquor license and the business registration for K-Bob’s Steakhouse are past due, the past due balance to become current is \$295.00.

Christina Abeyta

Permit Technician/Community Development/Permits and inspections
Direct: 575-528-3063 Main: 575-528-3059, cabeyta@las-cruces.org



From: Monica Campbell
Sent: Monday, August 22, 2016 1:36 PM
To: Lorenzo Vigil <lvigil@las-cruces.org>; Permitting Development Technicians <PermittingDevelopmentTechnicians@las-cruces.org>
Cc: Katherine H. Rogers <krogers@las-cruces.org>
Subject: License reports requests x 2

Attached are preliminary approval letters from Alcohol and Gaming for:

1. K-Bob’s Steakhouse, 1660 S. Valley Drive.
2. RM Beverage, 334 S. Main St.

Please review the letters and provide reports for 1) zoning and 2) business registration for each location.

The reports are due to the City Attorney on or before September 1, 2016. Each will be submitted for the October 3, 2016 City Council Meeting.

Monica Campbell

Office Manager Senior/City Attorney’s Office/Legal Department
Direct: 575-541-2014 Main: 575-541-2128, mcampbell@las-cruces.org





MEMORANDUM

To: Rusty Babington, City Attorney

From: Maria Elena Sanchez, Executive Assistant **Initials:** 

Date: August 23, 2016 **File #:**

Subject: K-Bob's Steakhouse

I have reviewed all available statistical information obtained from the Las Cruces Police Department in reference to the attached liquor license application for K-Bob's Steakhouse located at 1660 S. Valley Drive, Las Cruces, New Mexico 88005.

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for K-Bob's be approved.

cc: Jaime Montoya, Chief of Police
cc:

Initials:  
Initials:



FIRE SAFETY COMPLIANCE REPORT – K-BOB’S STEAKHOUSE

From: Chris Mount
Subject: RE: Liquor license report requests x 2

K-Bob’s is in compliance.

From: Monica Campbell
Sent: Monday, August 22, 2016 1:36 PM
To: Eric Enriquez <eenriquez@las-cruces.org>; Ted Sweetser <TSweetser@las-cruces.org>; Chris Mount <cmount@las-cruces.org>
Cc: Mary Helen Sarabia <MaryS@las-cruces.org>
Subject: Liquor license report requests x 2

Attached are preliminary approval letters from Alcohol and Gaming for:

1. K-Bob’s Steakhouse, 1660 S. Valley Drive.
2. RM Beverage, 334 S. Main St.

Please review the letters and provide a fire safety compliance report for each location.

The reports are due to the City Attorney on or before September 1, 2016. Each will be submitted for the October 3, 2016 City Council Meeting.

Monica Campbell

Office Manager Senior/City Attorney’s Office/Legal Department

Direct: 575-541-2014 Main: 575-541-2128, mcampbell@las-cruces.org

