CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: May 15, 2017

ITEM: Motion – Approval of Orders and Affirmative Defenses for violations of alcohol laws

FINANCIAL IMPACT: $2,500.00 (positive impact to City)

BACKGROUND:

Pursuant to state law, a municipality is entitled to assess a $500.00 fine for a first violation against alcohol permittees who have been found in violation of providing alcoholic beverages to persons under 21 years of age at their respective places of business. Failure to pay the civil penalty as ordered shall result in automatic suspension of the license or permit for a period of 14 days.

On or about the date referenced on attached Exhibit "A", employees of the permittees, also referenced on Exhibit "A", were cited for providing alcoholic beverages to persons under 21 years of age. On or about April 21, 2017, the City of West Des Moines Legal Department sent notice of the violations to the permittees. Since that time, said permittees acknowledged respective orders and settlement agreement and returned payment of fines for each of its alcohol violations.

In two cases, the employee cited for providing alcohol to a minor was either TIPs or IPACT trained, allowing the permittee to invoke an affirmative defense resulting with the civil penalty being waived (once every four (4) years). In one case, the civil penalty is being waived due to the business closed.

OUTSTANDING ISSUES (if any): None.

RECOMMENDATION:

It is recommended that the City Council approve the Orders and accept payment of fines regarding the alcohol violations of the permittees as referenced on the attached Exhibit "A".

Lead Staff Member: **Jason B. Wittgraf, Assistant City Attorney** JBW

STAFF REVIEWS

Department Director	Richard J. Scieszinski, City Attorney
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation			

EXHIBIT "A"

Licensee	D/B/A	Date of Violation	#Violation
Blue Tomato Inc.	Blue Tomato Kitchen 860 1st Street	10/14/16	1st (minors) Civil Penalty Waived due to Business Closed
Chipotle Mexican Grill of Colorado	Chipotle Mexican Grill 490 South 68th Street, Suite 110	10/14/16	1st (minors)
Costco Wholesale Corporation	Costco Wholesale #788 7205 Mills Civic Parkway	10/14/16	1st (minors)
LVP FFI Des Moines Holding Corp	Fairfield Inn West Des Moines 7225 Vista Drive	10/14/16	1st (minors) Civil Penalty Waived due to IPACT Trained / Affirmative Defense
The Noodle Shop, Co. - Delaware, Inc.	Noodles & Company 6630 Mills Civic Parkway, Suite 6110	10/14/16	1st (minors) Civil Penalty Waived due to IPACT Trained / Affirmative Defense
Samurai Sushi & Hibachi Restaurant, Inc.	Samurai Sushi & Hibachi Restaurant 7125 Mills Civic Parkway, Suite 110	10/14/16	1st (minors)
Scissors & Scotch Iowa, LLC	Scissors & Scotch 440 S 68th Street, Suite 105	10/14/16	1st (minors)
BL Restaurant Operations LLC	Bar Louie 7105 Mills Civic Parkway	12/15/16	1st (minors)