



Text File

Introduced: 10/14/2016

Bill No: 2016-0866, Version: 1

Committee: Committee on Intergovernmental  
Affairs

Status: Passed Finally

Resolution amending Resolution 404/2015, entitled, "Resolution authorizing the approval of an inter-municipal transfer of restaurant liquor license, License No. R-12467, LID-60311 from Damon's International, Inc., 4070-4072 William Penn Hwy., Monroeville, PA 15146-2685 to the Applicant, Mixtape, LLC. 4907 Penn Avenue, Pittsburgh, PA 15224 for the premises located at 4907 Penn Avenue, Pittsburgh, PA 15224, restaurant known as "Mixtape" pursuant to amended Pennsylvania Liquor Code, §4-461," so as to amend Section 5. Memorandum of Understanding between Mixtape LLC and the Bloomfield Garfield Corporation to extend the hours of operation.

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1. That Resolution No. 404 of 2015**, entitled, "Resolution authorizing the approval of an inter-municipal transfer of restaurant liquor license, License No. R-12467, LID-60311 from Damon's International, Inc., 4070-4072 William Penn Hwy., Monroeville, PA 15146-2685 to the Applicant, Mixtape, LLC. 4907 Penn Avenue, Pittsburgh, PA 15224 for the premises located at 4907 Penn Avenue, Pittsburgh, PA 15224, restaurant known as "Mixtape" pursuant to amended Pennsylvania Liquor Code, §4-461," **is hereby amended at Section 5 to extend the hours of operation, as follows:**

"SECTION 5. Memorandum of Understanding between Mixtape LLC and the Bloomfield Garfield Corporation.

Katie Molchan and Elaina Holko, individually, and Mixtape LLC (hereinafter "Mixtape"), 4907 Penn Avenue, Pittsburgh, PA 15224, and Bloomfield-Garfield Corporation, 5149 Penn Avenue, Pittsburgh, PA 15224 (hereinafter "BGC").

WHEREAS, the Board of Directors of the BGC has given its tentative support to Mixtape in Mixtape's efforts to open an entertainment lounge in a facility situated at 4907 Penn Avenue in the city of Pittsburgh, Commonwealth of Pennsylvania, (hereinafter "the Lounge") subject to the execution of this Memorandum of Understanding (hereinafter "MOU") between the parties, setting forth the terms and conditions required by the BGC for its support and which the BGC believes will contribute to the successful operation of the Lounge,

THEREFORE, intending to be bound legally hereby and pledging their good faith to one another in upholding their mutual obligations, the parties hereto agree to the following terms and conditions governing the operation of the Lounge by Mixtape:

Mixtape avers that the Lounge will be open and operating primarily in the evenings for the benefit of guests or patrons over the age of 21. Its hours of operation, Sunday morning through Tuesday evening, will be from

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10:00 a.m. to ~~11:00 p.m.~~ **12:00 a.m.**, Wednesday and Thursday evening from 7:00p.m. to ~~11:00 p.m.~~ **12:00 a.m.**, Friday evening from 7:00 p.m. to ~~1:00 a.m.~~ **2:00 a.m.**, and Saturday evening from 5:00p.m. to ~~1:00 a.m.~~ **2:00 a.m.**. Mixtape acknowledges that the hours of operation as set forth in this paragraph will remain as defined herein, with any changes to be the subject of discussion and negotiation between BGC and Mixtape.

Mixtape will regulate the consumption of alcoholic beverages by any person or persons occupying the premises at 4907 Penn Avenue so as to honor and observe any applicable state or municipal laws, regulations or ordinances pertaining to same. Any instances where Mixtape, or any other person or persons authorized to utilize the Lounge, has been found to violate any such laws, regulations, or ordinances in a willful manner will be deemed by BGC to be a default by Mixtape under the terms of this MOU.

Mixtape will endeavor to minimize the emission of noise from inside or in front of the premises so as to not disturb the peaceful, quiet enjoyment of neighbors living or working in close proximity to the premises. "In close proximity" is defined within this MOU to mean neighbors living or working within two hundred (200) feet of the front door leading into the premises. Any such disruptions, which are found to occur on a regular basis because of noise deemed to be excessive by the City of Pittsburgh, based on its applicable ordinances, shall be considered by BGC to be a condition of default by Mixtape under the terms of this MOU.

Mixtape acknowledges it will strive not to allow the premises to appear abandoned or vacant between Monday and Friday, and will endeavor to open the space on weekdays for various types of special events. Under no circumstances will Mixtape permit the consumption of alcoholic beverages freely by persons occupying the premises between the hours of 9 AM and 5 PM, Monday through Friday ("Weekday Hours"), unless such consumption occurs as part of a special event at the premises organized and sponsored by Mixtape, or by a person or persons authorized by Mixtape to hold same.

Mixtape hereby agrees that it will not allow the Lounge to operate as a sports bar. "Sports bar" shall be defined within the terms of this MOU to mean operation of the Lounge so as to permit guests or patrons of Mixtape or of any lessee utilizing the premises, to freely consume alcoholic beverages while engaged solely in the watching of televised events involving college or professional sports teams.

Mixtape hereby agrees that it will establish rules and regulations governing the number and behavior of persons permitted to occupy, or stand in front of, the premises at any given hour of the day or night. Such regulations as Mixtape may devise shall be intended to protect the neighbors living or working in close proximity to the premises from having to contend with unregulated numbers of people crowding both the premises and the sidewalks in front of the premises. Mixtape will strive to manage the flow of persons in and out of the premises in a responsible manner so as to prevent either of these events from occurring in Mixtape shall be responsible for paying for and utilizing security personnel, or for charging any lessees of the premises the cost of furnishing security personnel for their events, in order to regulate the number, and behavior, of persons in the premises or standing in front of the premises, beginning no later than 9 PM on any evening in which the Lounge is open for any public or private event.)

Mixtape avers that it has installed, and will maintain, a camera-based surveillance system to record activity in

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front of, and at the rear of, the Lounge's premises. Mixtape affirms that this system will be operational, at a minimum, between the hours of 5 PM and closing time for the Lounge seven (7) days per week. Mixtape will further endeavor to install exterior lighting sufficient to illuminate the front of the Lounge, and pledges that such lighting will be functional from the onset of darkness to closing time seven (7) days per week.

Mixtape will provide receptacles for guests or patrons of the lounge to use in order to collect any trash, including cigarette butts, generated by guests or patrons of the Lounge.

Mixtape hereby commits to maintaining the front of the premises so as to prevent the collection of trash or other debris in front of the premises.

Mixtape is encouraged by BGC to conduct criminal background checks on any prospective employees to be hired by Mixtape to provide security services on behalf of Mixtape, or to work as a server of alcoholic beverages at any event organized and/or sponsored by Mixtape. The hiring by Mixtape of any individual who possesses a conviction within the past five (5) years for a violent felony offense shall be done only in consultation with the BGC.

Affixing of the signatures of the parties hereto, on the date as specified above, and pledging their good faith to uphold their obligations to one another by honoring the terms and conditions set forth herein.

#### SECTION 6. Addendum to the Memorandum of Understanding ("Addendum")

This Addendum to the Memorandum of Understanding ("Addendum"), dated June 17, 2015, is attached to and forms part of the Memorandum of Understanding ("MOU") between Katie Molchan and Elaina Holko, individually, and Mixtape LLC ("Mixtape"), 4907 Penn Avenue, Pittsburgh, PA 15224, and the Bloomfield-Garfield Corporation, 5149 Penn Avenue, Pittsburgh, PA 15224 ("BGC") (collectively, the "Parties").

WHEREAS, the Parties entered into a MOU concerning the operation of Mixtape at 4907 Penn Avenue without a liquor license; and

WHEREAS, Mixtape has approached the BGC for its support of an application to begin operations as a licensed establishment; and

WHEREAS, the Board of Directors of the BGC has given its tentative support to Mixtape, subject to the execution of this Addendum between the Parties, setting forth the terms and conditions required by the BGC for its support and which the BGC believes will contribute to the successful operation,

Now, therefore, intending to be bound legally hereby and pledging their good faith to one another in upholding their mutual obligations, the Parties agree as follows:

With respect to the consumption of alcoholic beverages, the MOU is hereby amended as follows:

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Mixtape will regulate the sale and / or consumption of alcoholic beverages by any person or persons occupying the premises at 4907 Penn Avenue so as to honor and observe any applicable state or municipal laws, regulations or ordinances pertaining to same. Any instances where Mixtape, or any other person or persons authorized to utilize the Lounge, has been found to violate any such laws, regulations, or ordinances in a willful manner will be deemed by BGC to be a default by Mixtape under the terms of this MOU.

With respect to measures to protect against sound pollution, the MOU is hereby amended to include the following provision:

Mixtape warrants that the overhead door, or "nano window," situated on the front of the premises at 4907 Penn Avenue will be closed no later than 10:00pm on any evening in which Mixtape opens its Dance Lounge to the general public. Mixtape further acknowledges that it is bound by Pennsylvania Act 113 § 493(34), which makes it unlawful for amplified noise to be heard beyond a licensee's property line.

Affixing of the signatures of the parties hereto, on the date as specified above, and pledging their good faith to uphold their obligations to one another by honoring the terms and conditions set forth herein.”

**Section 2.** All other language contained in Resolution 404 of 2015 remains unchanged.