

City of Carson City

Agenda Report

Date Submitted: 2/21/12

Agenda Date Requested: 03/1/2012

Time requested: Consent Agenda

To: Mayor and Supervisors

From: Al Kramer, Carson City Treasurer

Subject Title: For possible action: Motion authorizing Treasurer to sign a portfolio management agreement with Longhorn Capital Management.

Staff Summary: According to the Carson City Charter, Sec. 3.045 2(a), the Treasurer shall invest the surplus money of Carson City. The Treasurer has found that hiring investment managers substantially increases total return to the City. Treasurer Kramer wishes to have a diversified portfolio. The new advisor will initially manage about 10% of the portfolio.

Type of Action Requested: (check one)
() Resolution () Ordinance (First Reading)
(X) Formal Action/Motion () Other (State)

Does This Action Require A Business Impact Statement: () Yes (X) No

Recommended Board Action: I make a motion authorizing Treasurer to sign a portfolio management agreement with Longhorn Capital Management.

Explanation for Recommended Board Action: Allows Treasurer to accomplish Charter described duty with full knowledge of Board.

Applicable Statue, Code, Policy, Rule or Regulation: Charter 3.045 2(a)

Fiscal Impact: Should generate more revenue to the City than the status quo.

Funding Source: N/A

Alternatives: Not authorize.

Supporting Material: Copy of Agreement

Prepared By: Alvin P. Kramer, Carson City Treasurer

Reviewed By: _____ Date: 2/21/12

(Finance Director) _____ Date: 2/21/12

(City Manager) _____ Date: 2/21/12

(District Attorney) _____ Date: 2/21/12

(District Attorney) _____ Date: 2/21/12

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

INVESTMENT MANAGEMENT AGREEMENT

Institutional

THIS INVESTMENT MANAGEMENT AGREEMENT entered into this ____ day of March, 2012 by and between **LONGHORN CAPITAL MANAGEMENT, LLC**, a SEC registered investment advisor, with its principal address of 427 N. Tatnall, Suite 52811, Wilmington, DE 19801 ("**LCM**" and "**Advisor**"), and **TREASURER OFFICE, CARSON CITY, NEVADA**, located at 201 North Carson Street, Suite No. 5, Carson City, Nevada 89701 ("**Client**").

WITNESSETH:

WHEREAS, Advisor is in the business of providing investment advisory and investment management services; and

WHEREAS, Client wishes to engage Advisor to provide such services for and on behalf of Client.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, the parties agree as follows:

1. SERVICES

During the term of this Agreement, Advisor shall provide the following services to Client:

- (a) Review of Client's financial situation.
- (b) Identify and prioritize financial objectives based on information provided by Client.
- (c) Customize a written investment policy for Client (objectives, investment guidelines) and a review process.
- (d) Recommend, implement and monitor Client's investment portfolio.
- (e) Re-allocate assets in investment portfolio as deemed necessary when market conditions or financial circumstances change.
- (f) Provide quarterly performance reports.
- (g) Conduct annual financial review.

2. RESPONSIBILITIES OF CLIENT

(a) The Client agrees to provide information regarding pertinent matters as requested by Advisor from time to time. Client agrees to discuss its current financial needs, goals, and future needs candidly with Advisor and to keep Advisor informed of changes in Client's situation, needs and goals.

(b) Client acknowledges that the Advisor cannot adequately perform its services on behalf of Client unless Client satisfies its responsibilities and that Advisor's analysis and recommendations are based on the information provided by Client.

(c) Client agrees to permit Advisor to consult with and obtain information about Client from Client's accountant, attorney and other professional advisors. Advisor shall not be required to verify any information obtained from Client or its accountant, attorney or other professional advisors and is expressly authorized to rely thereon.

(d) Client may accept or reject any recommendation from Advisor at any time, and Client acknowledges that he or she has sole discretion with respect to the implementation, acceptance or rejection of any advice from Advisor.

3. CONFIDENTIALITY

Except to the extent required by law, information regarding Client's identify and affairs shall be regarded as confidential by Advisor, and information regarding investments of, and investment advice given by Advisor with respect to the investments, shall be regarded as confidential by both Advisor and Client, with the exception that Client is free to recommend Advisor to others and Advisor is free to disclose individual or aggregate statistics which do not specifically identify Client to others.

Notwithstanding the foregoing, Client hereby authorizes Advisor to disclose and communicate information to:

Name: John Tillapaugh
GIF Services, LLC
Address: 1266 West Paces Ferry Road, #442
Atlanta, Georgia 30327
Tel. No.: 770-319-0037
Fax No.: 770-319-0580
Email: tillapaugh@gifadvisors.com

4. BASIS OF ADVICE

Client acknowledges that Advisor obtains information from a wide variety of publicly available sources and that Advisor has no sources, and does not claim to have sources, of inside information. The recommendations developed by Advisor are based upon the professional judgment of Advisor and neither Advisor nor its individual registered representatives can guarantee the results of any of recommendations. Client at any time may elect unilaterally to follow or ignore in whole or in part, any information, recommendation or advice given by Advisor under this Agreement.

5. ALTERNATIVE AND PRIVATE INVESTMENTS

(a) With respect to alternative investments selected *solely* by Client resulting from investment advice provided by Advisor or others or through Client's own investigation, Client recognizes

and agrees that Advisor will act solely as custodian for such investments and that Advisor has not acted and will not act as a broker-dealer in any such transactions. Client further acknowledges that Client shall be solely responsible for such investments and has responsibility for reviewing the terms of all offering documents and agreements relating to any alternative investment.

(b) Client shall monitor alternative investments for any conversion, exercise of options or other corporate actions and monitor account statements to confirm that any required payment has been received by Advisor.

(c) Client acknowledges and agrees that (i) private assets such as limited partnerships generally lack liquidity and that the value of such assets may be difficult to ascertain; (ii) any estimated value reflected on Client's account statement or other communication from Advisor is for informational purposes only and may be significantly different from the actual fair market value or the liquidation value of such assets; and (iii) except as explicitly provided in this Agreement, Advisor has no responsibility for determining the value of Client's private investments.

(d) Client agrees that in the event Client holds any investments that do not have a readily ascertainable fair market value, Client will provide Advisor with annual instructions no later than January 15th of each year regarding the fair market value such investments as of the preceding December 31st for the purposes of tax reporting. Client agrees to indemnify and hold Advisor harmless from any consequences, including penalties assessed by the IRS, resulting from Client's valuation instructions.

6. INVESTMENT DISCRETION

With the exception of self-directed investments, and to the extent Client instructs Advisor in writing to the contrary, Client hereby grants Advisor full and exclusive discretion to manage all investments, re-investments and other transactions of Client as Advisor deems appropriate and in accordance with the investment policy set forth in the Confidential Client Profile.

7. PROXY VOTING AND CORPORATE ACTIONS

Advisor is a fiduciary that owes each client the highest level of care and loyalty with respect to all services provided and undertaken on their behalf. Advisor does not accept authority to vote proxies and monitor and respond to various corporate actions and initiatives on behalf of clients.

8. REPRESENTATIONS OF CLIENT

Client hereby acknowledges, represents and warrants to, and agrees with, Advisor that:

(a) Client has full corporate authority and power to engage Advisor under the terms and conditions of this Agreement and the engagement of Advisor does not violate any document or applicable law governing Client;

(b) Client has received a copy of this Agreement and Part II of Form ADV, or acknowledges that if Advisor has not delivered the Part II of Form ADV to Client at least 48 hours prior to entering into

this Agreement with Client, Client may terminate this Agreement, without penalty, within five (5) business days after entering into this Agreement;

(c) Client has reviewed and understands the matters set forth in this Agreement and Part II of Form ADV and Client has received all information that it deems necessary or desirable in connection with its decision to enter into this Agreement;

(d) Past performance of other clients or any accounts managed by Advisor does not guarantee similar future returns

(e) Investment returns are not achieved without accompanying risk and adverse events can result in losses; and

(f) Advisor and its registered representatives do not purport to, are not qualified to, and shall not render any legal or accounting advice nor prepare any legal or accounting documents for the implementation of Client's financial or investment plans, and that Client or its attorney or accountant shall be solely responsible for legal and accounting advice, opinions and documents.

(g) If Client is subject to the provisions of ERISA, that the fiduciary whose name is set forth on the signature page to this Agreement on behalf of Client, and any individual whose signature is affixed to this Agreement or any exhibit hereto on behalf of such fiduciary has full authority and power to execute this Agreement on behalf of such fiduciary. Any such fiduciary, individual or Client shall promptly notify Advisor in writing of any event that could reasonably be anticipated to affect such person's authority under this Agreement.

9. REPRESENTATIONS OF ADVISOR

Advisor hereby represents to Client that (a) Advisor is duly registered as an investment advisor under applicable state or federal law; (b) Advisor will take all actions necessary to remain duly registered or validly exempt from registration as an investment advisor under applicable state or federal law during the term of this Agreement; and (c) if Client is subject to ERISA, Advisor acknowledges that it is a fiduciary (as defined by ERISA) with respect to Client.

10. TERMINATION

The term of this Agreement shall be for a period of one (1) year from the date hereof, unless otherwise terminated. Otherwise this Agreement shall be deemed renewed from year to year. This Agreement may be terminated at any time by either party upon 30 days prior written notice to the other party.

11. ADVISOR FEES

In consideration of the services rendered by Advisor, Client shall pay to Advisor fees as set forth in Exhibit A hereto. Advisor shall invoice Client quarterly for such fees. Fees shall be prorated fees for services rendered for any partial quarter.

12. LIMITS OF LIABILITY

Advisor assumes no responsibility under this Agreement other than to render the Services in good faith and in a professional manner. Advisor shall not be liable to Client, its successors or assigns for (a) mistakes, losses or damage arising out of or based upon any act or omission by Advisor, unless Advisor is adjudged to have been grossly negligent or to have engaged in willful misconduct, or (b) Advisor's failure to make any recommendation on the basis of information known to Advisor where the utilization of such information could, in Advisor's opinion, constitute a violation of any applicable law, or the breach of any fiduciary duty or confidential relationship between Advisor and any other person. Notwithstanding the foregoing, federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing herein shall in any way constitute a waiver or limitation of any rights which Client may have under any federal or state securities law or ERISA, if applicable.

13. ASSIGNMENT

No assignment of this Agreement by either party shall be effective without written consent of both parties.

14. AMENDMENT

This Agreement may be amended only by the written consent of the parties, except that Advisor may modify its fee schedule upon 30 days written notice to Client.

15. ARBITRATION

Client agrees that any controversy or claim, including, but not limited to, errors or omissions arising out of or relating to this Agreement or the breach thereof, shall be settled by submitting the controversy to mediation within 30 days of the controversy arising. In the event that the mediation does not result in a compromise acceptable to both parties, then both Client and Advisor shall submit the dispute to arbitration before the Judicial Mediation & Arbitration/Indispute Service within 30 days after mediation has been unsuccessful in resolving the dispute.

Both Client and Advisor agree that in the event of a dispute, the prevailing party shall be entitled to recover reasonable legal fees and costs and that during the course of the arbitration the Delaware Rules of Evidence shall apply.

Judgment upon the award rendered by the arbitrator shall be entered in a court having proper jurisdiction thereof within 30 days of the award.

16. ENTIRE AGREEMENT

This Agreement compromises the entire understanding and agreement between Advisor and Client and supersedes all prior and contemporaneous discussions, negotiations, agreements, understandings and communications with respect to the subject matter of this Agreement.

17. SEVERABILITY

If any provision of this Agreement is declared invalid, such invalidity shall not invalidate the entire Agreement, but the Agreement shall be construed as if not containing the particular provisions held to be invalid, and the rights of the parties shall be construed and enforced accordingly.

18. NOTICES

All notices, requests and other communications provided for herein shall be in writing and delivered as follows:

If to Advisor:

Longhorn Capital Management, LLC
427 N. Tatnall
Suite 52811
Wilmington, DE 19801
Attention: President
Fax: 815.346.2452

With copy to:

Longhorn Capital Management, LLC
427 N. Tatnall
Suite 52811
Wilmington, DE 19801
Attention: Chief Legal Officer
Fax: 815.346.2452

If to Client:

Treasurer Office, Carson City, Nevada
201 North Carson Street
Suite No. 5
Carson City, Nevada 89701
Attention: Treasurer
Fax: 775.887.2102

With copy to:



Notices, requests and communications shall be effective immediately if delivered in person, one (1) business day after deposit of delivery by overnight mail, or three (3) business days after deposit for delivery by U.S. Mail.

19. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same agreement. The execution of this Agreement may be by actual or facsimile signature. Delivery of a copy of this Agreement bearing a signature by facsimile transmission or e-mail in PDF form shall have the same effect as physical delivery of the document bearing the original signature

20. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by laws of the State of Nevada.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first set forth above.

LONGHORN CAPITAL MANAGEMENT, LLC

**TREASURER OFFICE, CARSON CITY, NEVADA, as
Client**

By: _____
Name: Kenneth N. Wiseman, II
Title: *President*

By: _____
Name: Alvin P. Kramer
Title: Treasurer

Exhibit A

ADVISOR FEES

Annual Fees

- 0%** Until Client's returns in a one year period equal 2.35% of the value of the Client's account at the beginning of the period.
- 76.5%** Of Client's returns in a one year period > 2.35% up to 6.50% of the value of the Client's account at the beginning of the period.
- 50%** Of Client's returns in a one year period ≥ 6.50% of the value of the Client's account at the beginning of the period.