City of Benson
City Council Communication

Regular Meeting **November 13, 2017**

To: Mayor and Council Agenda Item # 2

From: Vicki L. Vivian, CMC, City Clerk

Subject:

Discussion and possible action regarding Resolution 34-2017 of the Mayor and Council of the City of Benson, Arizona, recommending approval of the Acquisition of Control of the Liquor License at Giant Store #655, 104 E. 4th Street, Benson, Arizona

Discussion:

Western Refining Retail LLC, the owner of the Giant Store #655, located at 104 E. 4th Street, has applied for acquisition of control of the liquor license. The procedures have been followed according to ARS §4-201 and §4-203(F), with no written arguments in favor of or opposed to the issuance of the license being received. We are now at the step where the "governing body of the City or Town shall then enter an order recommending approval or disapproval within sixty days after filing of the application".

Once Council makes a recommendation, the City Clerk will forward the proper documents to the Arizona Department of Liquor Licenses & Control.

Staff Recommendation:

Council pleasure

RESOLUTION 34-2017

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, RECOMMENDING APPROVAL OF THE ACQUISITION OF CONTROL OF THE LIQUOR LICENSE AT GIANT STORE #655, 104 E. 4TH STREET, BENSON, ARIZONA

WHEREAS, the owner, Western Refining Retail, LLC, of Giant Store #655 has applied for acquisition of control of the liquor license at said business located in the City of Benson; and

WHEREAS, one copy of the application has been filed with the City Clerk; and

WHEREAS, one copy of the application has been posted in a conspicuous place on the front of the applicant's business, along with the notice required by A.R.S. §4-201; and

WHEREAS, pursuant to A.R.S. §4-201, the Mayor and Council of the City of Benson considered the acquisition of control of the liquor license, and considered any arguments in favor of or against the same, at the regular City Council Meeting on November 13, 2017; and

WHEREAS, the Mayor and Council of the City of Benson have determined that approval of the requested acquisition of control of the liquor license is acceptable and in the best interests of the City and its residents; and

WHEREAS, pursuant to A.R.S. §4-201, the Council is required to enter an order recommending either approval or disapproval of the acquisition of control application, and to file a certified copy of the order with the Department of Liquor Licenses and Control, and if disapproved, to include specific reasons for that recommendation and a summary of the evidence supporting that recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, that the City of Benson hereby recommends approval of the acquisition of control of the liquor license at Giant Store #655, located in Benson, Arizona.

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Benson, Arizona, that the City Clerk is hereby directed to file a certified copy of this Resolution with the director of the Department of Liquor Licenses and Control, and to transmit therewith all petitions submitted to the Council within the twenty-day period for filing protests.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 13th day of November, 2017.

_____
TONEY D. KING, SR., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MESCH CLARK ROTHSCHILD
By Gary J. Cohen
City's Attorney

State of Arizona
Department of Liquor Licenses and Control
800 W. Washington 5th Floor
Phoenix, AZ 85007
(602) 542-5141

DLLC USE ONLY	
Date Processed:	9/8/17
CSR:	
60th Day:	11/7/17

APPLICATION FOR AGENT CHANGE – ACQUISITION OF CONTROL – RESTRUCTURE

NOTE: 1) The fee for an agent change MUST be submitted with this application: $100.00 for the first application and $50.00 for each additional application, not to exceed $1,000.00. (A.R.S. 4-209.H) NOTE 2) the $100.00 fee for restructure/acquisition of control MUST be submitted with this application. (A.R.S. 4-209.A)

SECTION 1

Check the appropriate boxes

☐ Agent Change	☐ Acquisition of Control	☐ Restructure
Complete Sections 1,2,3,4,5 & 7	Complete Sections 1,2, 3 & 7	Complete Sections 1,2,3,6 & 7

SECTION 2 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

1. Name: (EXISTING AGENT OR NEW AGENT) Sprouse (Last) Robert (First) Coleman (Middle) 10023148 (Liquor License #)
2. Owner Name: _____ (Exactly as it appears on Liquor License) Corp File #: _____ (If applicable)
3. Business Name: _____ (Exactly as it appears on Liquor License) Email: _____
4. Business Location Address: _____ (Do not use P.O. Box Number) City COUNTY Zip
5. Is the Business located within the incorporated limits of the above City or Town? ☐ Yes ☐ No
6. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? ☐ Yes ☐ No If Yes, what City, Town or Tribal Reservation is this Business located in: _____
7. Mailing Address: _____ City State Zip
8. Business Phone: _____ X Daytime Contact Phone 602-286-1922
9. Does this transaction involve the sale of any portion of the percentage of ownership or corporate stock? ☐ Yes ☐ No If yes, submit a certified copy of minutes.
10. Has there been any change of Controlling Persons? ☐ Yes ☐ No if yes, submit a copy of the minutes, amended articles of organization and/or amended operating agreement showing change

SECTION 3 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

Each new person listed in section III must submit a questionnaire (form LIC0101) and a Department approved fingerprint card which may be obtained at the Department of Liquor. A Controlling Person already disclosed to the Department is not required to submit a questionnaire.

AMENDMENT

1. List all Controlling Persons to be disclosed, current and new.

New	Last	First	Middle	Title	Address	City	State	Zip
☐								
☐								
☐								
☐								

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

2. List stockholders, percentage owners and/or Controlling Members owning 10% or more

New	Last	First	Middle	% Owned	Address	City	State	Zip
☐								
☐								
☐								
☐								

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

If the ownership is owned by another entity, ATTACH AN OWNERSHIP FLOWCHART SHOWING THE OFFICERS, MEMBERS, CONTROLLING PERSON AND 10% OR MORE OWNERS FOR THE ENTITIES. Attach additional sheets as necessary in order to disclose all persons.

Individuals requiring ADA accommodations please call (602)542-9027

'17 AUG 31 Liq. Dept PM 3:27

State of Arizona
Department of Liquor Licenses and Control
800 W. Washington 5th Floor
Phoenix, AZ 85007
(602) 542-5141

DLLC USE ONLY	
Date Processed:	9/8/17
CSR:	TW
60th Day:	11/7/17

APPLICATION FOR AGENT CHANGE – ACQUISITION OF CONTROL – RESTRUCTURE

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SECTION 1

Check the appropriate boxes

☐ Agent Change	☑ Acquisition of Control	☐ Restructure
Complete Sections 1,2,3,4,5 & 7	Complete Sections 1,2, 3 & 7	Complete Sections 1,2,3,6 & 7

SECTION 2 **(COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)**

1. Name: Sprouse (Last) Robert (First) Coleman (Middle) 10023148 (Liquor License #)
(EXISTING AGENT OR NEW AGENT)
2. Owner Name: Western Refining Retail LLC (Exactly as it appears on Liquor License) Corp File #: R1954747-6 (If applicable)
3. Business Name: Giant Store #655 (Exactly as it appears on Liquor License) Email: NONE
4. Business Location Address: 104 E. 4th St., Benson, Cochise County, AZ 85602
(Do not use P.O. Box Number) City COUNTY Zip
5. Is the Business located within the incorporated limits of the above City or Town? ☑ Yes ☐ No
6. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? ☐ Yes ☑ No If Yes, what City, Town or Tribal Reservation is this Business located in: N/A
7. Mailing Address: 1250 W. Washington Street, #101, Tempe, AZ 85281
City State Zip
8. Business Phone: 520-586-7944 Daytime Contact Phone 520-586-7944
9. Does this transaction involve the sale of any portion of the percentage of ownership or corporate stock? ☑ Yes ☐ No If yes, submit a certified copy of minutes.
10. Has there been any change of Controlling Persons? ☑ Yes ☐ No if yes, submit a copy of the minutes, amended articles of organization and/or amended operating agreement showing change

SECTION 3 **(COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)**

Each new person listed in section III must submit a questionnaire (form LIC0101) and a Department approved fingerprint card which may be obtained at the Department of Liquor. A Controlling Person already disclosed to the Department is not required to submit a questionnaire.

1. List all Controlling Persons to be disclosed, current and new.

New	Last First Middle	Title	Address City State Zip
☑	Duffy, Carina, Eckard	Dir/Pres	212 Fleetwood Drive, San Antonio, TX 78232
☑	Meltzer, Brooks, Alan	Dir/Secy	13 Camden Oaks, San Antonio, TX 78248
☑	Wilkerson, Alan, Ray	Dir/VP	14 Stone Hill Court, San Antonio, TX 78258
☑	Whittington, Derek, Lawson	Treasurer	2034 Oak Dew, San Antonio, TX 78232

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY) SEE ATTACHED

2. List stockholders, percentage owners and/or Controlling Members owning 10% or more

New	Last First Middle	% Owned	Address City State Zip
☐	Western Refining Southwest, Inc.	100%	1250 W. Washington Street, #101, Tempe, AZ 85281
☐			
☐			
☐			

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY) SEE ATTACHED

If the ownership is owned by another entity, ATTACH AN OWNERSHIP FLOWCHART SHOWING THE OFFICERS, MEMBERS, CONTROLLING PERSON AND 10% OR MORE OWNERS FOR THE ENTITIES. Attach additional sheets as necessary in order to disclose all persons.

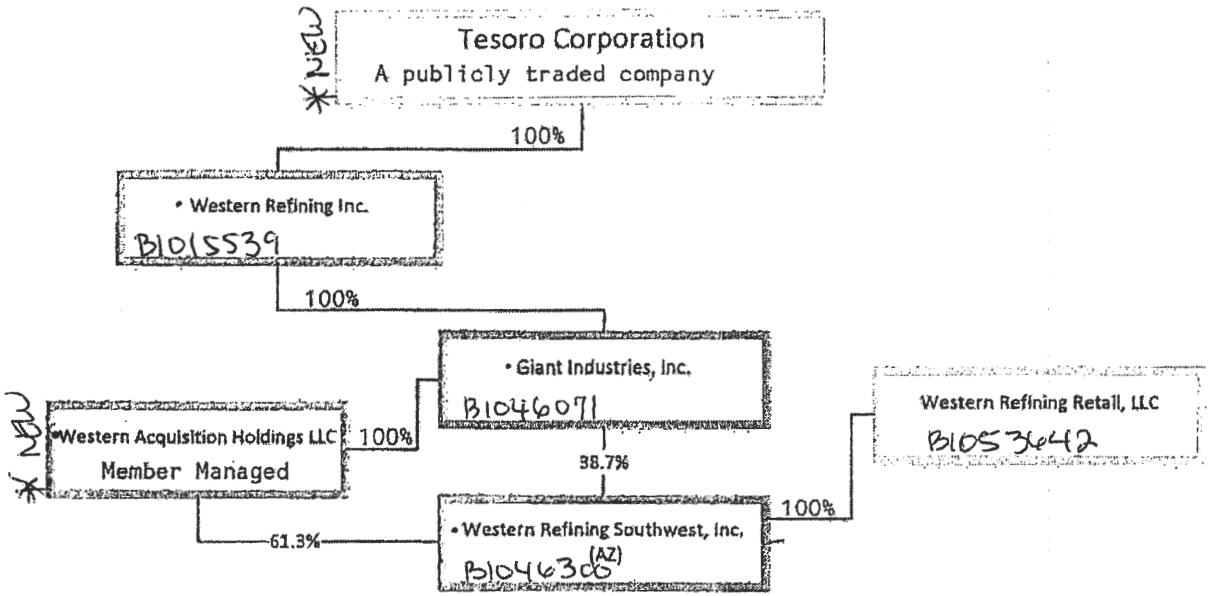
Individuals requiring ADA accommodations please call (602)542-9027

WESTERN REFINING RETAIL LLC

Attachment for Section 3

Additional Officers/Directors:

NEW	Last, First, Middle	Title	Address
X	Sherburne, John, Raymond	Assistant Secretary	13 Camden Oaks, San Antonio, TX 78248
X	Yoder, Matthew, Levi	Sr Vice President	11627 S. Blackfoot Dr., Phoenix, AZ 85044
	Sprouse, Robert, Coleman	VP/Agent	10383 E. Verbena Ln, Scottsdale, AZ 85255



The officers of all entities outlined in purple include the following individuals:

- Carina E. Duffy - Vice President
- Matthew L. Yoder- Senior Vice President
- Alan Wilkerson - Vice President
- Robert Sprouse - Vice President
- Derek L. Whittington - Asst. Treasurer
- John R. Sherburne - Asst. Secretary

'17 SEP 8 Liqr. Lic. AM 8:24

'17 AUG 31 Liq. Dept PM 2:20

WESTERN REFINING RETAIL, LLC

CERTIFICATE OF SECRETARY

I, Brooks A. Meltzer, do hereby certify that I am the duly elected and acting Secretary of Western Refining Retail, LLC a Delaware limited liability company (the "**Company**"), and I hereby certify to the following matter:

- That the following persons are elected officers to serve in those offices set forth opposite their respective names, in accordance with the Governing Document of the Company and until their successor shall have been duly elected and qualified or until their earlier resignation or removal:

NAME	TITLE
Carina E. Duffy NEW	President
Derek L. Whittington NEW	Treasurer
Alan Wilkerson NEW	Vice President
Robert C. Sprouse	Vice President
Matthew L. Yoder NEW	Senior Vice President
Brooks A. Meltzer NEW	Secretary
John R. Sherburne NEW	Assistant Secretary

IN WITNESS WHEREOF, I hereunto set my hand this 12 of June, 2017.

Brooks A. Meltzer
Secretary of Western Refining Retail, LLC

'17 AUG 31 Liq. Dept PM 2:18

SIEGEL & MOSES PC
ATTORNEYS AT LAW
8700 WEST BRYN MAWR AVENUE • SUITE 720N
CHICAGO, ILLINOIS 60631
TELEPHONE (312) 658-2000
WWW.SMLAW.ORG

JENNIFER G. GALLERY
JENNIFER@SMLAW.ORG

August 29, 2017

Ms. Debbie Wunderly
Arizona Department of Liquor Licenses & Control
800 W. Washington St 5th Floor
Phoenix, AZ 85007

Re: Acquisition of Control Applications for
Robert Sprouse / Western Refining Retail LLC
DBA Giant Stores - 85 Arizona Locations

Dear Ms. Wunderly:

In furtherance of our email communications in the beginning of June, please recall that I represent Western Refining Retail, LLC with regard to its regulatory licensing. We discussed the change of officers and control that took place with the licensed entity in connection with a company merger. Per your instruction, I have enclosed 85 Applications for Acquisition of Control for each licensed location in Arizona and supporting materials for same.

Please note there are six (6) new officers and their Questionnaires and fingerprint cards are enclosed. Please note that Mr. Sprouse is the existing Agent and he is also an officer, and he is not being removed. In addition to the officer change, the ultimate ownership of the licensed entity is now Tesoro Corporation, a publicly traded company. For your convenience, a current organizational chart is also enclosed.

Please process the enclosed and contact me if you require anything further for these filings. Thank you for your assistance with this matter.

Very truly yours,

SIEGEL & MOSES, P.C.

By: _____
Jennifer G. Gallery, Principal

JGG/eka
Enclosures

SECTION 4 **(COMPLETE THIS SECTION FOR AGENT CHANGE)**

1. As an Agent, will you be physically present and operating the licensed premise? ☐ Yes ☐ No

If you answered YES, you must provide a copy of your Basic and Management Training Certificate obtained from a Department approved Liquor Law training provider BEFORE YOUR APPLICATION FOR AGENT ACQUISITION OF CONTROL OR RESTRUCTURE CAN BE SUBMITTED. If you answered NO, go to question 2.

2. Is there a current Manager at this license premises disclosed to the Department with the current Basic and Management Training Certificate? ☐ Yes ☐ No

If yes, Name of current Manager: _____
Last First Middle

Basic Training ☐ **Yes** ☐ **No** **Management Training** ☐ **Yes** ☐ **No**

If "NO" for 1 and 2, a Manager with a current Basic and Management Training Certificate obtained from a Department approved Liquor Law training provider must be submitted within 30 days after filing the application for Agent Change, Acquisition of Control or Restructure.

SECTION 5 **(COMPLETE THIS SECTION FOR AGENT CHANGE)**

To be completed by the INDIVIDUAL OR EXISTING AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER:

1. License # _____

2. Current Agent Name: _____
(Exactly as it appears on license) Last First Middle

I, **(Print full name)** _____, hereby consent to the appointment of Agent for this license. I agree to immediately assign a new Agent in the event that I am unable to discharge the duties of Agent for this license. I have not been convicted of a felony in the last five (5) years.

X_____
(Controlling Person/Existing Agent)

State of _____ County of _____
The foregoing instrument was acknowledged before me this

_____ of _____, _____
Day Month Year

My commission expires on: _____

_____
Signature of NOTARY PUBLIC

SECTION 6 **(COMPLETE THIS SECTION FOR RESTRUCTURE)**

Is there more than one licensed premises involved? ☐ YES ☐ NO

If YES, **SEPARATE APPLICATIONS** must be filed and fees paid for each license/location.

Type of current ownership:

- ☐ J.T.W.R.O.S.
- ☐ INDIVIDUAL
- ☐ PARTNERSHIP
- ☐ CORPORATION
- ☐ LIMITED LIABILITY CO.
- ☐ MANAGEMENT CO.
- ☐ TRIBE
- ☐ TRUST
- ☐ OTHER **(Explain)** _____

Type of new ownership:

- ☐ J.T.W.R.O.S.
- ☐ INDIVIDUAL
- ☐ PARTNERSHIP
- ☐ CORPORATION
- ☐ LIMITED LIABILITY CO.
- ☐ MANAGEMENT CO.
- ☐ TRIBE
- ☐ TRUST
- ☐ OTHER **(Explain)** _____

SECTION 7 **(COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)**

To be completed by Controlling Person or existing Agent (if no agent changes) OR NEW Agent if applying for Agent change as listed in Section 2 Question 1.

I, **(Print full name)** Carina Eckard Duffy, hereby declare that I am the APPLICANT filing this application. I have read the application and the contents and all statements are true, correct and complete.

X Carina E Duffy
(Controlling Person/Existing Agent)

State of Texas County of Bexar
The foregoing instrument was acknowledged before me this

5th of July, 2017
Day Month Year

My commission expires on: 06.05.19

JOHNNA W. GLASS NOTARY PUBLIC STATE OF TEXAS ID 10195433 EXP. 06-05-2019

Johnna W Glass
Signature of NOTARY PUBLIC

Individuals requiring ADA accommodations please call (602)542-9027