



**CITY OF DENISON
CITY COUNCIL MEETING
AGENDA**

Monday, May 6, 2024

After determining that a quorum is present, the City Council of the City of Denison, Texas will convene in a Regular Meeting on **Monday, May 6, 2024 at 6:00 PM** in the Council Chambers at City Hall, 300 W. Main Street, Denison, Texas at which the following items will be considered:

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

2. PUBLIC COMMENTS

Citizens may speak on items listed on the Agenda. A “Request to Speak Card” should be completed and returned to the City Clerk upon arrival, prior to the Council reaching the Public Comment section of the agenda. Citizen comments are limited to three (3) minutes, unless otherwise required by law. Comments related to the Public Hearings listed below, will be heard when the specific hearing starts.

3. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the regular City Council Meeting held on April 15, 2024.
- B. Receive a report, hold a discussion and take action on a resolution granting approval for the Interim City Manager, or his designee, to enter into various loan documents with Clayton Holdings, LLC, for the financing of front load dumpsters, G3 Microsoft 365 domain transition, reimbursement for the purchase of a mini-excavator and trailer, brush truck, skid steer loader with brush cutter, one (1) dump truck, three (3) utility tractors, and one (1) tractor loader.
- C. Receive a report, hold a discussion, and take action on approving a Reimbursement Agreement for Tax Increment Reinvestment Zone No. 5 between the City of Denison and Preston Forrest Capital LLC.
- D. Receive a report, hold a discussion, and take action on the appointment of Zachary Bearden as a New Member to the Public Library Advisory Board to serve the remainder of an unexpired two-year term ending December 31, 2025.

4. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit for property commonly known as 202 W. Main

Street, GCAD Property ID No. 143148 for the operation of a bar for Black Sheep Cigar Lounge. (Case No. 2024-019CUP)

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion and take action on budget amendments for Business and Industrial Corporation of Denison, Inc., d/b/a Denison Development Alliance, for the Fiscal Year 2024 Budget.

6. PROJECT UPDATES

- A. Receive a report and hold a discussion regarding the Grayson County Thoroughfare Plan.
- B. Receive a report and hold a discussion regarding the FY2025 budget and tax rate adoption schedule.

7. EXECUTIVE SESSION

Pursuant to Chapter 551, *Texas Government Code*, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting to receive legal advice from its attorney on any posted agenda item as permitted by law or to discuss the following:

- A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.
- B. Discuss the possible purchase, exchange, lease or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

Following the closed Executive Session, the Council will reconvene in open and public session and take any such action as may be desirable or necessary as a result of the closed deliberations.

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front window of City Hall readily accessible to the general public at all times and posted on the City of Denison website on the 3RD DAY OF May 2024, before 6:00 PM.

Christine Wallentine, City Clerk

In compliance with the Americans With Disabilities Act, the City of Denison will provide for reasonable accommodations for persons attending City Council meeting. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at 903-465-2720, Ext: 2437.



**CITY OF DENISON
CITY COUNCIL MEETING
MINUTES**

Monday, April 15, 2024

Announce the presence of a quorum.

Mayor Janet Gott called the meeting to order at 6:00 p.m. Council Members present were Mayor Pro Tem Robert Crawley, Brian Hander, Michael Courtright, James Thorne, Joshua Massey and Aaron Thomas. Staff present were Interim City Manager, Bobby Atteberry, City Attorney, Julie Fort, City Clerk, Christine Wallentine and Deputy City Clerk, Karen Avery. Assistant City Manager, Renee Waggoner, was absent. Department Directors were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Drew Svendsen, Pastor of First Christian Church Denison gave the invocation which was followed by the Pledge of Allegiance and Texas Pledge led by members of the B. McDaniel Bank Leadership Team, Elyssa Hill, Christopher Harrold, Aaydan Ellis and Akali Ribail.

2. PUBLIC COMMENTS

Mayor Gott called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Christine Wallentine, City Clerk, confirmed there were no Request to Speak Cards received by this point in the meeting. Therefore, no public comments were received.

3. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on April 1, 2024.
- B. Receive a report, hold a discussion and take action on a Services Agreement with Fire Recovery USA, LLC for re-inspection and false alarm billing, and authorize the Interim City Manager to execute the same.
- C. Receive a report, hold a discussion, and take action on reappointing Vincent Rhodes, Joel Luper, Jimmy Cravens, Ryan Cassell, and Charlie Means to the Parks and Recreation Commission.
- D. Receive a report, hold a discussion, and take action on an Agreement for Traffic Control Inventory – Phase 3 Study with Kimley-Horn and Associates, Inc. and the City of Denison and authorize the Interim City Manager to execute the same.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the City Council unanimously approved the Consent Agenda as presented.

4. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion and take action on the Guaranteed Maximum Price contract with Piazza Construction in the amount of \$3,339,605.00 for the construction of 321 W Main and authorize the Interim City Manager to execute the same.

Council Action

Ronnie Bates, Public Works Director, reminded the Council they approved a Construction Manager at Risk Contract with Piazza Construction at their December 4, 2023 City Council meeting for the design and construction of a visitor's center and public restrooms at 321 W. Main Street. Mr. Bates stated before the Council tonight for consideration is the approval for the guaranteed maximum price known as the GMP in the amount of \$3,339,605 and to authorize Interim City Manager to execute all related documents.

Council Member Hander stated that at the mid-year budget review in February it was thought the project would be about \$1.5 million dollars and asked what was different now. Mr. Bates stated this is the actual bid, which includes a contingency. Council Member Hander asked if the GMP included the upper two levels being built out. Mr. Bates confirmed the second and third floors would be built out with offices and a conference room.

Council Member Massey asked if the contingency fund were not consumed if it would be returned. Mr. Bates affirmed any contingency amount not used would be returned.

There was no further discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved the Guaranteed Maximum Price contract with Piazza Construction in the amount of \$3,339,605.00 for the construction of 321 W Main and authorized the Interim City Manager to execute the same.

5. EXECUTIVE SESSION

The Council then adjourned into Executive Session at 6:06 p.m. pursuant the Chapter 551, Texas Government Code, in accordance with the Authority:

- A. **Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.**

- 1. Confer with City Attorney regarding Senate Bill 1145.

- B. Discuss the possible purchase, exchange, lease, or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

RECONVENE INTO REGULAR SESSION

The Council then reconvened into Regular Session at 6:17 p.m. and took the following action:

- A. **Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.**
 - 1. Confer with City Attorney regarding Senate Bill 1145.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright the City Council unanimously approved Ordinance No. 5343, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, ADOPTING A LOCAL PROPERTY TAX EXEMPTION FOR QUALIFYING CHILD-CARE FACILITIES, AS DEFINED BY TEXAS TAX CODE 11.36, AND AMENDING CHAPTER 24 "TAXATION" OF THE CODE OF ORDINANCES OF THE CITY OF DENISON, TEXAS, BY ADDING ARTICLE IV "CHILD-CARE FACILITY EXEMPTION"; PROVIDING REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE."

- B. Discuss the possible purchase, exchange, lease, or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.

- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

There being no further business to come before the Council, the meeting was adjourned at 6:18 p.m.

JANET GOTT, Mayor

ATTEST:

Christine Wallentine, City Clerk

City Council Meeting Staff Report



May 6, 2024

Agenda Item

Receive a report, hold a discussion and take action on a resolution granting approval for the Interim City Manager, or his designee, to enter into various loan documents with Clayton Holdings, LLC, for the financing of front load dumpsters, G3 Microsoft 365 domain transition, reimbursement for the purchase of a mini-excavator and trailer, brush truck, skid steer loader with brush cutter, one (1) dump truck, three (3) utility tractors, and one (1) tractor loader.

Staff Contact

Amber Pilcher, Finance Controller
apilcher@denisontx.gov
(903) 465-2720, Ext. 2443

Summary

- Front load dumpsters, G3 domain transition, mini excavator and trailer, brush truck, skid steer loader with brush cutter, dump truck, three utility tractors, and one utility tractor loader were each approved during the FY2024 budget process.
- At the January 16, 2024, Council meeting the purchase of a sanitation brush collection truck in the amount of \$224,567.11 from Bruckner Truck Sales, a skid steer loader with brush cutter in the amount of \$162,865 from ASCO, and a dump truck in the amount of \$88,000 from Sewell Ford were approved.
- At the February 5, 2024, Council meeting the purchase of a CASE tractor loader, with a total purchase amount of \$105,842.00 from ASCO Equipment was approved.
- At the February 19, 2024, Council meeting the purchase of a Kubota tractor in the amount of \$94,962.11 from Zimmerer Kubota & Equipment, Inc. was approved.
- Requests for quotes were sent out on April 15, 2024.
- Quotes were received and tabulated.
- Presentation to Council requesting approval of purchasing and reimbursing resolutions to move forward with financing.

Staff Recommendation

Staff recommends approval of the purchase and reimbursing resolutions.

Recommended Motion

“I move to adopt the resolution granting approval for the Interim City Manager, or his designee, to enter into various loan documents with Clayton Holdings, LLC, for the financing of front load dumpsters, G3 Microsoft 365 domain transition, reimbursement for the purchase of a mini-excavator and trailer, brush truck, skid steer loader with brush cutter, one (1) dump truck, three (3) utility tractors, and one (1) tractor loader.”

Background Information and Analysis

Divisions 8, 9, 44, 57, 58, and 70 are each in need of updated equipment and software to maintain production expectations and best serve the Denison community. All equipment and software purchases were approved during the FY2024 budget process.

Financial Considerations

Total principal amount is \$971,212.32 with a 7-year loan at 4.98% interest rate.

Prior Board or Council Action

Council approved the purchase of equipment and domain transition project expenses during the FY2024 budget process.

Alternatives

Council could choose not to approve the resolution to move forward with the loan document as requested. In doing so, the equipment purchase, and domain transition project expenses would be funded directly from General Fund reserves.

City of Denison, Texas
 Quote Tabulation
 Municipal Lease Financing
 \$971,212
 Various PW Equipment and G3 Project

FINANCING VENDOR	INTEREST RATE	ANNUAL PAYMENT	TOTAL INTEREST	TERM LENGTH
Clayton Holdings, LLC	4.98%	\$ 163,789.11	\$ 175,311.45	7 Years
U.S. Bancorp	5.19%	\$ 164,786.74	\$ 182,294.88	7 Years
American National Leasing Co.	5.75%	\$ 167,734.41	\$ 202,929.55	7 Years
Holman Capital	5.35%	\$ 168,162.94	\$ 205,928.26	7 Years
Republic First National	5.16%	\$ 168,790.42	\$ 210,320.62	7 Years
Cadence Bank	6.21%	\$ 170,958.42	\$ 225,496.62	7 Years
KS State Bank	6.41%	\$ 171,264.21	Not Provided	7 Years

RESOLUTION NO. _____

City of Denison, Texas

Resolution Approving Financing Terms

WHEREAS: The City of Denison, Texas (“Borrower”) has previously determined to undertake a project for the financing of front load dumpsters and G3 Microsoft 365 Domain Transition, and reimbursement for the purchase of a mini excavator and trailer, brush truck, skid steer loader with brush cutter, a dump truck, three utility tractors, and one tractor loader (the “Project”), and the finance officer (the “Finance Officer”) has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through Clayton Holdings, LLC (“Lender”) in accordance with the proposal April 19, 2024. The amount financed will not exceed \$971,212.32, the annual interest rate (in the absence of default or change in tax status) will not exceed 4.98%, and the financing term will not exceed seven years from closing.

2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) will be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes will not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents will be in such final forms as the Finance Officer will approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document’s final form.

4. The Borrower will not take or omit to take any action the taking or omission of which will cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations.

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower’s official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower’s general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved, and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution will take effect immediately.

Approved this 6th day of May 2024.

Janet Gott, Mayor
City of Denison, Texas

Christine Wallentine, City Clerk
City of Denison, Texas

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on approving a Reimbursement Agreement for Tax Increment Reinvestment Zone No. 5 between the City of Denison and Preston Forrest Capital LLC.

Staff Contact

Orlando Macedo, Senior Accountant
omacedo@cityofdenison.com
(903) 465-2720 x2418

Summary

- Estimated value of real property improvements to add \$66 million per the application
- The development will utilize two tracts totaling 28.40 acres of mixed use development that includes residential with commercial, restaurant, and retail space.
- Real property improvements include 7 SF units, 26 townhomes, 21 duplexes, and 248 MF units.
- Construction to start in 2024 and completion in 2030
- TIRZ revenue estimated at \$8,383,501

Staff Recommendation

Staff recommends approval of agreement between the City of Denison and Preston Forrest Capital LLC for actual incurred costs of Public Improvements.

Recommended Motion

“I move to approve the reimbursement agreement between the City of Denison and Preston Forrest Capital LLC for actual incurred costs of Public Improvements.”

Background Information and Analysis

The planned development will consist of 28.40 acres of mixed-use development. The development will include two tracts. The first tracts will include residential properties that include 7 single-family detached homes, 26 single-family attached (townhomes), and 21 two-family (duplex) units. The estimated value of improvements is \$12,205,000.

The second tract will include commercial and multi-family residential. The multifamily property will include 248 units that create an estimated real property improvement of \$45,880,000.

The planned development will use the topography and landscape of this property to include natural ponds, green space, and family-friendly outdoor play areas. There will also be over 2.30 miles of trails with the potential to tie into the Waterloo Lake Hike and Bike Trail.

The developer provided an estimated timeline for this project. In the first quarter of 2024, PD approval, design, and engineering will be focused on. In Quarter 3 of 2024, utilities and public infrastructure will be worked on to support commercial and multifamily construction. The first quarter of 2025 will

include commercial pad sites to be marked for sale or development. Lastly, in the first quarter of 2026, residential development will begin after commercial development and be completed within 24 months.

The developer provided an opinion of probable costs that estimates a total construction cost of \$9,370,391.75.

We had our own consultants run a model based on the information that the application states. The consultants estimated that the added value would total around \$68,797,181. Within that, the total TIRZ revenue that this project will bring in within the lifetime of the TIRZ is \$8,383,501. Both the city and developer have a 50% split of total TIRZ revenue. The city believes that it would be best to reimburse based on the actual costs incurred by the developer.

Financial Considerations

Total potential TIRZ revenue added from this project is \$8,383,501.

Prior Board or Council Action

TIRZ #5 board approved recommendation of agreement on April 25th, 2024.

Alternatives

Council may deny, modify, or table the recommendation.

TIRZ REIMBURSEMENT AGREEMENT

This TIRZ Reimbursement Agreement (this "Agreement") is entered into by and between the City of Denison, Texas (the "City") and Preston Forrest Capital LLC of Dallas, Texas (the "Developer") for Waterloo Trails Development to be effective May 06, 2024 ("Effective Date"). The City and the Developer are individually referred to as a "Party" and collectively as the "Parties."

ARTICLE I **RECITALS**

WHEREAS, the City is a home rule municipality of the State of Texas; and

WHEREAS, Developer is a Texas limited liability company and the owner of approximately 32.479 acres of property commonly known as Waterloo Trails and described and depicted in Exhibit A attached hereto (the "Property"); and

WHEREAS, unless otherwise specified, all references to "Section" mean a section of this Agreement, and all references to "Exhibit" means the exhibits attached hereto and made a part of this Agreement for all purposes; and

WHEREAS, the Reinvestment Zone Number 5, City of Denison is a Tax Increment Reinvestment Zone (the "Zone") created by the City Council of the City of Denison, Texas (the "City Council") in accordance with the Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended (the "Act"), by Ordinance No. 5092, adopted December 7, 2020; and

WHEREAS, on December 7, 2020, the City Council adopted Ordinance No. 5092 approving the Project and Financing Plan; and

WHEREAS, the City Council has determined that the public improvements presented are eligible project costs for the Zone, and authorized by the Project and Financing Plan; and

WHEREAS, the Act authorizes, and the Project and Financing Plan contemplates, the execution of a "TIRZ Reimbursement Agreement" to implement the Project and Financing Plan; and

WHEREAS, this Agreement is the "TIRZ Reimbursement Agreement" contemplated by the Project and Financing Plan; and

WHEREAS, the Parties contemplate that certain Administrative Costs and certain portions of the Public Improvements, as defined in the Project and Financing Plan, will be funded by the Developer, who will be reimbursed pursuant to the terms of this Agreement; and

WHEREAS, the reimbursements provided to the Developer under this Agreement are limited to amounts deposited into the TIRZ Fund, as defined in the Project and Financing Plan; and

WHEREAS, the reimbursements provided to the Developer under this Agreement are for the public purposes of: (i) developing and diversifying the economy of the state; (ii) eliminating unemployment and underemployment in the state; (iii) developing and expanding commerce in the state; (iv) stimulating business and commerce within the Zone; and (v) promoting development and redevelopment within the Zone; and

WHEREAS, the City has an interest in creating jobs and expanding the tax base which accomplish a public purpose; and

WHEREAS, the City has ensured that the public will receive benefits for the reimbursements provided by: (i) imposing on the Developer performance standards and penalties for any failure to meet the standards; and (ii) restricting the use of land within the Zone.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the Parties agree as follows:

ARTICLE II **DEFINITIONS**

Words and phrases used in this Agreement that have their initial letters capitalized shall have the meanings given to them as set forth above, in this Article II and in the documents referred to in this Article II, unless the context in which a word or phrase is used clearly requires a different meaning.

1. "Administrative Costs" are defined in the Project and Financing Plan.
2. "Board" means the Board of Directors of the Zone.
3. "City Regulation(s)" means any ordinance, rule, regulation, standard, policy, order, guideline or other City-adopted or City-enforced requirement, as amended and adopted by the City and as are applicable to the Property, including but not limited to the Code of Ordinances and Ordinance No. 5334.
4. "Commencement of Construction" shall mean that: (i) the plans have been prepared and all approvals thereof required by the City and any other applicable governmental authorities have been obtained for construction of the Development and/or the Public Improvements, as the case may be; (ii) all necessary permits for the construction of the Development and/or the Public Improvements have been issued by the City and any other applicable governmental authorities, as the case may be; and (iii) construction on the Development and/or Public Improvements has commenced.
5. "Completion of Construction" shall mean that (i) construction of the Development and/or the Public Improvements, as the case may be, have been substantially completed, (ii) the City has inspected and accepted the Development and/or the Public Improvements, as the case may be, and (iii) for the Development, the City has issued a final certificate of occupancy.

6. “Development” means Waterloo Trails Development as described in Ordinance No. 5334 and as conceptually reflected in Waterloo Trails TIRZ Application signed January 18, 2024, to be designed and constructed on the Property by Developer in accordance with the City Regulations and the requirements and timelines contained in this Agreement.
7. “Indemnitee” is defined in Section 4.3.
8. “Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authorities, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Developer or any property or any business owned by the developer or any of its affiliates or related entities.
9. “Project Costs” are the Administrative Costs and costs of public improvements described in the Project and Financing Plan.
10. “Public Improvements” are the infrastructure described in detail, including opinions of probable costs, in Exhibit B to be dedicated to the City upon inspection and acceptance by the City, which have not been dedicated to or accepted by the City prior to the Effective Date.
11. “Tax Increment” is defined in the Project and Financing Plan.
12. “TIRZ Fund” is defined in the Project and Financing Plan and includes a specified percentage of ad valorem tax revenue generated by property in the Zone, which includes the Property.
13. “TIRZ Funds from the Property” means revenue in the TIRZ Fund that is from the payment of City ad valorem taxes on the Property and from no other area within the Zone.
14. “TIRZ Reimbursement” is defined in Section 3.6.
15. “Term” means the term of this Agreement, beginning on the Effective Date and continuing until reimbursement is complete.

ARTICLE III
DEVELOPEMNT REGULATIONS AND REIMBURSEMENT OF PROJECT COSTS

3.1 Deposits into TIRZ Fund. Commencing on the Effective Date, and continuing for the term of the Zone, the City shall cause to be deposited into the TIRZ Fund (or appropriate subaccount created therein by the City) the Tax Increment. The TIRZ Fund shall be used to pay Project Costs in accordance with the Project and Financing Plan and the Act.

3.2 Construction of Public Improvements. In conjunction with the development of the Property, the Developer will construct the Public Improvements. All design, inspection and supervision of the construction of the Public Improvements will be undertaken in accordance with

applicable City standards and regulations, including but not limited to bond requirements. Developer shall cause Commencement of Construction of the Public Improvements to occur not later than December 31, 2025, or as amended, and cause Completion of Construction of the Public Improvements to occur not later than December 31, 2032.

3.3 Construction of the Development. The Developer shall design and construct, or cause to be designed and constructed, the Development in accordance with this Agreement and the City Regulations. Developer shall cause Commencement of Construction of the Development to occur not later than December 31, 2025, and cause Completion of Construction of the Development to occur not later than December 31, 2035.

3.4 Development Fees and Permits. The Developer acknowledges and agrees that the Property shall be subject to those fees and charges due and payable to the City in connection with the development and the Public Improvements that are charged pursuant to City Regulations. Developer acknowledges and agrees it shall be responsible for obtaining building permits and any other permits required by the City in connection with the development and the Public Improvements that are required pursuant to City Regulations.

3.5 Development Standards. *As consideration for the reimbursement incentives provided herein, Developer has requested and the Parties agree that the standards in Ordinance No. 5334 and the City Regulations, as subsequently amended, including but not limited to the City's building material regulations in the zoning ordinance and other City Regulations, as subsequently amended, apply to the Property, despite Texas Government Code Chapter 3000, effective September 1, 2019, as it presently exists or may be subsequently amended.* The Parties further acknowledge and agree that the terms, provisions, covenants, and agreements contained in this Agreement regarding: (i) the development of the Property in compliance with the City Regulations and the exhibits hereto; and (ii) the construction of the vertical improvements on the Property in compliance with the City Regulations are covenants that touch and concern the land and that it is the intent of the Parties that such terms, provisions, covenants, and agreements shall run with the land and shall be binding upon the Parties hereto, their successors and assigns, and all subsequent owners of the Property. Should Developer fail to comply with this Section 3.5 for any portion of the Property, the City shall have no obligation to pay the TIRZ Reimbursement. If this Agreement is not filed in the land records of Grayson County, Developer agrees to execute a consent to the enforcement of this paragraph (including the documents referenced herein) to be filed in the land records of Grayson County.

3.6 Developer Reimbursement. Developer is only entitled to receive payments of TIRZ Funds from the Property for the actual incurred costs of the Public Improvements which are eligible as costs allowed by the Act as defined in the Project and Financing Plan (the "TIRZ Reimbursement") during the Term (Exhibit B).

3.7 Procedure for Reimbursement. On an annual basis, the Developer will present to the Board all invoices, contracts and evidence of payment for construction of Public Improvements (including supporting documentation reasonably requested by the City Manager or Board). The Board shall review the expenditures and shall approve or deny them on behalf of the City within sixty (60) days. The Board shall not grant approval of expenditures if Developer has any uncured defaults under this Agreement or if Developer fails to timely pay any ad valorem

taxes owed on property within the City. Expenditures that have been approved by the Board shall be paid to the Developer from the TIRZ Funds from the Property within sixty (60) days of approval. Should the TIRZ Funds from the Property available in the TIRZ Fund be less than the amount owed for the TIRZ Reimbursement, the City shall then make annual payments to Developer by June 1st of each calendar year using the TIRZ Funds from the Property received since the last payment and continuing each subsequent year until the full amount of the TIRZ Reimbursement has been paid. The Parties will use all reasonable efforts to resolve disputes within thirty (30) days of the Board's approval or denial, after which time period the Parties may pursue its remedies under this Agreement. Notwithstanding any other provision of this Article III, fifty percent (50%) of the TIRZ Funds from the Property will be retained by the City and may be used for Administrative Costs for the Zone, as described in the Project and Financing Plan, and as otherwise permitted by law and the Project and Financing Plan.

3.8 Limitation on Reimbursement. The Developer agrees to look solely to the TIRZ Funds from the Property, not the remainder of the TIRZ Fund, the City's general fund or other funds, for reimbursement of the Public Improvements. Developer acknowledges and agrees that the obligations of the City under this Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than the TIRZ Funds from the Property. Developer further acknowledges and agrees that nothing in this Agreement shall be construed to obligate the City to provide reimbursement to Developer for Public Improvements from any other source of funds or to otherwise require the City to pay the Developer for Public Improvements in the event there are insufficient funds in the TIRZ Funds from the Property, after the fifty percent (50%) City retainage, to pay Developer the amounts due hereunder or in the event the Zone terminates prior to payment in full of the accrued Project Costs. Upon the termination of this Agreement or the expiration of the Zone, any Public Improvements that remain un-reimbursed or that remain unpaid, due to lack of availability of funds in the TIRZ Funds from the Property, shall no longer be considered obligations of the Zone or the City, and any obligation of the City to provide reimbursement payments to the Developer for Public Improvements shall automatically expire and terminate on such date.

3.9 Remaining Balance. Any TIRZ Funds from the Property remaining in the TIRZ Fund upon expiration of the Term of the Zone that is not otherwise legally committed to reimburse Developer for Public Improvements shall be returned to the City as required by the Act.

ARTICLE IV **TERMINATION, OFFSETS and INDEMNIFICATION**

4.1 Termination. This Agreement terminates on the last day of the Term and may, prior to the end of the Term, be terminated upon any one or more of the following:

- (a) by mutual written agreement of all the Parties;

- (b) by the City if the Developer defaults or breaches any of the terms or conditions of this Agreement or a related agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) by the City if any Impositions owed to the City or the State of Texas by the Developer shall have become delinquent (provided, however, the Developer retains the right to timely and properly protest and contest any such Impositions);
- (d) by the City if the Developer suffers an event of Bankruptcy or Insolvency;
- (e) by any Party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable;
- (f) by the City immediately if the Developer files any false documentation with any Payment Request;
- (g) by the City if any applicable building permits or other permits required for the development of the Property and issued by the City are revoked or expire, and Developer fails to make reasonable efforts to obtain new building permits or other permits, as determined by the City and such default is not cured by Developer within thirty (30) days after written notice thereof; or
- (h) by the City immediately upon the filing by Developer of any lawsuit against the City.

4.2 Offsets. If, and only if, Developer is in default under this Agreement beyond any applicable notice and cure periods, the City may, at its option, but upon prior written notice to Developer, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to the City from the Developer, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement, or otherwise, and regardless of whether or not the debt due the City has been reduced to judgment by a court. If the City exercises this right of offset, the City shall provide Developer with a detailed accounting of funds setting forth: (i) the amounts due under this Agreement, (ii) what portion of those amounts due under this Agreement were used to pay other debts due and payable to the City, and (iii) what other debts were paid and in what amounts.

4.3 INDEMNITY. UNTIL THE LATER OF TWO (2) YEARS FROM COMPLETION OF THE PUBLIC IMPROVEMENTS OR EXPIRATION OF ANY MAINTENANCE BONDS FOR THE PUBLIC IMPROVEMENTS, THE DEVELOPER HEREBY INDEMNIFIES AND AGREES TO HOLD HARMLESS THE CITY, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN “INDEMNITEE”)

FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, CAUSES OF ACTION, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES AND COSTS OF EVERY KIND INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, FOR PERSONAL INJURY (INCLUDING DEATH) OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM ANY ACT OR OMISSION ON THE PART OF THE DEVELOPER, ITS' OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS AND ITS' CONTRACTORS' AND SUBCONTRACTORS' OFFICERS, AGENTS AND EMPLOYEES, IN THE DESIGN OR CONSTRUCTION OF THE PUBLIC IMPROVEMENTS (EXCEPT WHEN SUCH CLAIMS, DEMANDS, DAMAGES, CAUSES OF ACTION, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES OR COSTS ARISE FROM OR ARE ATTRIBUTED TO THE NEGLIGENCE OR MISCONDUCT OF AN INDEMNITEE). NOTHING CONTAINED IN THIS SECTION 4.3 SHALL CONSTITUTE A WAIVER OF ANY GOVERNMENTAL IMMUNITY OR DEFENSE AVAILABLE TO ANY INDEMNITEE UNDER TEXAS LAW. IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST ANY INDEMNITEE IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, THE DEVELOPER SHALL BE REQUIRED, ON NOTICE FROM INDEMNITEE, TO DEFEND SUCH ACTION OR PROCEEDING AT THE DEVELOPER'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO THE INDEMNITEE. THE PROVISIONS OF THIS SECTION 4.3 ARE NOT TO BE STRICTLY CONSTRUED, ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON. IF ANY PART OF THIS INDEMNITY IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THE REMAINING PORTION OF THIS INDEMNITY SHALL CONTINUE IN FULL FORCE AND EFFECT. THE PROVISIONS OF THIS SECTION 4.3 SHALL EXPRESSLY SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE V
MISCELLANEOUS PROVISIONS.

5.1 Assignment.

(a) Developer. Except as provided below and in Section 5.1(b), the Developer shall not have the right to assign its rights or obligations under this Agreement to any third party without the prior written consent of City. Notwithstanding anything to the contrary set forth in this Agreement, Developer may assign all or part of its rights and obligations under this Agreement to an Affiliate (as defined below) of Developer without the prior written consent of City, and any such assignment will not result in a default or a breach of this Agreement; provided, however, that (i) Developer must notify City in writing at least thirty (30) days prior to any such assignment; and (ii) the Affiliate must expressly assume all or part (as applicable) of the obligations of Developer under this Agreement for the balance of the Term of this Agreement. Notwithstanding any partial assignment of Developer's rights and obligations under this Agreement, the aggregate of each and every requirement under this Agreement fulfilled by

Developer and the Affiliate assignee will count towards satisfying the requirements under this Agreement. Developer's "Affiliate", as used herein, means any parent, sister, partner, or subsidiary entity of Developer, or any other entity that, directly or indirectly, controls, is controlled by, or is under common control with Developer.

(b) Developer Collateral Assignment. Developer may, without the consent of City, collaterally assign its rights, title, and interests under this Agreement for the purpose of securing financing for constructing, operating, remodeling, repairing, renovating, expanding, and maintaining the Development and/or the Property. Developer must notify City in writing at least thirty (30) days prior to any such collateral assignment.

5.2 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; and (c) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

5.3 Defaults; Remedies.

(a) No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given 30 days to perform. If the default cannot reasonably be cured within such 30-day period, and the Party in default has diligently pursued such remedies as shall be reasonably necessary to cure such default, then the non-defaulting Party may, at its sole option, extend the period in which the default must be cured.

(b) IF A PARTY IS IN DEFAULT, THE AGGRIEVED PARTY'S SOLE AND EXCLUSIVE REMEDY SHALL BE SPECIFIC PERFORMANCE AND/OR TERMINATION OF THIS AGREEMENT AND ALL OBLIGATIONS HEREUNDER.

(c) Nothing in this Agreement constitutes a waiver by the City of any remedy the City may have outside this Agreement against the Developer, any assignee, or any other person or entity involved in the design, construction, or installation of the Public Improvements. Nothing herein shall be construed as affecting the Parties' rights or duties to perform their respective obligations under the applicable regulations relating to development of the Property in the Zone.

5.4 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered:

To the City: City of Denison
Attn: City Manager
300 W. Main St.
Denison, Texas 75020
E-mail: citymanager@cityofdenison.com
TEL: (903) 465-2720, Ext. 2440

With a copy to: Messer, Fort & McDonald, P.L.L.C.
Attn: Julie Fort
6371 Preston Rd., Ste. 200
Frisco, Texas 75034
E-mail: julie@txmunicipallaw.com
TEL: (972) 668-6400

To the Developer: Preston Forrest Capital
Attn: Daniel Martens
5495 Belt Line Rd., Ste. 380
Dallas, Texas 75254

With a copy to: 23 Lillis SPV, 3260 W Crawford SPV
5495 Belt Line Rd., Ste 380
Dallas, Texas 75254

5.5 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by resolution duly adopted by each of their governing bodies in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that the individuals executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

5.6 Severability. This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

5.7 Applicable Law; Venue. This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Grayson County, Texas. Venue for any action to enforce or construe this Agreement shall be in Grayson County, Texas.

5.8 Non-Waiver. Any failure by a Party to insist upon strict performance by another Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

5.9 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three (3) business days after the occurrence of a force majeure event, the Party claiming the right to temporarily suspend its performance, shall give notice to all the other Parties that includes a detailed explanation of the force majeure, a description of the action that will be taken to remedy the force majeure and to resume full performance at the earliest possible time, and the anticipated date performance will resume. The term "force majeure" shall include events or circumstances that are not within the reasonable control of the Party whose performance is suspended and that could not have been avoided by such Party with the exercise of good faith, due diligence and reasonable care. Any Party failing to timely provide the notice required by this paragraph shall be deemed to be able to resume full performance within thirty (30) days of the event of force majeure.

5.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

5.11 Limitation on Liability. Except for the City's obligation to pay the TIRZ Reimbursement as set forth in this Agreement, the City and Board, and its past, present, and future officers, employees, contractors, representatives, and agents assume no responsibilities or liabilities to Developer, or any third parties in connection with the Development and/or the Public Improvements, and Developer hereby waives any and all claims against the City and Board for any injury to persons or damage to property in connection therewith. Developer acknowledges and agrees that there shall be no personal recourse to the directors, officers, employees, representatives or agents of the City and Board, who shall incur or assume no liability in respect of any claims based upon or relating to this Agreement. It is understood and agreed between the Parties that Developer, in satisfying the conditions of this Agreement, has acted independently, and the City and Board assume no responsibilities or liabilities to third parties in connection with these actions.

5.12 Legislative Discretion. The Parties agree that by execution of this Agreement, the City and the Board do not waive or surrender any of their governmental powers, immunities or rights and, notwithstanding any provision of this Agreement, this Agreement does not control, waive, limit or supplant the legislative authority or discretion of the City Council or the Board. Notwithstanding, the City specifically waives immunity from suit for the sole purpose of, and only to the extent necessary to, allow(ing) Developer to seek specific performance of this Agreement.

5.13 Employment of Undocumented Workers. During the term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a(f), the Developer shall repay to the City the funds received by the Developer under this Agreement within 120 days after the date the Developer is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Pursuant to Section 2264.101(c), TEXAS GOVERNMENT CODE, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

5.14 Form 1295 Certificate. The Developer represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, the Developer has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission's electronic filing system in accordance with the rules promulgated by the Texas Ethics Commission. The Developer further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 completed by the Developer. The information contained in Form 1295 completed by the Developer has been provided solely by the Developer and the City has not verified such information.

5.15 Anti-Boycott Verification. The Developer hereby verifies that it and its parent company, wholly-or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, if and to the extent this Agreement is constructed to be a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, but only to the extent such Section 2271.002 is applicable, and to the extent Section 2271.002 does not contravene applicable federal law. As used in foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" as used in this Section to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

5.16 Iran, Sudan and Foreign Terrorist Organizations. The Developer represents that neither the Developer, nor their parent company, wholly-or majority-owned subsidiaries, and

other affiliates are a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

- (a) <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
- (b) <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
- (c) <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such section does not contravene applicable federal law and excludes the Developer and each of the Developer's parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" as used in this Section to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

5.17 Verification Regarding No Discrimination Against Firearm Entities and Firearm Trade Associations. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Owner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such section and to the extent such section does not contravene applicable Federal or Texas law. As used in the foregoing verification and the following definitions, 'discriminate against a firearm entity or firearm trade association,' a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association, 'firearm entity,' a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action

of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting), and 'firearm trade association,' a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

CITY OF DENISON, TEXAS

Janet Gott, Mayor

ATTEST:

Christine Wallentine, City Clerk

APPROVED AS TO FORM:

Julie Fort, City Attorney

DEVELOPER:

PRESTON FORREST CAPITAL LLC, a
Texas Limited Liability Company

By: _____

Printed Name: _____

Its: _____

Exhibit A

Concept

Development Highlights



- 30-acre mixed use development blending various residential formats along with commercial/restaurant/retail space on the US75 frontage.
- Waterloo Trails takes advantage of the natural topography and landscape of Waterloo Creek and uses the sweeping elevation changes as an asset to the development.
- Natural ponds, green space, and family friendly outdoor play areas are designed into Waterloo Trails as an amenity for the residents as well as patrons of the retail/restaurant space.
- Over 2.3 miles of trails within the development and potential to tie-in to the 7-mile Hike and Bike trail circling the Scenic Waterloo Lake.

ARCHITECTURE
INTERIORS
PLANNING

bennett
partners

Kimley & Horn
Specialty Planning, Engineering, Architecture



PRESTON
FORREST

Development Overview



Project Timeline

1Q24 – PD Approval

2024

- Loan processing & approval
- Design and engineering drawings

2025

- Start utilities and public infrastructure
- MF vertical construction
- Commercial Pad Sites will be marketed for sale/development following utility completion

2026

- Residential development anticipated to start after commercial development and projected full completion within 24 months.

ARCHITECTURE
INTERIORS
PLANNING

bennett
partners

Kimley & Horn
Specialty Planning, Engineering, Architecture



PRESTON
FORREST

Exhibit B

Opinion of Probable Costs

WATERLOO TRAILS



PROJECT NAME: <u>WATERLOO TRAILS</u>	DATE: 8/17/2023
CITY: <u>DENISON, TX</u>	CREATED BY: CCS
JOB NUMBER: <u>064559102</u>	CHECKED BY: ETJ
	REVISED BY:

PHASE 1		
A.0 ROADWAY		\$2,914,443.64
B.0 STORMWATER/DRAINAGE		\$524,048.10
C.0 WATER AND SEWER		\$1,136,071.92
D.0 LANDSCAPING AND LIGHTING		\$535,000.00
ON-SITE SUB-TOTAL:		\$5,109,563.66
MISCELLANEOUS & CONTINGENCIES:		20% \$1,021,912.73
PUBLIC INFRASTRUCTURE PLANNING/ENGINEERING:		8% \$408,765.09
PHASE 1 CONSTRUCTION COSTS:		\$6,540,241.48

PHASE 2		
A.0 ROADWAY		\$451,861.75
B.0 STORMWATER/DRAINAGE		\$425,683.74
C.0 WATER AND SEWER		\$200,378.90
D.0 LANDSCAPING AND LIGHTING		\$260,000.00
ON-SITE SUB-TOTAL:		\$1,337,924.39
MISCELLANEOUS & CONTINGENCIES:		20% \$267,584.88
PUBLIC INFRASTRUCTURE PLANNING/ENGINEERING:		8% \$107,033.95
PHASE 2 CONSTRUCTION COSTS:		\$1,712,543.22

PHASE 3		
A.0 ROADWAY		\$352,981.20
B.0 STORMWATER/DRAINAGE		\$170,298.69
C.0 WATER AND SEWER		\$69,850.62
D.0 LANDSCAPING AND LIGHTING		\$280,000.00
ON-SITE SUB-TOTAL:		\$873,130.51
MISCELLANEOUS & CONTINGENCIES:		20% \$174,626.10
PUBLIC INFRASTRUCTURE PLANNING/ENGINEERING:		8% \$69,850.44
PHASE 3 CONSTRUCTION COSTS:		\$1,117,607.05

TOTAL		
A.0 ROADWAY		\$3,719,286.59
B.0 STORMWATER/DRAINAGE		\$1,120,030.53
C.0 WATER AND SEWER		\$1,406,301.44
D.0 LANDSCAPING AND LIGHTING		\$1,075,000.00
ON-SITE SUB-TOTAL:		\$7,320,618.56
MISCELLANEOUS & CONTINGENCIES:		20% \$1,464,123.71
PUBLIC INFRASTRUCTURE PLANNING/ENGINEERING:		8% \$585,649.48
TOTAL CONSTRUCTION COSTS:		\$9,370,391.75

2:54 PM
8/17/2023

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City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, and take action on the appointment of Zachary Bearden as a New Member to the Public Library Advisory Board to serve the remainder of an unexpired two-year term ending December 31, 2025.

Staff Contact

Greg Mitchell, Library Director

gmitchell@cityofdenison.com

903-465-2720

Summary

- The Public Library Advisory Board was established by Chapter 18, Article IV, Section 18-162, Ordinance 4701. The Board consist of seven members and serves in an advisory capacity to council and staff on matter related to the Public Library and oversees the Denison Public Library Endowment Fund.
- Terms of office are two-year terms, with no more than three (3) consecutive full terms of office for a total of six (6) years. Board members are required to reside inside the Denison City limits.
- Board Members McClure, West, Emmons, and Hardy are on their first two-year term and will be up for reappointment December 2024. Board Chair Todd Gruhn is on his second two-year term and will be up for reappointment in December 2024.
- Staff has received one application to serve from Denison Resident, Zachary Bearden. Zachary is an employee at Denison ISD. Zachary has a bachelor's degree in English.

Staff Recommendation

Staff recommends the appointment of Zachary Bearden to the Library Advisory Board.

Recommended Motion

“I move to appoint Zachary Bearden as a new member to the Public Library Advisory Board to serve the remainder of an unexpired two-year term ending December 31, 2025.”

Background Information and Analysis

The Public Library Advisory Board shall serve in an advisory capacity to the City Manager, or his or her designee, and the City Council. The Public Library is authorized to join and participate cooperatively with the state library system and its regional system. The Board may make recommendations concerning the establishment of fees, operating policies, and programs of the library, long-range capital improvement planning and such other policy matter as the Board determines necessary. The Board shall also have those responsibilities and duties conferred upon it and expressly adopted by the City Council from time to time. The Board is empowered to provide and adopt rules and regulations for the management of its own business. The Board shall constitute and serve as the Board of Trustees of the Denison Public Library Endowment Fund. Service as a trustee for such Fund shall lapse upon the expiration of term of office a Board Member.

Financial Considerations

None.

Prior Board or Council Action

The council appointed Jennifer Hardy, Kody Emmons, Rhonda McClure, and Juliet West to the board in 2023. The council reappointed Todd McClure to the Board in 2023. The council appointed Kristi Porter-Francis to the board in 2024.

Alternatives

Council may table, deny, or modify the item.

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit for property commonly known as 202 W. Main Street, GCAD Property ID No. 143148 for the operation of a bar for Black Sheep Cigar Lounge. (Case No. 2024-019CUP).

Staff Contact

Dianne York, Planner
dyork@cityofdenison.com
903-465-2720

Summary

- The applicant is requesting a Conditional Use Permit (CUP) in order to operate a Bar for property located at 202 W. Main Street.
- Property is zoned Central Area (CA) and falls within the Commercial Historic Overlay District (CH).

Staff Recommendation

Staff recommends approval of the Conditional Use Permit.

Recommended Motion

"I move to approve a Conditional Use Permit for property located at 202 W. Main Street to allow for the operation of a Bar for Black Sheep Cigar Lounge."

Background Information and Analysis

The applicant, Fajerson Consulting, LLC, is seeking approval of a Conditional Use Permit (CUP) to allow for the use of Bar for property located at 202 W. Main Street to operate a cigar lounge, Black Sheep Cigar Lounge.

Per the Project Narrative, Black Sheep Cigar Lounge will offer a space for the enjoyment of both refined cigars and luxurious cocktails. The applicant will initiate a complete internal remodel of the space to include but not limited to subflooring and flooring, painting of the walls and ceiling and adding spaces such as bathrooms and a humidor so they may properly store cigars. In an effort to be a good neighbor to the surrounding businesses located on Main Street, the remodel will also include a top-of-the-line ventilation system and air purifiers in order to mitigate the cigar smoke.

The applicant is proposing hours of operation to include:

- Sunday through Thursday, 10:00 a.m. to 10:00 p.m.
- Friday through Saturday, 10:00 a.m. to 12:00 a.m.

The subject property falls within the City's Downtown Center per the Comprehensive Plan. Per the Comprehensive Plan, Denison's Downtown Center should be engaged in mixed-use activities with retail,

restaurants, entertainment, office and some medium-density residential uses. Permitting the use of Bar for Black Sheep Cigar Lounge conforms with the Comprehensive Plan.

There are no parking requirements for the Central Area zoning district, however, adequate on street parking and off street parking is provided via Main Street and public parking lots located near the property.

City staff has reviewed each Conditional Use Permit Criteria outlined within the City Ordinance, before reaching its recommendation for approval.

Conditional Use Permit Criteria for Approval:

- 1. The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;*

This location and use are compatible with the Comprehensive Plan.

- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;*

The proposed Conditional Use Permit use is compatible with uses found in the Central Area (CA) zoning district as well as the Commercial Historic Overlay District (CH).

- 3. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhood and includes improvements either on site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;*

The proposed use is compatible with the integrity of nearby existing developments.

- 4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*

N/A

- 5. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;*

No additional traffic mitigation or traffic control for the surrounding area is required.

- 6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and*

N/A

- 7. *The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.*

No variance is applied or needed.

Financial Considerations

N/A

Prior Board or Council Action

The Planning and Zoning Commission recommended approval of this request at their meeting held on April 23rd, 2024.

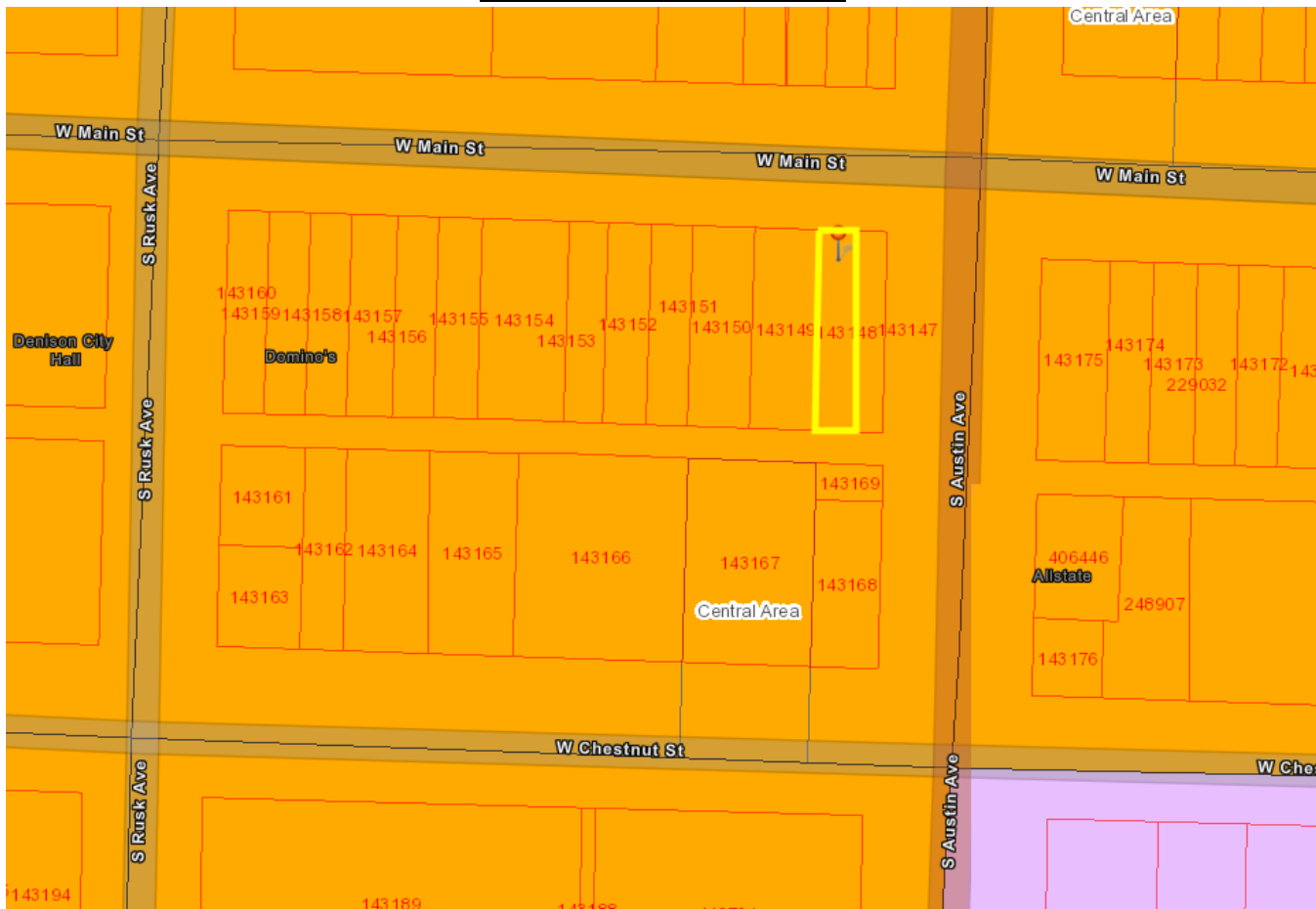
Alternatives

The City Council may approve with conditions, deny, or table the request.

Aerial of Subject Property



Zoning of Subject Property



Project Narrative for 202 W. Main St.

Imagine you're on a date and trying to find a nice, cozy spot to settle down for a nightcap after dinner. You don't want to go to a bar, the music is too loud and the "bar scene" isn't what you need. You're looking for a relaxing hang out; a place to socialize, sip a tasty hand crafted cocktail, and maybe even finish with an aromatic imported cigar.

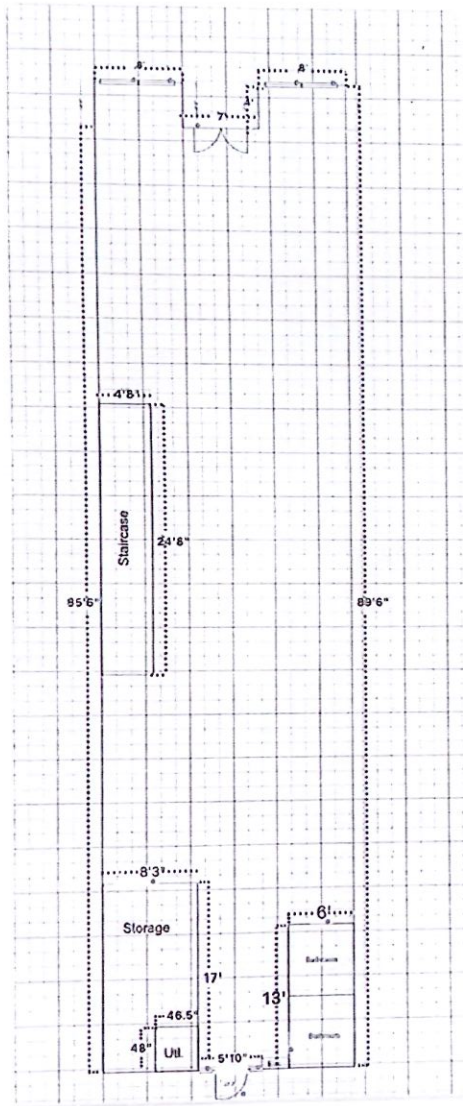
Fajerson Consulting LLC is looking to open up a new type of atmosphere on Main Street. We have projected a soft opening date of the 'Black Sheep Cigar Lounge' for Summer of 2024. Our establishment would hopefully bring another level of sophistication and entertainment to this area. We would be opening a retail business for refined cigars and luxurious cocktails, this space includes an area to relax and enjoy the company of others who also appreciate this level of leisure.

With the majority of sales belonging to our retail tobacco side of business, we would not be a 51% location. This space is going to be remodeled completely inside, from subflooring, flooring, sealing and painting the walls, ceiling, and adding other structures (i.e. bathrooms, and a humidor) to the inside of the store; included in this construction is a top of the line ventilation system as to not bother our neighbors or the general public with cigar smoke. We propose our operating hours to be 10 am to 10 pm Sunday through Thursday, and 10 am to 12 midnight on Friday and Saturday evenings; suggested hours will be within guidelines of TABC.

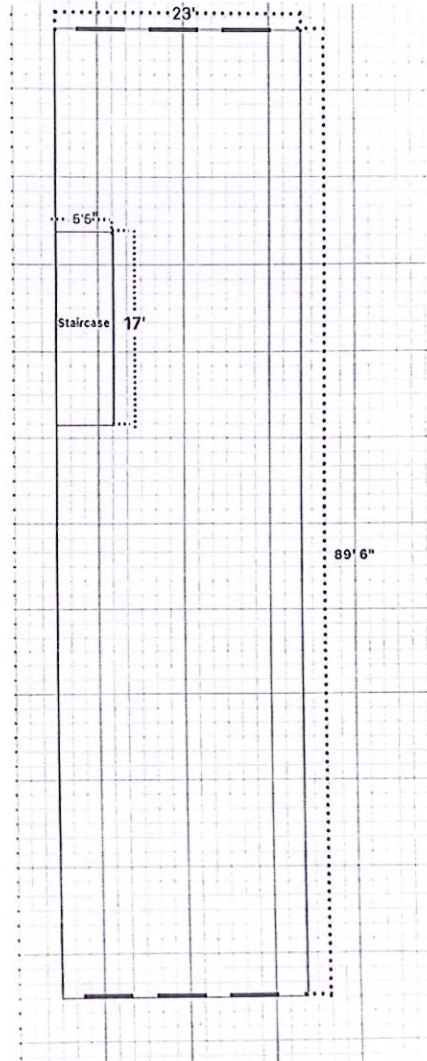
We believe our store will offer a harmonious site to the downtown atmosphere. We will have soft music and a down to earth ambiance that will accompany the level of refinement that we feel Main Street is constantly working to preserve. We will have more foot and vehicle traffic toward this location, but luckily there is a public parking lot to the South and West of our establishment. This foot traffic will hopefully also visit surrounding boutiques and eating establishments- bringing more and more business to this area. Inside our location, we will have plenty of ventilation and air purifiers so as to not give any negative report from our neighbors. The south entrance of the store has a loading and unloading space to negate any traffic from Main Street when we get deliveries of products.

We are looking to bring a different type of experience to Main Street, hopefully our location would rival that of other flourishing towns like McKinney, Rockwall, and Plano. Our cigar lounge would be a perfect fit with the level of polished ambiance we see coming to Downtown Denison. It has been projected that the cigar industry in the United States will reach \$13.3 billion in 2024. (Per [Statistica.com](https://www.statista.com)) This website also states that there is a calculated growth rate of 4.28% annually. We feel this would be a great partnership and hopefully another bright spot in the revamped area. We appreciate you for your time and consideration.

Current floorplan

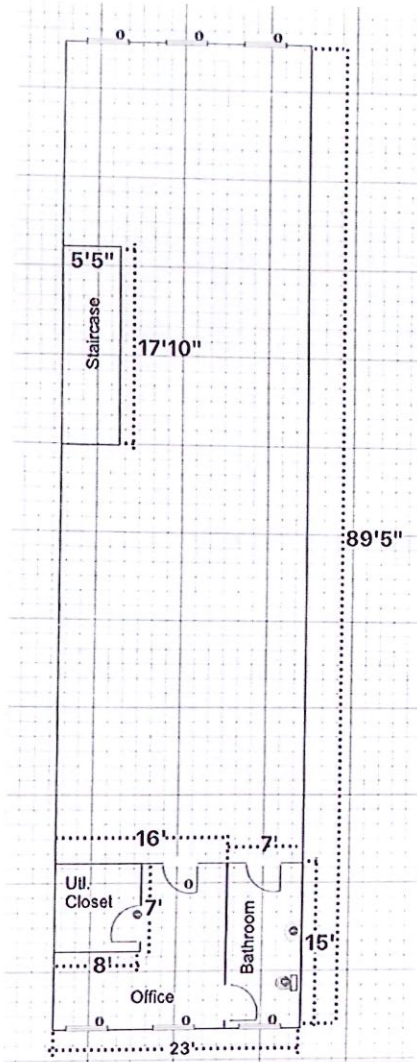


Downstairs

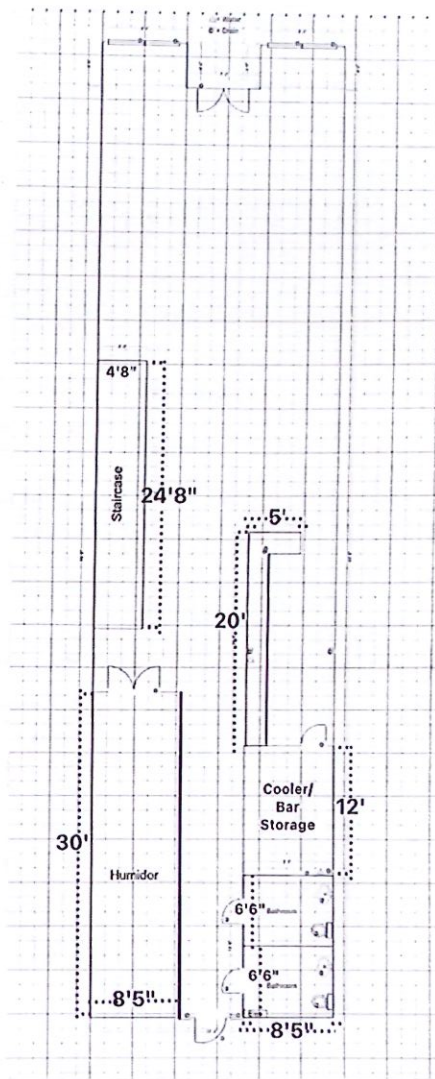


Upstairs

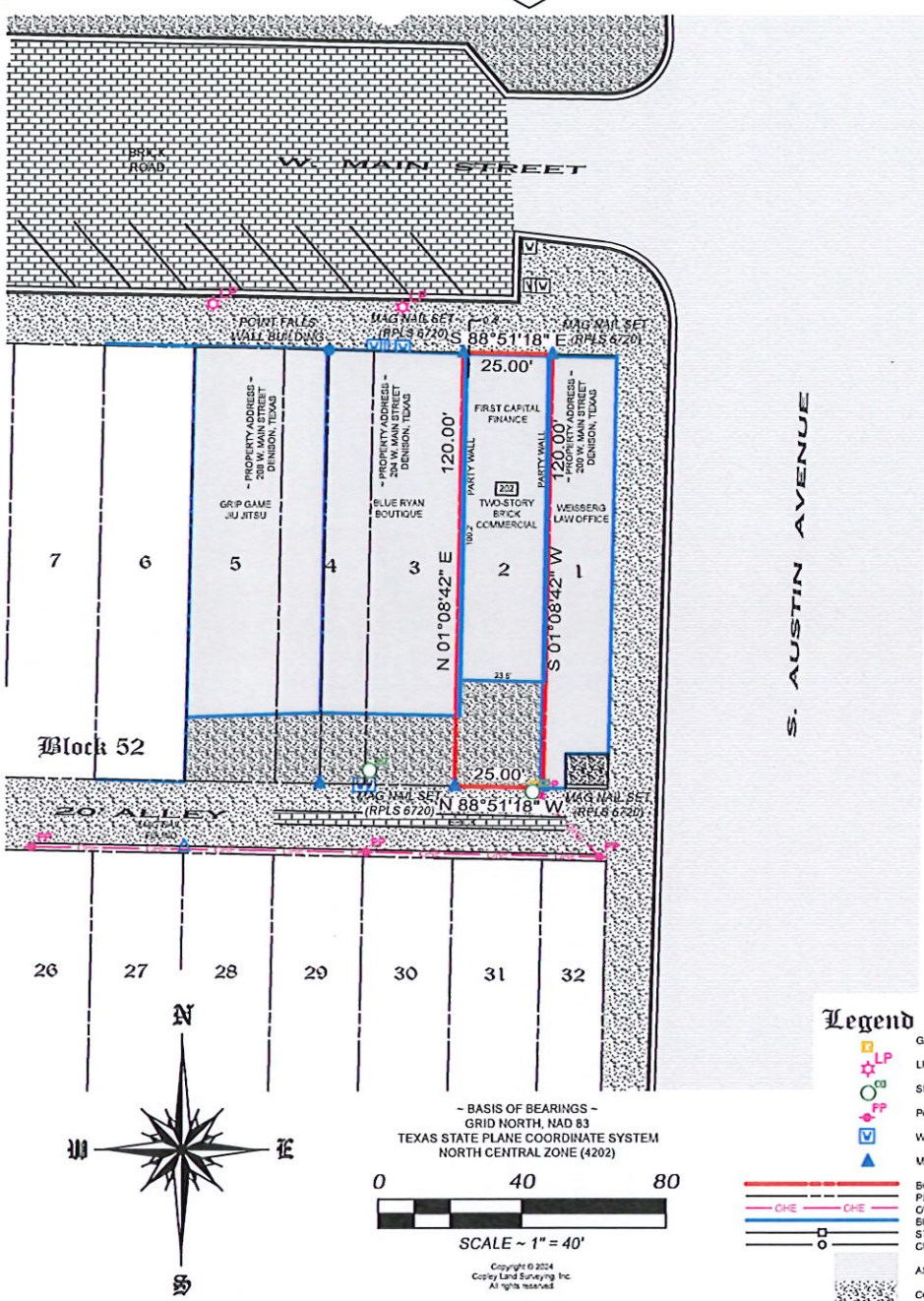
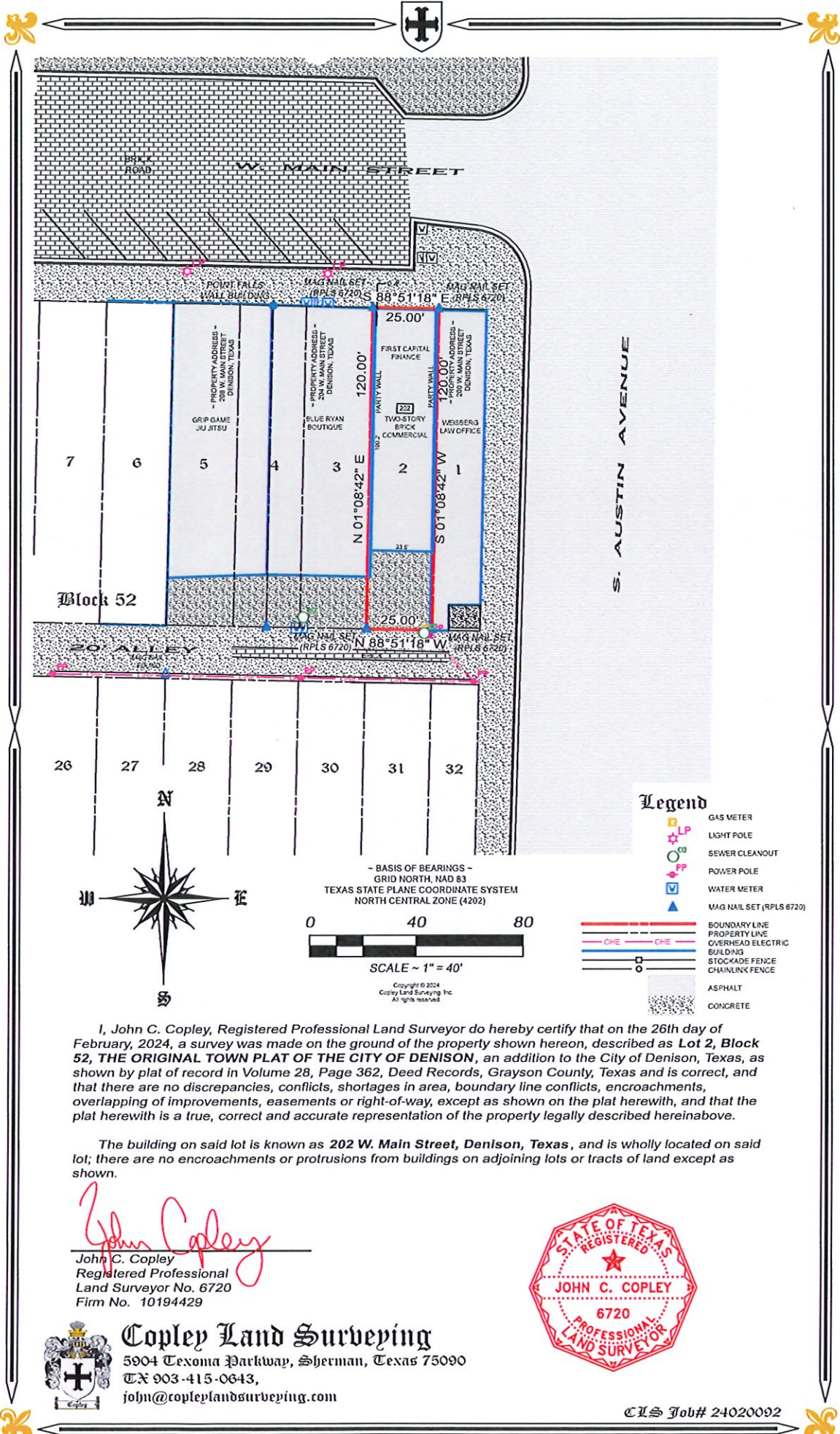
Future floorplan



Upstairs

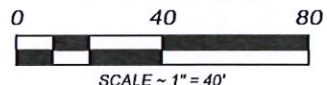
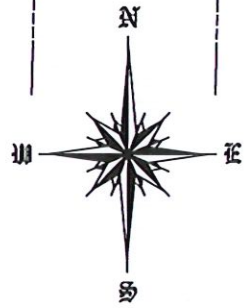


Downstairs



Legend

- GAS METER
- LIGHT POLE
- SEWER CLEANOUT
- POWER POLE
- WATER METER
- MAG NAIL SET (RPLS 6720)
- BOUNDARY LINE
- PROPERTY LINE
- OVERHEAD ELECTRIC
- BUILDING
- STOCKADE FENCE
- CHAINLINK FENCE
- ASPHALT
- CONCRETE



- BASIS OF BEARINGS -
 GRID NORTH, NAD 83
 TEXAS STATE PLANE COORDINATE SYSTEM
 NORTH CENTRAL ZONE (4202)

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 Copley Land Surveying Inc.
 All rights reserved.

I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 26th day of February, 2024, a survey was made on the ground of the property shown hereon, described as **Lot 2, Block 52, THE ORIGINAL TOWN PLAT OF THE CITY OF DENISON**, an addition to the City of Denison, Texas, as shown by plat of record in Volume 28, Page 362, Deed Records, Grayson County, Texas and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

The building on said lot is known as **202 W. Main Street, Denison, Texas**, and is wholly located on said lot; there are no encroachments or protrusions from buildings on adjoining lots or tracts of land except as shown.

John Copley
 John C. Copley
 Registered Professional
 Land Surveyor No. 6720
 Firm No. 10194429



Copley Land Surveying
 5904 Texoma Parkway, Sherman, Texas 75090
 TX 903-415-0643,
 john@copleylandsurveying.com

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF DENISON, TEXAS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR A BAR ON PROPERTY LOCATED IN THE CENTRAL AREA DISTRICT, THE AUSTIN AVENUE OVERLAY DISTRICT, AND THE COMMERCIAL HISTORIC OVERLAY DISTRICT; BEING LEGALLY DESCRIBED AS LOT 2, BLOCK 52, ORIGINAL TOWN PLAT, DENISON, GRAYSON COUNTY, TEXAS; AND BEING MORE COMMONLY KNOWN AS 202 W. MAIN STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

WHEREAS, Los Hermanos Partnership, LLC (“Owner”) owns Lot 2, Block 52, Original Town Plat, Denison, Grayson County, Texas, as described and depicted in **Exhibit “A”**, which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance requesting a Conditional Use Permit for a Bar on the Property which is located in the Central Area District, the Austin Avenue Overlay District, and the Commercial Historic Overlay District; and

WHEREAS, Owner has designated Ashlyn Fajerson of Fajerson Consulting, LLC to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

WHEREAS, the Comprehensive Zoning Ordinance of the City allows for a Bar in the Central Area District, the Austin Avenue Overlay District, and the Commercial Historic Overlay District with the grant of a Conditional Use Permit; and

WHEREAS, public hearings on said application having been held before the Planning and Zoning Commission and the City Council of the City of Denison (the “City Council”), after due notice of the public hearings having been mailed and published in all respects as required by law on the property fully described in the body of this Ordinance; and

WHEREAS, the Planning and Zoning Commission has recommended approval of a Bar for the Property; and

WHEREAS, the City Council has considered the evidence and testimony provided by all parties appearing before the City Council, in person and in writing, and the recommendation of the Planning and Zoning Commission relative to the proposed zoning change and has further considered all written approvals and protests, all as required by law; and

WHEREAS, the City Council has determined that the uses requested for the Property as requested in the Conditional Use Permit application and subject to the provisions of this Ordinance are compatible with surrounding properties and are appropriate for the location of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Zoning Map and Conditional Use Permit Approved. The zoning map of the City of Denison adopted by Section 28.3 of the Denison Code of Ordinances and on file in the office of the Planning Director is hereby amended to reflect the Conditional Use Permit is approved in the Central Area District, the Austin Avenue Overlay District, and the Commercial Historic Overlay District on the Property as follows:

2.01. Permit Granted. A Conditional Use Permit (“CUP” or “Permit”) for the Property authorizing use of the Bar is hereby approved.

2.02. Permit Conditions. The CUP and the use for which it is granted is subject to all Applicable Regulations (defined below) and to the following conditions:

A. Uses. The following use shall be permitted in accordance with the conditions of the CUP:

Bar or tavern: An establishment primarily devoted (seventy-five (75) percent) to the serving of alcoholic beverages for on-premises consumption and in which the service of food is only incidental to the consumption of such beverages.

B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Central Area District, the Austin Avenue Overlay District, and the Commercial Historic Overlay District (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

- C. Hours of operation: Sunday through Thursday 10:00 a.m. to 10:00 p.m. and Friday and Saturday 10:00 a.m. to 12:00 midnight.

Section 3. Failure to Comply/Expiration/Transferable. All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

Section 4. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

Section 6. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or Denison's Zoning Ordinance Chapter 28, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and remedies available to it pursuant to local, state, and federal law.

Section 7. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

AND IT IS SO ORDERED.

On motion by Councilmember _____, seconded by Councilmember _____, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting May 6, 2024.

JANET GOTT, MAYOR

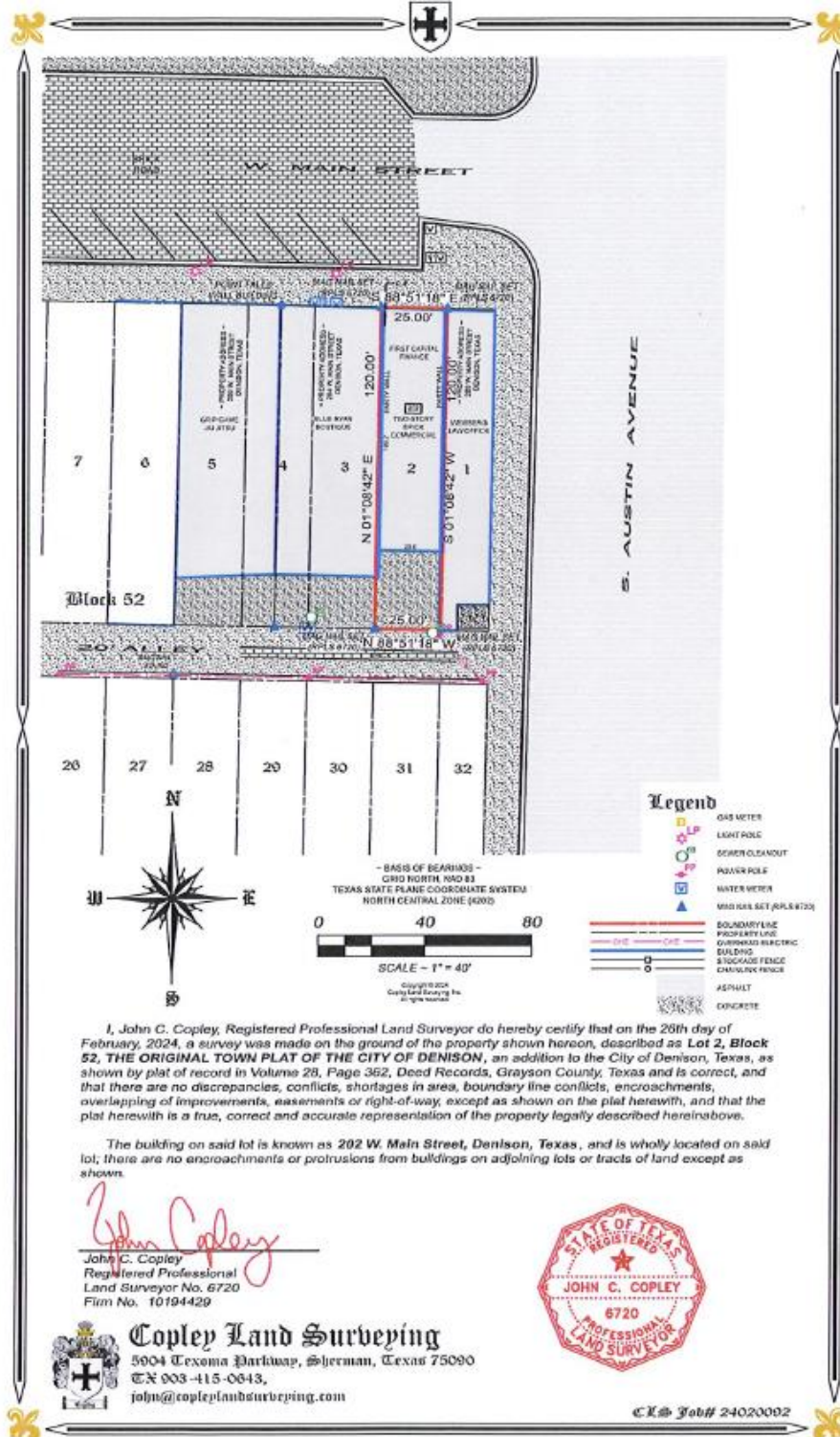
ATTEST:

Christine Wallentine, City Clerk

EXHIBIT "A"

Property Description and Depiction

BEING LOT 2, BLOCK 52, ORIGINAL TOWN PLAT, DENISON, GRAYSON COUNTY, TEXAS, AND BEING MORE COMMONLY KNOWN AS 202 W. MAIN STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS.



I, John C. Copley, Registered Professional Land Surveyor do hereby certify that on the 26th day of February, 2024, a survey was made on the ground of the property shown hereon, described as Lot 2, Block 52, THE ORIGINAL TOWN PLAT OF THE CITY OF DENISON, an addition to the City of Denison, Texas, as shown by plat of record in Volume 28, Page 362, Deed Records, Grayson County, Texas and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

The building on said lot is known as 202 W. Main Street, Denison, Texas, and is wholly located on said lot; there are no encroachments or protrusions from buildings on adjoining lots or tracts of land except as shown.

John C. Copley
 John C. Copley
 Registered Professional
 Land Surveyor No. 6720
 Firm No. 10194429



Copley Land Surveying
 5004 Texoma Parkway, Sherman, Texas 75090
 TX 903-415-0643
 john@copleylandsurveying.com

C.L.S. Job# 24020002

City Council Meeting Staff Report



Agenda Item

Receive a report, hold a discussion and take action on budget amendments for Business and Industrial Corporation of Denison, Inc., d/b/a Denison Development Alliance, for the Fiscal Year 2024 Budget.

Staff Contact

Laurie Alsabbagh, Finance Director

lalsabbagh@cityofdenison.com

903-465-2720 Ext. 2492

Summary

- The Business and Industrial Corporation of Denison, Inc., d/b/a Denison Development Alliance (“DDA”), Board of Directors met and approved the budget for Fiscal Year 2024 on August 16, 2023.
- City Council approved DDA’s Fiscal Year 2024 budget on September 5, 2023.
- The DDA Board of Directors met and approved an amended budget for Fiscal Year 2024 on October 31, 2023.
- City Council approved the amended Fiscal Year 2024 budget on November 6, 2023.
- The DDA Board of Directors met and approved a second amendment to the budget for Fiscal Year 2024 on March 20, 2024 and April 18, 2024.
- City Council is presented with the second amendment to the DDA FY2024 budget for approval on May 6, 2024.

Staff Recommendation

DDA Board of Directors and staff recommend approval of the amended budget.

Recommended Motion

“I move to approve the amended Denison Development Alliance Fiscal Year 2024 budget as presented.”

Background Information and Analysis

The Business and Industrial Corporation of Denison, Inc., d/b/a Denison Development Alliance (“DDA”), is requesting consideration of an amended budget to amend the following: an existing line item for “Infrastructure – Bluestem Rd/Detention/Gas Line” by increasing the budget amount by \$335,000 to be used for the cost of a gas line at the Foundation Business Park and the added cost of the detention structure; an existing line item for “Johns Manville Demolition/Cleanup” for an additional \$2,800,000 to fund the total completion of the cleanup project at the site; an existing line item for “Property Purchase – Downtown Denison” for an additional \$310,000 to fund the construction and renovation of the property located at 119 N Rusk Street, Denison, TX, its surrounding landscape and parking lot wall

Financial Considerations

DDA is funded in part by a dedicated sales tax for economic development. These funds are captured by the City and forwarded to DDA monthly. This amendment will add a cost of \$3,445,000 to their FY2024 budget.

Prior Board or Council Action

The DDA Board discussed and approved the proposed amendment on March 20, 2024 and April 18, 2024.

Alternatives

The Council may table the item. There were no alternative actions recommended by the DDA Board.



April 19, 2024

Bobby Atteberry, Laurie Alsabbagh, Chris Wallentine
City of Denison
300 W. Main St.
Denison, TX. 75020

Dear Bobby, Laurie and Chris:

Please find enclosed the 2023-2024 Second Amended Budget ("2nd Amended Budget") that was approved by the Denison Development Alliance's board of directors at its regular meeting yesterday. The board approved the following budget amendments:

1. An amendment for the Infrastructure – Foundation Park/Retention budget item which was renamed "Infrastructure – Bluestem Rd/Detention/Gas Line" in the additional amount of \$335,000.00 to be used for the cost of a gas line at the Foundation Business Park and the added cost of the detention structure.
2. An amendment for the "Johns Manville Demolition/Cleanup" budget item for an additional \$2,800,000 to fund the total completion of the cleanup project at the site. Of note, \$500,000 was approved at the March 20th board meeting and \$2,300,000 was approved at the April 18th board meeting.
3. An amendment for the "Property Purchase – Downtown Denison" budget item for an additional \$310,000 to fund the construction and renovation of the property located at 119 N. Rusk Street, Denison, TX 75020, its surrounding landscape and parking lot wall. As you know, this property was previously acquired by the DDA for a new office location.

We would appreciate if you would place this item on the City Council's agenda for consideration at its upcoming meeting. Staff members will be present at this meeting for any questions or comments.

Please let me know if you need any additional information and I would be happy to provide it to you. Thank you.

Best regards,

A handwritten signature in black ink, appearing to read "Tiffany Barney", enclosed within a large, loopy, oval-shaped scribble.

Tiffany Barney
Vice President of Operations

Moving Forward. Kicking Back.



2023/2024

Proposed Second Amended Budget

The individual items presented are ESTIMATES for income, expenses, and obligations that will be incurred during the 2023/2024 fiscal year as anticipated by the Denison Development Alliance. This outline is developed to be flexible and a shift in expenditures within this budget can be made at the discretion of the President to meet the priority needs of the program, which may arise during the year.

	<u>2023/2024</u>	<u>Proposed</u>	<u>Amended</u>
Estimated Funds Available (Carried Over)	\$ 7,879,046		\$ 7,879,046
Income			
4A Sales Tax Revenue	\$ 2,741,159		\$ 2,741,159
EDA Grant(s) - Johns Manville	\$ 56,000		\$ 56,000
Interest Income	\$ 230,000		\$ 230,000
Lease Income (Billboard)	\$ 14,700		\$ 14,700
Lease Income (Pasture Lands)	\$ 1,000		\$ 1,000
Johns Manville Bond Proceeds	\$ 1,011,405		\$ 1,011,405
Property Sales Income	\$ 900,000		\$ 900,000
Total Income:	\$ 4,954,264		\$ 4,954,264
Administrative Expenses			
Annual Meeting (Summit)	\$ 13,500		\$ 13,500
Audit/Accounting	\$ 23,650		\$ 23,650
Automotive Allowance	\$ 10,800		\$ 10,800
Bank Fees	\$ 1,500		\$ 1,500
Computers/Information Technology	\$ 13,000		\$ 13,000
Consultant Fees	\$ 75,000		\$ 75,000
Copier/Maintenance	\$ 1,200		\$ 1,200
Employee Insurance	\$ 25,820		\$ 25,820
Equipment Rental/Maintenance/Purchase	\$ 1,200		\$ 1,200
Janitorial/Office Maintenance	\$ 700		\$ 700
Legal Services	\$ 15,000		\$ 15,000
Liability Insurance	\$ 15,900		\$ 15,900
Meeting Refreshments	\$ 1,000		\$ 1,000
Miscellaneous Expenses	\$ 1,500		\$ 1,500
Office Furnishings	\$ 1,500		\$ 1,500
Office Lease	\$ 18,000		\$ 18,000
Office Supplies	\$ 5,500		\$ 5,500
Payroll Taxes/SS	\$ 21,765		\$ 21,765
Payroll Taxes/Medicare	\$ 5,090		\$ 5,090
Payroll Taxes/SUTA	\$ 300		\$ 300
Postage	\$ 1,000		\$ 1,000
Professional Development	\$ 13,000		\$ 13,000
Retirement/Deferred Compensation Trust	\$ 69,596		\$ 69,596
Salaries	\$ 369,470		\$ 369,470
Subscriptions/Dues	\$ 1,500		\$ 1,500
Telephone/Communications	\$ 10,500		\$ 10,500

Administrative Expenses (Continued)	2023/2024	Proposed	Amended
Travel	\$ 3,000		\$ 3,000
Utilities	\$ 6,900		\$ 6,900
Workers Compensation	\$ 600		\$ 600
Total Administrative Expenses:	\$ 727,491		\$ 727,491
Program Expenses			
Briefing Center/Presentation Equipment	\$ 1,000		\$ 1,000
GIS Webtech (Retail Market Analysis)	\$ 7,900		\$ 7,900
Workforce Development	\$ 195,500		\$ 195,500
Total Program Expenses:	\$ 204,400		\$ 204,400
Property Management Development Expenses			
Business Park/Johns Manville (Planning & Engineering)	\$ 112,000		\$ 112,000
Business/Industrial Park Maintenance	\$ 3,000		\$ 3,000
Foundation Business Park (Planning/Engineering)	\$ 50,000		\$ 50,000
Infrastructure - Sewer Line Bond Note	\$ 204,482		\$ 204,482
Infrastructure - Texoma Tech Park (Water & Sewer)	\$ 2,500,000		\$ 2,500,000
Infrastructure - Texoma Tech Park (Gas Line)	\$ 1,300,000		\$ 1,300,000
Infrastructure - Bluestem Rd/Detention/Gas Line	\$ 700,000	\$ 335,000	\$ 1,035,000
Johns Manville Bond Note	\$ 356,100		\$ 356,100
Johns Manville Demolition/Cleanup	\$ 1,011,405	\$ 2,800,000	\$ 3,811,405
Property Purchase - Downtown Denison	\$ 502,000	\$ 310,000	\$ 812,000
Total Property Management Expenses:	\$ 6,738,987		\$ 10,183,987
Projected/Obligated Incentives			
E-Commerce Program	\$ 72,000		\$ 72,000
Façade Improvement Incentive	\$ 200,000		\$ 200,000
Façade Reclamation Incentive	\$ 40,000		\$ 40,000
Fire Suppression/Sealing Incentive	\$ 500,000		\$ 500,000
Incentives - Micro Manufacturing Incentive	\$ 100,000		\$ 100,000
Gas Line Extension (75/91)	\$ 80,000		\$ 80,000
Incentives - Douglass Distributing	\$ 60,000		\$ 60,000
Incentives - Swagit Productions, LLC	\$ -		\$ -
Incentives - Victron Energy	\$ -		\$ -
Total Projected/Obligated Incentives:	\$ 1,052,000		\$ 1,052,000
Total Marketing Expenses (EXHIBIT 1)	\$ 262,545		\$ 262,545
Total Expenses	\$ 8,985,423		\$ 12,430,423
Funds Available for New Incentives/Projects	\$ 3,847,887		\$ 402,887