
DATE: Monday, February 17, 2025
TIME: 7:00 PM
PLACE: 400 South Vine Street, Urbana, IL 61801

AGENDA

Chair: *Maryalice Wu, Ward 1*

- A. Call to Order and Roll Call
- B. Approval of Minutes of Previous Meeting
 - 1. 01-13-2025 City Council Minutes
- C. Additions to the Agenda
- D. Presentations and Public Input
 - 1. Nursing Home Crisis in CU – Catherine Emanuel of Advocates for Aging Care
- E. Staff Report
 - 1. Celebrite Technology – PD
- F. New Business
 - 1. **Resolution No. 2025-02-016R:** A Resolution Approving a Redevelopment Agreement with MCDJ, LLC (CU Adventures in Time and Space Expansion, 302 North Broadway Avenue) – CD
 - 2. **Resolution No. 2025-02-017R:** A Resolution Approving a Redevelopment Agreement with Race Street Ventures, LLC (Fernie's High Horse, 118-120 South Race Street) – CD
 - 3. **Ordinance No. 2025-02-005:** An Ordinance Approving a Special Use Permit (809 W. Green St. / Plan Case No. 2496-SU-24 – Dutch Bros Coffee) – CD
- G. Old Business
 - 1. **Ordinance No. 2024-12-042:** An Ordinance Establishing Approval, Policy, and Reporting Requirements for Policing Surveillance Technology and Databases – CM's Wilken and Kolisetty
- H. Council Input and Communications
- I. Adjournment

PUBLIC INPUT

The City of Urbana welcomes Public Input during open meetings of the City Council, the City Council's Committee of the Whole, City Boards and Commissions, and other City-sponsored meetings. Our goal is to foster respect for the meeting process, and respect for all people participating as members of the public body, city staff, and the general public. The City is required to conduct all business during public meetings. The presiding officer is responsible for conducting those meetings in an orderly and efficient manner. Public Input will be taken in the following ways:

Email Input

Public comments must be received prior to the closing of the meeting record (at the time of adjournment unless otherwise noted) at the following: citycouncil@urbanaininois.us. The subject line of the email must include the words "PUBLIC INPUT" and the meeting date. Your email will be sent to all City Council members, the Mayor, City Administrator, and City Clerk. Emailed public comments labeled as such will be incorporated into the public meeting record, with personal identifying information redacted. Copies of emails will be posted after the meeting minutes have been approved.

Written Input

Any member of the public may submit their comments addressed to the members of the public body in writing. If a person wishes their written comments to be included in the record of Public Input for the meeting, the writing should so state. Written comments must be received prior to the closing of the meeting record (at the time of adjournment unless otherwise noted).

Verbal Input

Protocol for Public Input is one of respect for the process of addressing the business of the City. Obscene or profane language, or other conduct that threatens to impede the orderly progress of the business conducted at the meeting is unacceptable.

Public comment shall be limited to no more than five (5) minutes per person. The Public Input portion of the meeting shall total no more than two (2) hours, unless otherwise shortened or extended by majority vote of the public body members present. The presiding officer or the city clerk or their designee, shall monitor each speaker's use of time and shall notify the speaker when the allotted time has expired. A person may participate and provide Public Input once during a meeting and may not cede time to another person, or split their time if Public Input is held at two (2) or more different times during a meeting. The presiding officer may give priority to those persons who indicate they wish to speak on an agenda item upon which a vote will be taken.

The presiding officer or public body members shall not enter into a dialogue with citizens. Questions from the public body members shall be for clarification purposes only. Public Input shall not be used as a time for problem solving or reacting to comments made but, rather, for hearing citizens for informational purposes only.

In order to maintain the efficient and orderly conduct and progress of the public meeting, the presiding officer of the meeting shall have the authority to raise a point of order and provide a verbal warning to a speaker who engages in the conduct or behavior proscribed under "Verbal Input". Any member of the public body participating in the meeting may also raise a point of order with the presiding officer and request that they provide a verbal warning to a speaker. If the speaker refuses to cease such conduct or

behavior after being warned by the presiding officer, the presiding officer shall have the authority to mute the speaker's microphone and/or video presence at the meeting. The presiding officer will inform the speaker that they may send the remainder of their remarks via e-mail to the public body for inclusion in the meeting record.

Accommodation

If an accommodation is needed to participate in a City meeting, please contact the City Clerk's Office at least 48 hours in advance so that special arrangements can be made using one of the following methods:

- Phone: 217.384.2366
- Email: CityClerk@urbanaininois.us



City of Urbana
400 S. Vine Street, Urbana, IL 61801
www.urbanaininois.us

MEMORANDUM TO THE MAYOR AND CITY COUNCIL

Meeting: February 17, 2025 Committee of the Whole Meeting
Subject: A Resolution Approving a Redevelopment Agreement with MCDJ, LLC (CU Adventures in Time and Space, 302 North Broadway Avenue)

Summary

Action Requested

City Council being is asked to approve a Redevelopment Agreement (“Agreement”) with MCDJ, LLC (“Developer”) to provide Tax Increment Finance funds for capital improvements to the building at 302 North Broadway Avenue to accommodate a business expansion of CU Adventures in Time and Space (“CUA”).

Brief Background

The Developer is the owner of 302 North Broadway Avenue. The property is located in the Central Tax Increment Financing District. CUA is the sole tenant, which operates a premier escape room business on the premises. They plan to expand their business operations into 16,000 square feet of adjacent vacant space. The expansion project will include a new minigolf facility, upscale bar and beverage service, and private rooms for special events.

Relationship to City Services and Priorities

Impact on Core Services

None

Strategic Goals & Plans

Approval of this Agreement would support the strategies of Mayor/Council Strategic Area #4: Economic Health:

- Strategy #1: Support local businesses
- Strategy #2: Enhance employment opportunities in Urbana
- Strategy #3: Recruit new businesses and industries
- Strategy #4: Create a Tourist and Entertainment District

Approval of this Agreement would also support the goals and objectives of [Central Redevelopment Project Area Plan](#).

Previous Council Actions

None.

Discussion*Additional Background Information*

CUA is one of the premier escape room facilities in the Midwest. The facility expansion will offer an exciting new concept that blends minigolf with technology, art, and theatricality. CUA will offer an immersive experience using the latest technology together with minigolf.

In addition to the minigolf courses, a medieval style “tavern” with full-service bar and rentable private rooms will be offered creating an attraction for local special events. Although no food service will be provided on site, CUA will facilitate local food truck vendors to provide food service to patrons.

The total estimated cost of the expansion project is \$1,875,000, inclusive of both Developer and tenant improvement costs. The Developer will build-out the 16,000-square-foot space that CUA will occupy. As part of its obligations under the proposed Redevelopment Agreement, the City will provide a TIF incentive of up to \$210,000 for the project. The project is also supported by a \$318,839 DCEO Tourism Attractions and Festivals Grant. The Developer and CUA have indicated that, but for the TIF’s investment, the project as proposed would not be viable.

The City’s main obligation as part of the Agreement is to distribute five payments of \$42,000 each. The first payment will be issued thirty (30) days after the project is issued a Certificate of Occupancy. The four additional payments shall be distributed annually from the date of the first payment contingent on the following performance standards:

1. CUA new minigolf entertainment venue has produced \$500,000 in annual Food and Beverage Sales in the immediately preceding 12-month period.
2. CUA new minigolf entertainment venue has generated 31,000 rounds in the same 12-month period.

In order to receive the full annual payments, CUA must reach the sales and rounds of golf performance standards (See Section 4.2 of Agreement, **Attachment 2**).

Policy or Statutory Impacts

302 North Broadway Avenue is located in Urbana’s Central TIF District. One of the main objectives of the TIF District is to encourage and assist private investment in the redevelopment area through the provision of financial assistance as permitted by the State of Illinois Tax Increment Allocation Redevelopment Act. The TIF’s contribution to the project is equal to 11.2% of the total project cost. In other words, each \$1.00 invested by the TIF leverages \$8.93 in total investment.

The proposed project will add a significant and valuable entertainment attraction to Downtown Urbana. Based on information from *Experience CU* and CUA's own research, one-third of visitors to the new attraction will be from outside of Champaign County. In addition to the increase in Food and Beverage Tax revenues generated at the facility, those visitors will be inclined to visit other venues in the general community (e.g., restaurants, bars, other entertainment venues). The proposed project satisfies a public need for additional community assets and is anticipated to generate substantial economic benefits to the City and the surrounding area.

Fiscal and Budget Impact

The anticipated financial impact is estimated in *Table 1* below. Based off the projected business activity, the project is expected to generate a positive municipal fiscal impact within five years. The City anticipates collecting municipal taxes, Home Rule Sales and Food/Beverage Taxes, directly from the project, as well as indirectly, in the form of additional Hotel/Motel Taxes. While the number of tourists generated by this project (visitors from 40 miles away), is expected to generate even further positive economic impacts for the City and the TIF, estimating the municipal tax impact can be difficult. However, local data from *Experience CU* estimates that the tourist industry standard for outside visitor spending is on average \$107 per day.

Table 1. Financial Projections – CU Adventures Expansion

	Year 1	Year 2	Year 3	Year 4	Year 5
Business Projections					
Annual Attendance	41,933	73,382	73,382	73,382	73,382
Projected Food and Bev. Sales	\$503,196	\$880,584	\$880,584	\$880,584	\$880,584
Performance Standards					
Annual Visitors	31,000	31,000	31,000	31,000	31,000
Food & Bev. Sales	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Municipal Impact					
Direct Local Tax Generated	\$17,612	\$30,821	\$30,821	\$30,821	\$30,821
Estimated Tourist Impact (Hotel/Motel Tax)	\$11,000	\$20,000	\$20,000	\$20,000	\$20,000
1st Payment	(\$42,000)				
Annual Payments (Performance Based)	(\$42,000)	(\$42,000)	(\$42,000)	(\$42,000)	
Net Municipal Fiscal Impact	(\$55,388)	(\$46,568)	(\$37,747)	(\$28,926)	\$21,894

This investment by the Developer in the building will mostly likely not have a significant impact on the assessed value of the property. The proposed improvements are mostly interior, and the property is already being fully assessed according to the Cunningham Township Assessor.

Recommendation

City Council is asked to approve the Resolution approving the Redevelopment Agreement with MCDJ, LLC.

Next Steps

If approved, the Agreement will be executed by the parties, and the City will comply with its obligations, as outlined in the Agreement.

Attachments

1. Resolution Approving a Redevelopment Agreement with MCDJ, LLC
2. Redevelopment Agreement by and between the City of Urbana and MCDJ, LLC
3. CU Adventures Proposal

Originated by: Michael McMahon, Economic Development

Reviewed: William Kolschowsky Senior Management Analyst / Assistant to the City
Administrator

Approved: Carol Mitten, City Administrator

RESOLUTION NO. _____

**A RESOLUTION APPROVING A REDEVELOPMENT AGREEMENT WITH
MCDJ, LLC**

(CU Adventures in Time and Space, 302 North Broadway Avenue)

WHEREAS, the City of Urbana, an Illinois municipal corporation (hereinafter, the “City”), is a home rule unit of local government pursuant to Article 7, § 6 of the Illinois Constitution of 1970 and 65 ILCS 5/1-1-10; and

WHEREAS, MCDJ, LLC (“Developer”), an Illinois limited liability company, intends to renovate and lease 16,000 square feet of vacant space to CU Adventures In Time and Space, LLC, an Illinois limited liability company (“CUA”), investing in tenant improvements in accordance with the terms and conditions contained in the Redevelopment Agreement (hereinafter the “Agreement”) appended to this Ordinance as an exhibit; and

WHEREAS, the City and Developer desire to enter into the Agreement in substantially the form of the exhibit appended hereto and made a part hereof; and

WHEREAS, the City Council, after due consideration, finds that approval of the Agreement, as herein provided, is in the best interests of the residents of the City and is desirable for the welfare of the City’s government and affairs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

The Agreement shall be and hereby is approved in substantially the form appended to and incorporated into this Resolution.

Section 2.

The Mayor of the City of Urbana, Illinois, shall be and is hereby authorized to execute and deliver the Agreement, in substantially the form of the exhibit attached hereto and hereby incorporated by reference, and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to

said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

This Resolution shall be in full force and effect from and after its passage.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

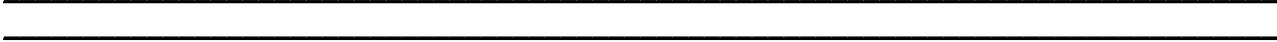
NAYS:

ABSTENTIONS:

Darcy E. Sandefur, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor



REDEVELOPMENT AGREEMENT

by and between the

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

and

MCDJ, LLC

Dated as of February 17, 2025



TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I	DEFINITIONS	2
Section 1.1.	Definitions.....	2
Section 1.2.	Construction	3
ARTICLE II	REPRESENTATIONS AND WARRANTIES	3
Section 2.1.	Representations and Warranties of the City	3
Section 2.2.	Representations and Warranties of the Developer	4
Section 2.3.	Disclaimer of Warranties	5
ARTICLE III	CONDITIONS PRECEDENT TO THE UNDERTAKINGS ON THE PART OF THE DEVELOPER AND THE CITY	5
Section 3.1	Conditions Precedent	5
Section 3.2	Reasonable Efforts and Notice of Termination.....	5
ARTICLE IV	CITY’S COVENANTS AND AGREEMENTS	6
Section 4.1	City’s TIF Funded Financial Obligations.....	6
Section 4.2.	Distribution of Funds	6
Section 4.3.	Defense of Redevelopment Project Area	7
ARTICLE V	DEVELOPER’S COVENANTS	7
Section 5.1.	Commitment to Undertake and Complete Project	7
Section 5.2.	Prevailing Wages	7
Section 5.3.	Tax and Related Payment Obligations	7
Section 5.4.	Businesses Owned by Minorities and Females	8
ARTICLE VI	PAYMENT PROCEDURES FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS	8
Section 6.1.	Payment Procedures	8
Section 6.2.	Approval and Resubmission of Requisitions	8
Section 6.3.	Time of Payment	9
ARTICLE VII	DEFAULTS AND REMEDIES	9
Section 7.1.	Events of Default.....	9
Section 7.2.	Rights to Cure	9
Section 7.3.	Remedies	10
Section 7.4.	Costs, Expenses and Fees.....	10
ARTICLE VIII	RELEASE, DEFENSE AND INDEMNIFICATION OF CITY	10
Section 8.1.	Declaration of Invalidity	10
Section 8.2.	Damage, Injury or Death Resulting from Project	11
Section 8.3.	Damage or Injury to Developer and Others	11

Section 8.4. No Personal Liability 11

Section 8.5. City Not Liable for Developer Obligations..... 11

Section 8.6. Actions or Obligations of Developer 11

Section 8.7. Notification of Claims 11

ARTICLE IX MISCELLANEOUS PROVISIONS 12

Section 9.1. Entire Agreement and Amendments 12

Section 9.2. Third Parties 12

Section 9.3. Counterparts 12

Section 9.4. Special and Limited Obligation..... 12

Section 9.5. Time and Force Majeure 12

Section 9.6. Waiver 12

Section 9.7. Cooperation and Further Assurances 13

Section 9.8. Notices and Communications..... 13

Section 9.9. Assignment..... 14

Section 9.10. Successors in Interest 14

Section 9.11. No Joint Venture, Agency, or Partnership Created 14

Section 9.12. Illinois Law; Venue..... 14

Section 9.13. Term 14

Section 9.14. Recordation of Agreement 15

Section 9.15. Construction of Agreement 15

EXHIBIT LIST

EXHIBIT A Lease Amendment

EXHIBIT B Project Description

EXHIBIT C Legal Description of Property

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (including any exhibits and attachments hereto, collectively, this “**Agreement**”) is dated for reference purposes only as of February 17, 2025, but actually executed by each of the parties on the dates set forth beneath their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the “**City**”), and **MCDJ, LLC**, an Illinois limited liability company (the “**Developer**”). This Agreement shall become effective upon the date of the last of the City and the Developer to execute and date this Agreement and deliver it to the other (the “**Effective Date**”).

RECITALS

WHEREAS, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 *et seq.*), as supplemented and amended (the “**TIF Act**”), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City Council of the City (the “**Corporate Authorities**”) adopted a series of ordinances (Ordinance Nos. 2016-09-084, 2016-09-085, and 2016-09-086 on October 17, 2016) including as supplemented and amended (collectively, the “**TIF Ordinances**”); and

WHEREAS, under and pursuant to the TIF Act and the TIF Ordinances, the City designated the Central Tax Increment Redevelopment Project Area (the “**Redevelopment Project Area**”) and approved the related redevelopment plan, as supplemented and amended (the “**Redevelopment Plan**”), including the redevelopment projects described in the Redevelopment Plan (collectively, the “**Redevelopment Projects**”); and

WHEREAS, as contemplated by the Redevelopment Plan and the Redevelopment Projects, the Developer proposes to undertake (or cause to be undertaken) the Project (including related and appurtenant facilities as more fully defined below); and

WHEREAS, the Property (as defined below) is within the Redevelopment Project Area; and

WHEREAS, *CU Adventures In Time and Space, LLC*, an Illinois limited liability company (“**CUA**”) leases a portion of the Property for its current business operations and is planning to expand its operation into 16,000 square feet (sq. ft.) of adjacent vacant space, investing in tenant improvements; and

WHEREAS, the Developer will undertake building improvements to accommodate the build-out and the expansion of CUA; and

WHEREAS, that the Project involves work that is eligible for reimbursement under TIF, and that available TIF incentives are critical to the financial viability of the Project; and

WHEREAS, the City has determined that it is desirable and in the City’s best interests to incentivize the Project in the manner set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms, and phrases used in this Agreement shall have the meaning provided in the above Recitals and from place to place herein, including as follows:

“Annual Distribution Amounts” means, collectively, amounts to be distributed or paid to the Developer from the Fund by the City under and pursuant to Section 4.2 of this Agreement.

“Eligible Redevelopment Project Costs” means those costs paid and incurred in connection with the Project that are authorized to be reimbursed or paid from the Fund as provided in Section 5/11-74.4-3(q) of the TIF Act, including: (a) costs of studies, surveys, development of plans and specifications, including but not limited to professional service costs for architectural, engineering, legal, financial, planning, or other services; (b) property assembly costs, including the acquisition of the Property, site preparation, and the clearing and grading of land; (c) costs of the construction of public works or improvements; and (d) up to 30% per year of interest costs incurred by the Developer related to the construction of the Project subject to the total cost limitations of such interest payments as set forth in subparagraph (D) of such Section, 5/11-74.4-3(q)(11).

“Finance Director” means the Finance Director of the City, or their designee.

“Fund” means, collectively, the “Special Tax Allocation Fund” for the Redevelopment Project Area established under Section 5/11-74.4-8 of the TIF Act and the TIF Ordinances.

“Incremental Property Taxes” means, net of all amounts required by operation of the TIF Act to be paid to other taxing districts, including as surplus, in each calendar year during the term of this Agreement, the portion of the ad valorem real estate taxes arising from levies upon the Property by taxing districts that is attributable to the increase in the equalized assessed value of each taxable lot, block, tract, or parcel of real estate within the Property over the equalized assessed value of each taxable lot, block, tract or parcel of real estate within the Property as assigned by the Champaign County Clerk which, pursuant to the TIF Ordinances and Section 5/11-74.4-8(b) of the TIF Act, will be allocated to and when collected shall be paid to the Finance Director for deposit by the Finance Director into the Fund established to pay Eligible Redevelopment Project Costs and other redevelopment project costs as authorized under Section 5/11-74.4-3(q) of the TIF Act.

“Lease Amendment” means a commercial lease agreement amendment between the Developer and CUA for the property located at 302 N. Broadway Avenue in Urbana, Illinois and made a part hereof as Exhibit A.

“Prevailing Wage Act” means the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) of the State of Illinois, the material terms of which require all contractors and subcontractors to pay all laborers, workers and mechanics performing work on any “public works” (as therein defined) no less than the current “prevailing rate of wages” (hourly cash wages plus fringe benefits) applicable to the county where performed and to comply with all notice, recordkeeping, and filing duties.

“Project” means the construction and installation of improvements on the Property in accordance with the construction cost estimates, a copy of which is attached hereto and made a part hereof as Exhibit B.

“Project Commencement Date” means, as applicable, September 5, 2024, the date on or before which construction of the Project commenced.

“Project Completion Date” means, subject to “unavoidable delays” as described in Section 9.5 of this Agreement, the date on which the Project is completed as evidenced by the issuance by the City of a certificate of occupancy for the Project upon the Property, which such date shall not be later than September 1, 2025.

“Property” means the real estate in the City consisting of the parcel at 302 N. Broadway Avenue depicted on Exhibit C hereto, upon or within which the Project is to be undertaken and completed.

“Requisition” means a request by the Developer for a payment or distribution Eligible Redevelopment Project Costs pursuant to the procedures set forth in Article VI of this Agreement.

“TIF Financing” means financing arrangements to or for the benefit of a developer arising out of the TIF Act that pay or distribute redevelopment project costs in whole or in part.

Section 1.2. Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) definitions include both singular and plural.
- (b) pronouns include both singular and plural and cover all genders.
- (c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction, or effect hereof.
- (d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

- (a) **Organization and Standing.** The City is a home rule municipality duly organized, validly existing, and in good standing under the Constitution and laws of the State of Illinois.
- (b) **Power and Authority.** The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations, and undertakings hereunder.
- (c) **Authorization and Enforceability.** The execution, delivery, and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City’s Corporate Authorities. This Agreement is a legal, valid, and binding obligation of the City,

enforceable against the City in accordance with its terms, except to the extent that any and all financial obligations of the City under this Agreement shall be limited to the availability of such Incremental Property Taxes therefor as may be specified in this Agreement and that such enforceability may be further limited by laws, rulings, and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium, or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations, and undertakings hereunder will conflict with, violate, or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.

(e) Governmental Consents and Approvals. No consent or approval by any other governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2. Representations and Warranties of the Developer. In order to induce the City to enter into this Agreement, the Developer makes the following representations and warranties to the City:

(a) Organization. The Developer is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Illinois.

(b) Power and Authority. The Developer has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations, and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery, and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Developer's members, Manager and General Manager. This Agreement is a legal, valid, and binding agreement, obligation and undertaking of the Developer, enforceable against the Developer in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings, and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium, or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate, or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license, or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree, or other law to which the Developer is a party or by which the Developer or any of its assets may be bound.

(e) Consents and Approvals. No consent or approval by any governmental authority or by any other person or entity is required in connection with the execution and delivery by the Developer of this Agreement or the performance by the Developer of its obligations hereunder.

(f) No Proceedings or Judgments. There is no claim, action, or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the Developer is a party and (2) which will, or could, prevent the

Developer's performance of its obligations under this Agreement.

(g) **Maintenance of Existence.** During the term of this Agreement, the Developer shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence as an Illinois limited liability company.

Section 2.3. Disclaimer of Warranties. The City and the Developer acknowledge that neither has made any warranties to the other except as set forth in this Agreement. The City hereby disclaims any and all warranties with respect to the Property and the Project, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability or sufficiency of the Incremental Property Taxes for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of any projections of Incremental Property Taxes, and the Developer assumes all risks in connection with the practical realization of any such projections of Incremental Property Taxes.

ARTICLE III

CONDITIONS PRECEDENT TO THE UNDERTAKINGS ON THE PART OF THE DEVELOPER AND THE CITY

Section 3.1. Conditions Precedent. The undertakings on the part of the City as set forth in this Agreement are expressly contingent upon each of the following:

- (a) **Project Budget.** The Developer shall have delivered to the City an itemized list of any and all estimated costs to complete the Project (the "**Project Budget**") in accordance with such final development plans as may be approved by the City, including a minimum total cost to complete the Project of not less than one million and seven hundred fifty thousand dollars (\$1,750,000),
- (b) **Ability to Pay.** The Developer shall have provided evidence, in a commercially reasonable form satisfactory to the City, of its and CUA's ability to pay for the costs of the Project, as itemized in the Project Budget;
- (c) **Construction Schedule.** The Developer shall have delivered to the City a detailed construction schedule for the commencement and completion of the Project, which shall include a Project Commencement Date and a Project Completion Date; and
- (d) **City Approvals.** The Developer shall have obtained approval of the Project in accordance with all applicable laws, codes, rules, regulations, and ordinances of the City, including without limitation all applicable subdivision, zoning, environmental, building code or any other land use regulations (collectively, the "**City Codes**"), including the issuance of all required permits, it being understood that the City in its capacity as a municipal corporation has discretion to approve the issuance of any such permits.

Section 3.2. Reasonable Efforts and Notice of Termination. The Developer shall use due diligence to timely satisfy the conditions set forth in Section 3.1 above on or before the Project Commencement Date, but if such conditions are not so satisfied or waived by the City, then the City may terminate this Agreement by giving written notice thereof to the Developer. In the event of such

termination, this Agreement shall be deemed null and void and of no force or effect and neither the City nor the Developer shall have any obligation or liability with respect thereto.

ARTICLE IV

CITY'S COVENANTS AND AGREEMENTS

Section 4.1. City's TIF Funded Financial Obligations. The City shall have the obligation set forth in Section 4.2 relative to the distribution of TIF Funds for Eligible Redevelopment Project Costs in connection with the Project. Upon the submission to the City by the Developer of a Requisition for distribution of TIF Funds in accordance with Article VI of this Agreement, the City, subject to the terms, conditions, and limitations set forth in Section 4.2 immediately below, agrees to distribute to the Developer from the Fund such annual amounts (the "**Annual Distribution Amounts**") related to Project upon the Property.

Section 4.2. Distribution of TIF Funds

(a) **Period of Annual Distribution.** The City will have the obligation to distribute five annual payments. The first of five (5) annual payments of \$42,000 to the Developer will be issued thirty (30) days after the City Building Official has issued a Certificate of Occupancy for the new expansion space. The four (4) additional payments shall be distributed on an annual cycle based on the date of the first payment. Payments shall be contingent on the following:

- i. Developer has completed the Project as proposed, and has provided documentation of all Project expenses.
- ii. Developer has extended CUA a discount to the monthly rent payments equal to the annually incentive payments paid to the Developer for the duration of the Agreement.
- iii. For each of the subsequent annual payments, CUA must meet the following performance standards:
 - a. CUA new minigolf entertainment venue produced \$500,000 in annual Food and Beverage Sales ("Sales") in the immediately preceding 12-month period ending on the anniversary date of the first payment.
 - b. CUA new minigolf entertainment venue generated 31,000 rounds ("Rounds") in the same 12-month period.

(b) **Performance of the Business:** In order to receive the annual payment in full, CUA must reach the Sales performance standard and Rounds performance standard in any one 12-month period as stated in Section 4.2 iii above.

- a. If Sales or Rounds fail to meet the performance standards, the annual payment shall be reduced by one-quarter for each area of non-performance (\$10,500 each), provided that both are above the following minimum thresholds of the performance standard. The minimum thresholds for each performance year are:
 - i. First Performance Period: 70%
 - ii. Second Performance Period: 80%
 - iii. Third Performance Period: 90%
 - iv. Fourth Performance Period: 100%
- b. If any one of Sales or Rounds fails to meet annual minimum threshold in any performance period, the City shall give written notice and the City shall not be liable to make payment of the annual payment for the year in question. The

failure of CUA to reach any level of sales revenue or rounds of golf shall not be a reason for the City to declare a default of any party under this Agreement.

(c) **Conditions by Developer:** In the event the Developer fails to provide or maintain any of the conditions as stated in Section 4.2(a) i. or ii. above, the City shall give written notice and declare the Developer in default and seek remedy in accordance with Article VII of this Agreement.

Section 4.3. Defense of Redevelopment Project Area. In the event that any court or governmental agency having jurisdiction over enforcement of the TIF Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including the payment of the TIF Funds to be paid by the City is contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement.

ARTICLE V

DEVELOPER'S COVENANTS

Section 5.1. Commitment to Undertake and Complete the Project. The Developer covenants and agrees to commence the Project on or before the Project Commencement Date and to have the Project completed on or before the Project Completion Date. The Developer recognizes and agrees that the City has sole discretion with regard to all approvals and permits relating to the Project, including but not limited to approval of any required permits and any failure on the part of the City to grant or issue any such required permit shall not give rise to any claim against or liability of the City pursuant to this Agreement. The City agrees, however, that any permit application shall be processed in its usual and customary manner and that any such approval shall be made in conformance with the applicable City Codes and shall not be unreasonably denied, withheld, conditioned, or delayed.

Section 5.2. Prevailing Wages. The Developer acknowledges that the Illinois Department of Labor currently takes the position as a matter of its enforcement policy that the TIF financing of the Project under this Agreement does not subject the Project to the Prevailing Wage Act unless the Project also receives funding from another public source. The City makes no representation as to any such application of the Prevailing Wage Act to the Project, and any failure by the Developer to comply with the Prevailing Wage Act, if and to the extent subsequently found to be applicable by any legal authority having jurisdiction, shall not be deemed a "Default" under this Agreement. Notwithstanding the foregoing sentence, the Developer agrees to assume all responsibility for any such compliance (or noncompliance) with the Prevailing Wage Act in connection with the Project under this Agreement in the event of any action by any party to enforce its provisions.

Section 5.3. Tax and Related Payment Obligations. The Developer agrees to pay and discharge, promptly and when the same shall become due, all general ad valorem real estate taxes and assessments, all applicable interest and penalties thereon, and all other charges and impositions of every kind and nature which may be levied, assessed, charged, or imposed upon the Property or any part thereof that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of the Property. The Developer, including any others claiming by or through it, also hereby covenants and agrees not to file any application for property tax exemption for any part of the Property or the Project or any part thereof under any applicable provisions of the

Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.). This covenant of the Developer shall be a covenant that runs with the land being the Property upon which the Project is undertaken and shall be and remain in full force and effect during the term of this Agreement and following its expiration or termination, as the case may be, until December 31, 2031, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to the Property, the City shall execute and deliver to such party an instrument, in recordable form, confirming for the record that this covenant has terminated and is no longer in effect.

Section 5.4. Businesses Owned by Minorities and Females. It is the policy of the Corporate Authorities of the City to promote and encourage the use by the Developer of businesses owned by “minorities” and “females” (as such terms are defined in the Business Enterprise for Minorities, Females and Persons with Disabilities Act) in connection with the Project. Toward this end, the Developer shall establish goals for contracting with businesses owned by minorities and females, including a plan by which the Developer intends to meet these goals, and shall submit such plan to the City for review and approval.

ARTICLE VI

PAYMENT PROCEDURES FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS

Section 6.1. Payment Procedures. The City and the Developer agree that only Eligible Redevelopment Project Costs shall be paid solely, and to the extent available, from Incremental Property Taxes that are deposited in the Fund and not otherwise. The City and the Developer intend and agree that the Eligible Redevelopment Project Costs shall be disbursed by the Finance Director for payment to the Developer in accordance with the procedures set forth in this Section 6.1 of this Agreement.

The City hereby designates the Finance Director as its representative to coordinate the authorization of disbursement of Annual Distribution Amounts for the Eligible Redevelopment Project Costs. Payments to the Developer of the Annual Distribution Amounts for Eligible Redevelopment Project Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a “**Requisition**”), submitted by the Developer upon completion of the Eligible Redevelopment Project Costs that have been incurred and paid and at the conclusion of each annual performance period. Each such Requisition shall be accompanied by appropriately supporting documentation, including, as applicable, documentation of Food and Beverage revenues and records indicating the number of rounds of minigolf played in the respective year.

Section 6.2. Approval and Resubmission of Requisitions. The Finance Director shall give the Developer written notice disapproving any of the Requisitions within ten (10) days after receipt thereof. No such approval shall be denied except on the basis that (i) all or some part of the Requisition does not constitute Eligible Redevelopment Project Costs or has not otherwise been sufficiently documented as specified in Section 6.1 of this Agreement; (ii) a “Default” under Section 7.1 of this Agreement by the Developer has occurred and is continuing. If a Requisition is disapproved by such Finance Director, the reasons for disallowance will be set forth in writing and the Developer may resubmit any such Requisition with such additional documentation or verification as may be required, if that is the basis for denial. The same procedures set forth herein applicable to disapproval shall apply to such resubmittals.

Section 6.3. Time of Payment. Provided that performance of this Agreement has not been suspended or terminated by the City under Article VII hereof, the City shall pay any Annual Distribution Amount attributable to the Project that is approved by any one or more Requisitions under this Article to the Developer within thirty (30) calendar days after (i) the date of the approval of any such Requisitions, (ii) the receipt by the City of evidence from the Developer of the payment in full of the total property taxes attributable to the Property in any such applicable calendar year or (iii) the receipt by the City of the last installment of Incremental Property Taxes in any such calendar year, whichever in (i), (ii) or (iii) is later.

ARTICLE VII **DEFAULTS AND REMEDIES**

Section 7.1. Events of Default. The occurrence of any one or more of the events specified in this Section 7.1 shall constitute a “Default” under this Agreement.

By the Developer:

(1) The furnishing or making by or on behalf of the Developer of any statement or representation in connection with or under this Agreement that is false or misleading in any material respect; or

(2) The failure by the Developer to timely perform any term, obligation, covenant, or condition contained in this Agreement.

By the City:

(1) The failure by the City to pay any of the Annual Distribution Amounts that become due and payable in accordance with the provisions of this Agreement; or

(2) The failure by the City to timely perform any other term, obligation, covenant, or condition contained in this Agreement.

Section 7.2. Rights to Cure. The party claiming a Default under Section 7.1 of this Agreement (the “Non-Defaulting Party”) shall give written notice of the alleged Default to the other party (the “Defaulting Party”) describing the nature of the Default complained of and the term or provision of this Agreement that the Non-Defaulting Party believes is in default. Except as required to protect against immediate, irreparable harm, the Non-Defaulting Party may not institute proceedings or otherwise exercise any right or remedy against the Defaulting Party until thirty (30) days after having given such notice. In the event a Default is of such nature that it will take more than thirty (30) days to cure or remedy, such Defaulting Party may give the Non-Defaulting Party written notice that (i) the Default will take more than thirty (30) days to cure or remedy; (ii) the Defaulting Party has promptly commenced and is diligently pursuing such cure or remedy; and (iii) the date on or before which the Defaulting Party will have completed such cure or remedy. Provided that the Defaulting Party promptly commences and diligently pursues such cure or remedy, such Defaulting Party shall have an additional period of time reasonably necessary to cure or remedy such Default. During any such period following the giving of notice of the alleged Default, the Non-Defaulting Party may suspend performance under this Agreement until the Non-Defaulting Party receives written assurances from the Defaulting Party, deemed reasonably adequate by the Non-Defaulting Party, that the Defaulting Party will cure or remedy or has cured or remedied the Default and remain in compliance with its obligations under this Agreement. A Default not cured or remedied or otherwise

commenced and diligently pursued as provided above shall constitute a “**Breach**” under this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any Default or any Breach shall not operate as a waiver of any such Default, Breach, or of any other rights or remedies it may have as a result of such Default or Breach.

Section 7.3. Remedies. Upon the occurrence of a Breach under this Agreement by the Developer, the City shall have the right to terminate this Agreement by giving written notice to the Developer of such termination and the date such termination is effective. Except for such right of termination by the City, the only other remedy available to either party upon the occurrence of a Breach under this Agreement by the Defaulting Party shall be to institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such Breach, including but not limited to proceedings to compel any legal action for specific performance, or other appropriate equitable relief. Notwithstanding anything herein to the contrary, the sole remedy of the Developer upon the occurrence of a Breach by the City under any of the terms and provisions of this Agreement shall be to institute legal action against the City for specific performance or other appropriate equitable relief and under **no** circumstances shall the City be liable to the Developer for any indirect, special, consequential, or punitive damages, including without limitation, loss of profits or revenues, loss of business opportunity or production, cost of capital, claims by customers, fines or penalties, whether liability is based upon contract, warranty, negligence, strict liability, or otherwise, under any of the provisions, terms, and conditions of this Agreement. In the event that any failure of the City to pay any Annual Distribution Amounts that become due and payable in accordance with the provisions hereof is due to insufficient Incremental Property Taxes being available to the City, any such failure shall not be deemed to be a Default or a Breach on the part of the City.

Section 7.4. Costs, Expenses and Fees. Upon the occurrence of a Default or Breach which requires either party to undertake any action to enforce any provision of this Agreement, the Defaulting Party shall pay upon demand all of the Non-Defaulting Party’s charges, costs and expenses, including the reasonable fees of attorneys, agents and others, as may be paid or incurred by such Non-Defaulting Party in enforcing any of the Defaulting Party’s obligations under this Agreement or in any litigation, negotiation or transaction in connection with this Agreement in which the Defaulting Party causes the Non-Defaulting Party, without the Non-Defaulting Party’s fault, to become involved or concerned.

ARTICLE VIII

RELEASE, DEFENSE, AND INDEMNIFICATION OF CITY

Section 8.1. Declaration of Invalidity. Notwithstanding anything herein to the contrary, the City, its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors shall not be liable to the Developer for damages of any kind or nature whatsoever or otherwise in the event that all or any part of the TIF Act, or any of the TIF Ordinances or other ordinances of the City adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, shall be declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof; provided that nothing in this Section 8.1 shall limit otherwise permissible claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts, if any, in the event of a Breach of this Agreement by the City.

Section 8.2. Damage, Injury, or Death Resulting from Project. The Developer releases from and covenants and agrees that the City and its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors shall not be liable for, and agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from the Project, except as such may be caused by the intentional conduct, gross negligence, negligence, or other acts or omissions of the City, its Corporate Authorities, officials, agents, employees, or independent contractors that are contrary to the provisions of this Agreement.

Section 8.3. Damage or Injury to Developer and Others. The City and its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or any of its officers, agents, independent contractors, or employees or of any other person who may be about the Property or the Project due to any act of negligence of any person, except as such may be caused by the intentional misconduct, gross negligence, or acts or omissions of the City, its Corporate Authorities, officials, agents, employees, or independent contractors that are contrary to the provisions of this Agreement.

Section 8.4. No Personal Liability. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its Corporate Authorities, officials, agents, employees, or independent contractors in their individual capacities. No member of the Corporate Authorities, elected or appointed officials, agents, employees, or independent contractors of the City shall be personally liable to the Developer (i) in the event of a Default or Breach by any party under this Agreement, or (ii) for the payment of any Annual Distributions which may become due and payable under the terms of this Agreement.

Section 8.5. City Not Liable for Developer Obligations. Notwithstanding anything herein to the contrary, the City shall not be liable to the Developer for damages of any kind or nature whatsoever arising in any way from this Agreement, from any other obligation or agreement made in connection therewith, or from any Default or Breach under this Agreement; provided that nothing in this Section 8.5 shall limit otherwise permissible claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts in the event of a Breach of this Agreement by the City.

Section 8.6. Actions or Obligations of Developer. The Developer agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors (except as such may be caused by the intentional conduct, gross negligence, negligence, or breach of this Agreement by the City, its Corporate Authorities, officials, agents, employees, or independent contractors) from and against any and all suits, claims, and cost of attorneys' fees, resulting from, arising out of, or in any way connected with (i) any of the Developer's obligations under or in connection with this Agreement; (ii) the construction or installation of the Project; (iii) the Developer's compliance with the Prevailing Wage Act if, as, and when applicable to the Project; or (iv) the negligence or willful misconduct of the Developer, its officials, agents, employees, or independent contractors in connection with the Project.

Section 8.7. Notification of Claims. Not later than thirty (30) days after the Developer

becomes aware, by written or other overt communication, of any pending or threatened litigation, claim, or assessment, the Developer will, if a claim in respect thereof is to be made against the Developer that affects any of the Developer's rights or obligations under this Agreement, notify the City of such pending or threatened litigation, claim, or assessment, but any omission so to notify the City will not relieve the Developer from any liability that it may have to the City under this Agreement.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1. Entire Agreement and Amendments. This Agreement (together with Exhibits A, B, and C attached hereto) constitutes the entire agreement by and between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether written or oral, and may not be modified or amended except by a written instrument executed by both of the parties.

Section 9.2. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 9.3. Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 9.4. Special and Limited Obligation. This Agreement shall constitute a special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources, or general taxing power are pledged. The City pledges to the payment of its obligations under Article IV hereof only such amount of the Incremental Property Taxes as is set forth in Article IV, if, as, and when received, and not otherwise.

Section 9.5. Time and Force Majeure. Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in Default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute "unavoidable delays"): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City, and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City.

Section 9.6. Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing and duly executed by the party giving such waiver. No such waiver shall obligate the waiver

of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 9.7. Cooperation and Further Assurances. The City and the Developer covenant and agree that each will do, execute, acknowledge, and deliver or cause to be done, executed, and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning, and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property, and revenues covenanted, agreed, conveyed, assigned, transferred, and pledged under or in respect of this Agreement.

Section 9.8. Notices and Communications. All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail in a properly addressed envelope and sent by registered or certified mail, postage prepaid, return receipt requested; (b) personally delivered; (c) sent by a nationally recognized overnight courier, delivery charge prepaid; or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Developer at their respective addresses (or at such other address as each may designate by written notice to the other), as follows:

- (i) In the case of the Developer, to:
MCDJ, LLC
307 South Neil Street
Champaign, IL 61820
Attn: Mike Hosier, Manager
Tel: (217) 369-0018
- (ii) In the case of the City, to:
City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
Attn: Community Development Director
Tel: (217) 384-2439

Notice shall be deemed received (a) four (4) days after placement with the United States Postal Service in the manner provided above; (b) the day following personal delivery; or (c) the day following deliver by a national recognized overnight courier service. Whenever any party hereto is required to deliver notices, certificates, opinions, statements, or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

Section 9.9. Assignment. The Developer agrees that it shall not sell, assign, or otherwise transfer any of its rights and obligations under this Agreement in whole or in part without the prior express written consent of the City, except that: (i) any assignment of the Annual Distribution Amounts under this Agreement as collateral; or (ii) any related sale, assignment, or transfer of this Agreement in whole to a legal entity having common ownership with the Developer; or (iii) to CUA, without the prior written consent of the City. Except as authorized in this Section above, any assignment in whole or in part shall be void and shall, at the option of the City, terminate this Agreement. No such sale, assignment, or transfer as authorized in this Section, including any with or without the City's prior written consent, shall be effective or binding on the City, however, unless and until the Developer delivers to the City a duly authorized, executed, and delivered instrument that contains any such sale, assignment, or transfer and the assumption of all the applicable covenants, agreements, terms, and provisions of this Agreement by the applicable parties thereto.

Section 9.10. Successors in Interest. Subject to Section 9.9 above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respectively authorized successors, assigns, and legal representatives (including successor Corporate Authorities).

Section 9.11. No Joint Venture, Agency, or Partnership Created. Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the City, the Developer, or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

Section 9.12. Illinois Law; Venue. This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois, whether in the United States District Court for the Central District of Illinois or the Circuit Court for the Sixth Judicial Circuit, Champaign County, Illinois.

Section 9.13. Term. Unless earlier terminated pursuant to the terms hereof, this Agreement shall be and remain in full force and effect from and after the Effective Date and shall terminate upon the fifth anniversary of this Agreement or completion of all payments for Eligible Redevelopment Project Costs in accordance with Section 4.2 and Article VI of this Agreement or the termination of the Redevelopment Project Area, whichever occurs first.

Section 9.14. Recordation of Agreement. Either party may record this Agreement or a Memorandum of this Agreement in the office of the Champaign County Recorder at any time following its execution and delivery by both parties.

Section 9.15. Construction of Agreement. This Agreement has been jointly negotiated by the parties and shall not be construed against a party because that party may have primarily assumed responsibility for preparation of this Agreement.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers or manager(s) as of the date set forth below.

**CITY OF URBANA, CHAMPAIGN COUNTY,
ILLINOIS**

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Date: _____

MCDJ, LLC

By: _____
Mike Hosier, Manager

Date: _____

[Exhibits A, B and C follow this page and are an integral part of this Agreement in the context of use.]

EXHIBIT A**FIRST AMENDMENT
TO
LEASE AGREEMENT**

04/02/2025

This First Amendment to Lease Agreement (“First Amendment”) made this ____ day of November, 2024, by and between **MCDJ, LLC**, an Illinois limited liability company (hereinafter referred to as “Owner” or “Lessor”), and **CHAMPAIGN-URBANA ADVENTURES IN TIME AND SPACE, LLC**, an Illinois limited liability company (hereinafter referred to as “Lessee”).

RECITALS

WHEREAS, the parties entered into that certain Lease Agreement dated October 1, 2023, whereby Lessee leased approximately 16,463 square feet of space located at 302 N. Broadway St., Urbana, Illinois (the “Original Lease”);

WHEREAS, Lessor and the City of Urbana (the “City”) have entered into a Redevelopment Agreement dated November ____, 2024 (the “Redevelopment Agreement”);

WHEREAS, the Redevelopment Agreement obligates the City to pay to the Lessor annual distributions in the event that certain conditions are met;

WHEREAS, the Redevelopment Agreement obligates Lessor to discount the monthly Rent payable by Lessee in an amount equal to distributions received by Lessor from the City pursuant to the Redevelopment Agreement.

NOW, THEREFORE, Lessor and Lessee desire to enter into an Amendment modifying the provisions of said Original Lease and in consideration of the mutual covenants contained herein, Lessor and Lessee agree as follows:

1. Section 3 of the Original Lease is hereby amended by adding the following new paragraph e) at the end thereof:

e) Reduction in Rent Due to Distributions Paid to Lessor Pursuant to Development Agreement: Lessor agrees that the Rent payable hereunder for each of the twelve (12) calendar months immediately following the month in which a distribution is received by the Lessor from the City of Urbana pursuant to Section 4(b) of the Redevelopment Agreement dated November ____, 2024 (a “City Distribution”) shall be reduced by an amount equal to one-twelfth (1/12th) of such City Distribution.

2. Conflict. Except as modified by this First Amendment, the remaining terms of the Agreement remain the same. If there is any conflict between the terms of this First Amendment and the Agreement, the provisions of this First Amendment shall be controlling.

IN WITNESS WHEREOF, the parties have executed this First Amendment by affixing their signatures below:

Lessor:

MCDJ, LLC, an Illinois limited liability company

By: 

Michael D. Hosier, Manager

Lessee:

**CHAMPAIGN-URBANA
ADVENTURES IN TIME AND SPACE,
LLC**, an Illinois limited liability company

By: 

Anne C. Lukeman, Co-Manager

By: 
Chris Feb 4, 2025 16:38 CST

John Christopher Lukeman, Co -Manager

EXHIBIT B
Project Description

The Developer is the current property owner of 302 N. Broadway Avenue that houses *CU Adventures In Time and Space* (“CUA”). CUA is planning to expand their current business operations into 16,000 sq. ft. of adjacent vacant space. The expansion project will include a new minigolf facility, upscale bar and beverage service, and private room rentals for special occasions. The expansion space is part of the same building that houses their current operations and will be a complementary addition.

Under the First Amendment to the current lease, the Developer is responsible for the build-out. The improvement construction cost estimate to build-out the 16,000 sq. ft. space was originally estimated to be \$1,000,000. Below are the current general contractor and subcontract current costs:

Creekside (GC)	\$953,137.33
County Asphalt	\$101,300.00
County Asphalt	\$12,025.00
GHR, Engineer	\$15,000.00
Fell Architecture	\$30,000.00

Total: \$1,111,462.33

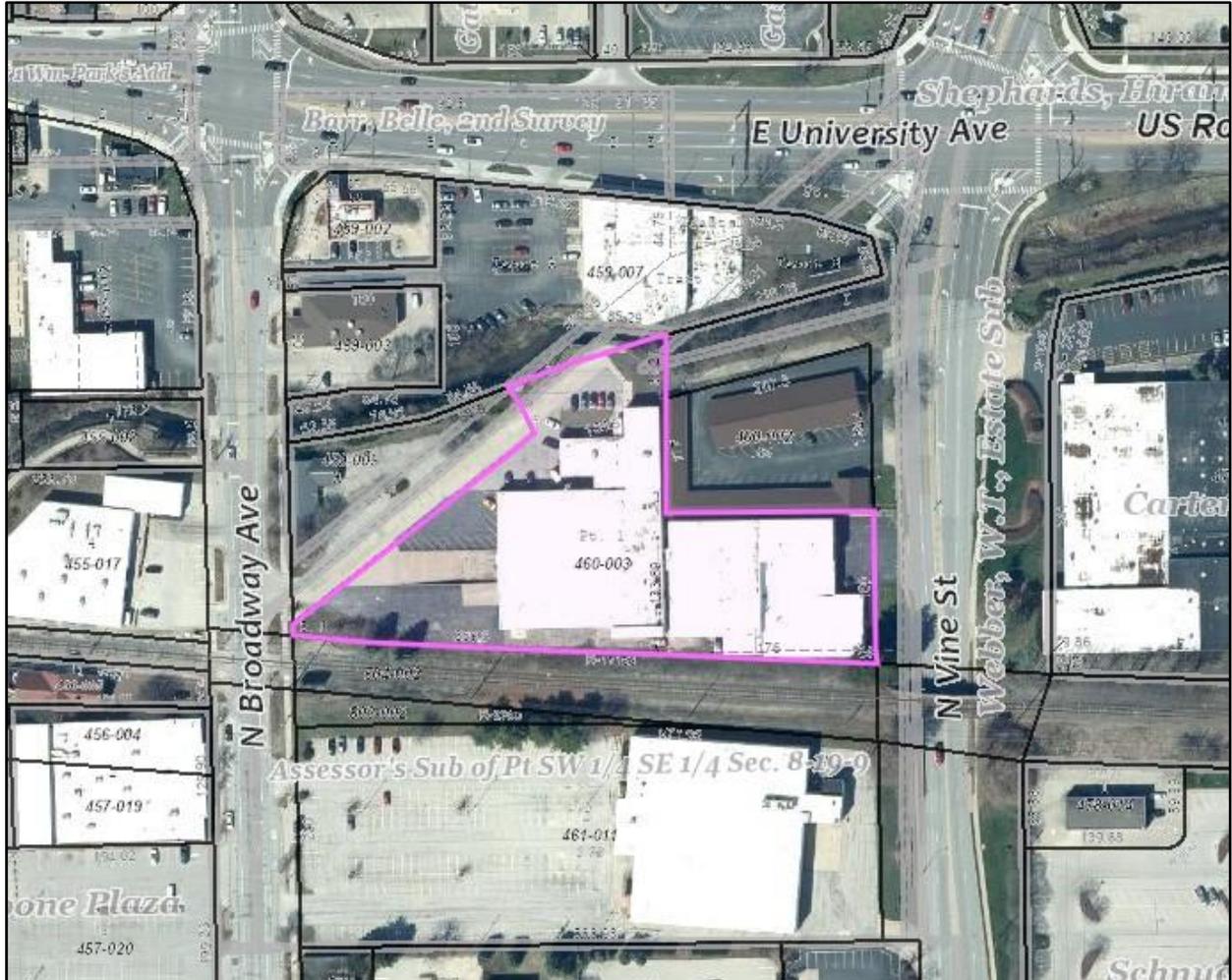
CUA will occupy the new space and be responsible to complete the entertainment facility build-out at an estimated cost of \$762,829. Below is a breakdown of those costs:

Bar and Mini-Golf Cost Estimates	
Bar equipment (walk-in cooler, glasswasher, sinks, etc.)	\$108,788.00
Mini-golf equipment: putters and golf balls	\$9,150.00
Tables & Chairs for bar/seating area	\$15,000.00
Shipment costs for equipment items	\$5,000.00
Signage	\$15,000.00
Mini-golf course construction	\$132,815.00
Scenic/Theming	\$403,076.00
Game Control Technology	\$20,000.00
DMX Controllable lighting systems	\$5,000.00
Professional Fees	\$49,000.00

Total: \$762,829.00

EXHIBIT C

Property Description



The PIN 91-21-08-460-003

The legal description of the Property is as follows:

See Attachment to Exhibit C attached hereto

Parcel 1:

A part of Lot 1 of a Subdivision of the Southwest Quarter of the Southeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, as shown on Survey recorded in Deed Record 18, Page 246, described as follows:

Commencing at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, running South along the East line of said Southwest Quarter of the Southeast Quarter of Section 8, 287.31 feet to the South line of road, thence running Southwesterly along the South line of said road with an angle to the right of 101 degrees, 52 minutes, 50.16 feet to the West line of State Aid Route 2 extension or widened Vine Street; thence Southerly, along the West line of Right of Way of Vine Street, to a point 150 feet North of the North Right of Way line of Peoria & Eastern (Big Four) Railroad for a True Point of Beginning; thence Southerly, along the West line of the Right of Way of Vine Street, to the North Right of Way line of Peoria and Eastern (Big Four) Railroad; thence Westerly along said Right of Way line on a tangent a distance of 24 feet, continuing thence Westerly along said Right of Way line with a curve to the right with a radius of 17,153 feet a distance of 176 feet; thence North parallel with the West Right of Way line of Highway and Vine Street, 135 feet, thence Easterly in a straight line to the Place of Beginning.

Also, beginning at the intersection of the North line of the New York Central Rail Road (P and E Division) Right of Way with the East line of Broadway in the City of Urbana, Illinois; thence North along the East line of Broadway a distance of 5.16 feet to the South line of Cunningham Avenue; thence Northeasterly along the South line of Cunningham Avenue a distance of 300.58 feet to the South line of a public street known as Park Street; thence Northeasterly along the South line of Park Street a distance of 134.5 feet to the Northwest corner of property deeded to Royce E. Clark; thence South parallel with Vine Street along the West line of the Clark and Herbert B. Marett properties a distance of 252.1 feet to the North line of said railroad Right of Way; thence Northwesterly around a curve to the right of the North line of said Railroad Right of Way a distance of 369.6 feet to the Place of Beginning.

Situated in Champaign County, Illinois.

Parcel 2:

Grant of Easement for ingress and egress described as a part of Lot 1 of a Subdivision of the Southwest Quarter of the Southeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, as shown on survey recorded in Deed Record 18, Page 246, described as follows:

Beginning at the intersection of the North line of the Norfolk Southern Railroad, formerly New York Central R.R. (P and E Div.) right-of-way with the East line of Broadway in the City of Urbana, Illinois; proceed North 00 degrees, 49 minutes, 03 seconds East along said East line of Broadway a distance of 5.16 feet to the South line of Courtesy Road, formerly Cunningham Avenue to the True Point of Beginning; thence North 52 degrees, 53 minutes, 29 seconds East along the South line of Courtesy Road, formerly Cunningham Avenue a distance of 300.58 feet to the South line of a public street known as Courtesy Road, formerly Park Street; thence North 18 degrees, 37 minutes, 48 seconds West 25.30 feet; thence South 52 degrees, 53 minutes, 29 seconds West 289.90 feet parallel to and 24.00 feet normal to the South line of said Courtesy Road to the East right-of-way line of Broadway Avenue; thence South 00 degrees, 49 minutes, 03 seconds West 30.43 feet along said East right-of-way line to the True Point of Beginning, encompassing 0.163 acres in Champaign County, Illinois, as described and shown in the Grant of Easement recorded June 20, 2006 as Document Number 2006R15994.



302 N Broadway Ave, Suite 100 | Urbana, IL 61801

June 7, 2024

Michael McMahon
City of Urbana
Economic Development Division
400 S. Vine St.
Urbana, IL 61801

RE: Redevelopment at 302 N Broadway Ave

Dear Mr. McMahon,

On behalf of developer (and our landlord) Mike Hosier, CU Adventures is requesting a \$250,000 TIF Redevelopment investment for the proposed redevelopment of the property at 302 N Broadway.

CU Adventures (owned by Chris & Anne Lukeman) is currently working on an expansion plan at 302 N Broadway to add a 16,000 sq ft minigolf facility, which will also include private room rental for special occasions and upscale beverage service (including both alcoholic and nonalcoholic drink options). CU Adventures already draws a huge number of locals and tourists to downtown Urbana (over 22,000 players in 2023, our best year yet); this minigolf expansion will significantly multiply the number of attendees we see. We expect this project to be a major tourism draw to the area, and have already received a tourism grant from the State of Illinois in the amount of roughly \$300,000.

The arrangement with our landlord is that he will assume the upfront costs of basic construction for the space (HVAC, plumbing, electrical, walls, etc) - costs he would have to incur for any tenant wanting to redevelop this space. These costs will then be added into our rent using a specific formula delineated in our lease. This is in addition to our roughly \$750,000 scenic, bar, and minigolf build-out that will happen after initial construction.

At the time of signing our lease, the estimated cost for this section of the build-out was roughly \$500,000, which results in a monthly rent total cost of roughly \$15,000. Due to increasing costs and necessary changes to the construction plan, the estimated cost for this may increase to up to \$1,000,000 - this would result in a monthly rent total cost of roughly \$23,500.

Our cash flow estimates that this project can be successful with a monthly rent of up to \$20,000. With a 25% investment (\$250,000) from the TIF Redevelopment Agreement, the monthly rent costs of a \$1,000,000 initial build-out would bring our monthly rent down to \$20,000. Without this investment, we would likely have to drastically cut our budget and scale the project back, resulting in a final project that is much less likely to succeed.

We believe this project could make a huge impact to the local economy, generating over \$400,000 in local tax revenue over the next 10 years - using estimates that we consider to be fairly conservative (see *Return on Investment* below)

I have included additional information about the background, expected impact, and other details about the project. Please do not hesitate to reach out if you have any questions about the project.

Sincerely,

Anne Lukeman
Owner, CU Adventures

Project Description

Champaign-Urbana Adventures in Time and Space (CU Adventures) is one of the premier escape room companies in the Midwest. With our new minigolf attraction, we are adding 16,000 square feet to our facility to create an exciting new concept that blends minigolf with technology, art, and theatricality. We will offer an immersive experience right here in Urbana, Illinois that is unlike anything else in the US.

We will use the latest technology together with minigolf in a completely new way. While some modern minigolf courses use interesting lighting, sound, and video, we believe we will be the first attraction in the country to use technology to tell exciting stories over the entire course, making the experience more interactive, memorable, and replayable.

Players will need to dodge lasers, solve puzzles, and escape booby traps as they putt. Do they take an easy shot on hole 2, or attempt a more challenging putt to save villagers from a monster? The game will keep track of the choices players make, to customize what they experience later in the course.

From the moment guests enter the building, they are immersed in a magical kingdom, complete with a mysterious forest, a picturesque medieval village, and an animatronic dragon wrapped around a castle spire. In addition to the minigolf courses, the entire facility will be filled with immersive and interactive art, games, and other secrets for guests to discover. Over the past decade, themed entertainment has been on the rise in the US, with an audience of not just kids and families, but adults looking for a fun night out. With a medieval style “tavern” with full service bar and rentable private rooms, this attraction is perfect for local special events, and will also become a destination for sci-fi and fantasy fans, immersive theater enthusiasts, and self-proclaimed nerds from across the country. Our goal is to become not only a *crown jewel* for downtown Urbana and east central Illinois, but the entire Midwest.

CU Adventures has nearly 10 years of experience crafting some of the best escape rooms in the Midwest. We already host thousands of players every year from all over the country, and this new attraction will bring thousands more to central Illinois. We plan to push the boundaries of technology to create a new kind of minigolf where guests can return time and time again to be delighted and surprised.

Reviving Tourism in Urbana

Downtown Urbana has seen several bar/restaurant closures during the pandemic. Our new attraction will draw new crowds, locals and tourists alike, to the area, improving the vibrancy of downtown. With the imminent reopening of the Hotel Royer, a historic 128-room hotel, located just 3 blocks from our location, guests will be able to walk to CU

Adventures, enjoy our amenities, and discover the surrounding businesses, increasing hotel/motel and food & beverage tax revenues in the area.

As the University of Illinois is within a mile of our location, CU Adventures has long served the college student population with challenging and entertaining activities. With minigolf, we will provide an additional amenity in attracting junior high and high school students to Champaign-Urbana, as we will be a destination for teenagers and families who often visit our community for sports tournaments and college visits. In fact, according to Experience Champaign-Urbana, the months of February, March, and April have the highest ratio of visitors-to-residents; the questionable weather of these months makes an indoor entertainment option an ideal destination for visitors and locals alike. Minigolf offers a lower price point and a larger capacity compared to escape rooms, in addition to allowing for greater replayability. We're confident CU Adventures' thousands of fans will return week after week.

Because of the novelty of our unique concept, we expect to see visitors from all over the country (and the world) visiting Urbana for this attraction. Since 2016, Meow Wolf's massive immersive art installations have become major tourism destinations in Santa Fe, Las Vegas, and Denver (with two more currently in construction in Texas). Large scale immersive gaming companies like Boda Borg and Level99 on the east coast and Bam Kazam and Two Bit Circus in the western US offer fun, repeatable, "instagrammable" experiences that visitors travel hours for. Artistically-driven minigolf bars exist in cities like San Francisco, Denver, and Minneapolis, and arcade-style minigolf chains such as Puttshack and Puttery are opening all over the country. Just across the Wisconsin border, the Bristol Renaissance Faire attracts 200,000-400,000 tourists every summer, showing that there is a massive market for medieval/fantasy-themed tourism. Compared to these attractions, CU Adventures is doing something novel in this industry, and would be one of the first large-scale immersive experiences in Illinois - no one in the country is using minigolf the way we plan to.

Local Partnerships

Highlighting the local community and culture is an important part of what we do at CU Adventures, and our minigolf attraction will be no exception to that. We are a homegrown company, and are proud that our new attraction will be locally designed and built, primarily by our CU Adventures staff who have handcrafted our escape rooms for half a decade.

The tavern will feature local craft beer from Riggs Beer Company, an Urbana brewery located just a few miles away. Because we won't serve food, we plan to develop

partnerships with a variety of local food trucks to set a regular schedule. Our location is centrally located in downtown Urbana, just two blocks from the Champaign County Courthouse, which is very attractive to the many food trucks in the Champaign-Urbana area.

Finally, CU Adventures has a close relationship with Experience Champaign-Urbana, the regional tourism bureau. With our expansion's increased capacity and private rooms, we are excited to host additional special events for visiting conferences, sports tournaments (especially from the Rantoul Sports Complex), and the many other groups ECU brings to the area. We expect to be an extra reason for groups to choose Champaign County.

Return on Investment

Our projections for attendance is based on calculating percentages of the mini-golf courses' full capacity - two 9-hole courses can hold 72 players at once, which is 576 players per 8-hour day (or 4032 players per week). We use this as our 100% baseline, then assume 15-35% occupancy as the business grows. Note that this does not include anyone who would choose to come for a beverage without playing golf, so this estimating process should be on the conservative end.

Estimated Attendance

	15%	20%	25%	30%	35%
Weekly attendance	605	806	1,008	1,210	1,411
Monthly attendance	2,621	3,494	4,368	5,242	6,115
Annual attendance	31,450	41,933	52,416	62,899	73,382

We estimate that year 1 will see attendance in the 15-20% occupancy range, and that year 2 and beyond will expand to 30-35%. We have based all our calculations on each visitor having an average of one drink and one round of mini-golf; obviously some visitors will have multiple drinks, while others will have none; but we feel this is a reasonable estimate considering our attention to both alcoholic and non-alcoholic drinks. We estimate an average of \$12 per drink; all our beverages will be premium quality with extravagant presentation.

One drink per visitor at \$12 per drink:

	15%	20%	25%	30%	35%
Weekly revenue	\$ 7,257.60	\$ 9,676.80	\$ 12,096.00	\$ 14,515.20	\$ 16,934.40
Monthly revenue	\$ 31,449.60	\$ 41,932.80	\$ 52,416.00	\$ 62,899.20	\$ 73,382.40
Annual revenue	\$ 377,395.20	\$ 503,193.60	\$ 628,992.00	\$ 754,790.40	\$ 880,588.80

For year one, we project attendance in the 15-20% range (up to \$503,194 annually); for years two and beyond, we believe we will see attendance in the 30-35% range (up to \$880,589 annually). This gives an average of \$842,800 per year in beverage sales over 10 years, which would generate approximately \$250,000 in combined Food/Beverage and Home Rule sales tax (2% and 1%, respectively) over 10 years. We've also not included "merch" (custom mugs, t-shirts, branded golf balls, etc.) sales here, which will also contribute to Home Rule sales tax revenue.

In addition, we won't be serving food, so it's reasonable to assume many guests will also visit local restaurants and food trucks - if even half our expected attendees (30-40,000 in year 1; 60-70,000 in year 2 and beyond) also have a meal, that would result in 335,000 additional meals served in downtown Urbana. With a modest meal cost of only \$10 per person, this would easily generate over \$100,000 in combined Food/Beverage and Home Rule sales tax over 10 years.

We also expect to see a massive increase in overnight tourism. Based on ZIP code data collected during the booking process over the last two years, over 25% of our current visitors to CU Adventures come from outside a 50-mile radius, and many "day trip" here to play some or all of our escape rooms. With 22,000 players at CU Adventures in 2023, approximately 5500 would be from over 50 miles away. Even just a quarter (1375) of those out-of-town visitors staying an extra day to do this experience too could result in over \$75,000 per year in hotel revenue (calculated with double occupancy at \$110 per night), resulting in over \$50,000 in hotel/motel tax over 10 years - and that's assuming zero visitor increase year-over-year.

Impact

CU Adventures is already a world-renowned destination for escape room enthusiasts. We are consistently highly ranked on review sites and have won several international awards (Golden Lock Awards; Bullseye Awards; Best of Morty; multiple TERPECA nominations). In addition to being featured on several immersive entertainment podcasts alongside top names in the immersive gaming industry (including Room Escape Pod and Puzzling Company), our offshoot play-at-home puzzle brand "Solve Our Shirts" was recommended by actor/immersive entertainment enthusiast Neil Patrick Harris (Wondercade newsletter, February 16, 2022). According to Experience Champaign-Urbana, CU Adventures accounted for 2.5% of all visitor spending in Urbana over the last year.

In addition to regularly hosting groups from Chicago, Indianapolis, and the rest of Illinois, we've had national and international travelers go out of their way to visit CU Adventures on trips to Chicago or through the Midwest. With our new attraction, many

of these visitors will turn their one-day trip into a multi-day stay, generating additional hotel, bar & restaurant, and retail business in the area.

Aside from escape room enthusiasts, we see many visitors making short day trips from Chicago, Indianapolis, St. Louis, and everywhere in between. We've already become a "roadside attraction" for visitors traveling via I-57, I-72, and I-74 while on road trips. Of a recent sampling of 230 visitors to CU Adventures in summer 2022, **more than 25% of visitors came from over 50 miles away**, and 35% came from over 40 miles away. The average distance traveled for all visitors from this time period was 104.7 miles, and the average distance traveled by visitors from over 50 miles away was 363.8 miles. Adding unique, story-driven minigolf as an additional attraction will keep these guests in-town longer, and will bring in new visitors who are looking for a less structured, extemporaneous activity (escape rooms are typically booked hours, if not days in advance; our new attraction will cater to walk-in groups).

Currently, each visitor at CU Adventures spends an average of **\$28.70** when participating in one of our escape rooms, with an average group size of **4.7**. We anticipate a round of minigolf will cost **\$12.50** and our average beverage price to be **\$12**, significantly increasing the revenue generated at CU Adventures. At launch, we expect to see 2 to 3 times more visitors playing minigolf than escape rooms, with that number again doubling after a few years.

Due to the significant staff increases needed to create these experiences, CU Adventures will add numerous jobs to our local economy, expanding beyond hospitality into the entertainment industry. Additionally, our intention to use local breweries, vineyards, ingredients, and more will generate economic growth within our agricultural sector, supporting our small, local farmers. Our new minigolf attraction will be a wonderful addition to the community for residents of central Illinois, a fantastic oddity or extra stop to tourists traveling through the center of the state, and a destination for fans of immersive art and theater experiences, miniature golf, and nerd culture.



City of Urbana
400 S. Vine Street, Urbana, IL 61801
www.urbanaininois.us

MEMORANDUM TO THE MAYOR AND CITY COUNCIL

Meeting: February 17, 2025 Committee of the Whole Meeting
Subject: A Resolution Approving Redevelopment Agreement with Race Street Ventures, LLC (Fernie’s High Horse, 118-120 South Race Street)

Summary

Action Requested

City Council is being asked to approve a Redevelopment Agreement (“Agreement”) with Race Street Ventures, LLC (“Developer”) to provide Tax Increment Finance funds for capital improvements for a full rehabilitation of two buildings located in the Central Tax Increment Financing (“TIF”) District to create a performance and entertainment venue.

Brief Background

In October 2021, the Developer acquired 118 South Race Street and 120 South Race Street (“the Properties”). The building at 118 South Race Street formerly housed Brown Hobbs & McMurray Insurance and then Gallagher Insurance. The building at 120 South Race Street formerly housed The Iron Post tavern and has been vacant since 2021. The acquisition of the properties came as a result of a vision the new owners had for a new entertainment venue in Downtown Urbana and a way to preserve the legacy of two historic buildings.

Relationship to City Services and Priorities

Impact on Core Services

None.

Strategic Goals & Plans

Approval of this Agreement would support the strategies of Mayor/Council Strategic Area #4: Economic Health:

- Strategy #1: Support local businesses
- Strategy #2: Enhance employment opportunities in Urbana
- Strategy #3: Recruit new businesses and industries
- Strategy #4: Create a Tourist and Entertainment District

Approval of this Agreement would also support the goals and objectives of [Central Redevelopment Project Area Plan](#).

Previous Council Actions

None.

Discussion*Additional Background Information*

The Developer is planning a full rehabilitation of both buildings that would transform the spaces into Fernie's High Horse. Fernie's will feature an overall capacity of 250 divided into a live performance space (which can be reconfigured as a single-screen cinema with seating up to 100 patrons), a coffeehouse, café, a full-service bar, and a patio complete with a stationary food trailer and space for additional food trucks. The space will be equipped to host patrons for standard operating hours seven days a week, while simultaneously engaging in music and theatre events, festivals, and more. On the second floor will be four, two-bedroom apartments, one serving as the "green room" for entertainers.

The total estimated cost of the rehabilitation project is \$2,135,000. As parts of its obligations under the proposed Agreement, the City will provide a TIF incentive of up to \$258,000 for the project. The project is also supported by a State of Illinois tourism grant of \$450,000. The Developer has indicated that, but for the TIF's investment, the project as proposed would not be viable.

The City's main obligation as part of the Agreement is to distribute five payments to the Developer totaling \$258,000. The first payment of \$100,000 would be issued 45 days after the issuance of a building permit. The second payment would be issued after the fourth performance period, with the subsequent three payments occurring annually thereafter. The additional payments that are distributed on an annual cycle beginning after the fourth performance period are contingent on the following performance metrics:

1. The venue has hosted a combination of at least 150 live entertainment events and film showings annually.
2. The venue has generated at least \$750,000 in food and beverage sales per year.

If either condition is not satisfied in any one-year period, the agreement shall be immediately terminated and the Developer shall not have the right to remedy or cure (See Section 4.2 of the Agreement, **Attachment 2**).

Policy or Statutory Impacts

The Properties are located in the City of Urbana's Central TIF District. One of the main objectives of the TIF District is to encourage and assist private investment in the redevelopment area through the provision of financial assistance as permitted by the State of Illinois Tax Increment Allocation Redevelopment Act. The TIF's contribution to the project is equal to 12% of the total project cost. In other words, each \$1.00 invested by the TIF leverages \$8.27 in total investment.

The proposed project would add a significant and valuable entertainment attraction to Downtown Urbana. Fernie's will be a destination for all of downstate Illinois, providing a new, professionally owned and operated performance and theater space.

In addition to the increase in Food and Beverage Tax revenues generated at the facility, those visitors will be inclined to visit other venues in the general community (e.g., restaurants, bars, other entertainment venues). The proposed project satisfies a public need for additional community assets and is anticipated to generate substantial economic benefits to the City and the surrounding area.

Fiscal and Budget Impact

The anticipated direct financial impact to Urbana is estimated in *Table 1* below. Based off the projected business activity, the project is expected to break even from a municipal finance perspective by year three. After the conclusion of subsequent annual payments, the project will generate significant direct municipal impacts beginning after seven years.

The number of visitors attracted by this project is expected to generate even further positive economic impacts for the City, the TIF, and the broader community, however, estimating the municipal tax impact can be difficult. The Developer estimates that the economic impact to the community of over \$5,100,000 annually based off of studies done by the *National Independent Venue Association*, (\$12 impact for every \$1 spent at a live performance).

Table 1. Financial Projections - 118-120 South Race Street

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Business Projections							
Annual Attendance	25,800	25,800	25,800	25,800	25,800	25,800	25,800
Projected Food and Bev. Sales	\$1,006,000	\$1,036,180	\$1,067,265	\$1,099,283	\$1,132,262	\$1,166,230	\$1,201,217
Performance Standards							
Annual Entertainment Events	150	150	150	150	150	150	150
Food & Bev. Sales	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000	\$750,000
Municipal Impact							
Direct Local Tax Generated	\$35,210	\$36,266	\$37,354	\$38,475	\$39,629	\$40,818	\$42,043
Incentive Payments	(\$100,000)			(\$39,500)	(\$39,500)	(\$39,500)	(\$39,500)
Net Municipal Fiscal Impact	(\$64,790)	(\$28,524)	\$8,830	\$7,805	\$7,934	\$9,252	\$11,795

This investment by the Developer in the buildings will mostly likely not have a significant impact on the assessed value of the property. The proposed improvements are mostly interior, and the property is already being fully assessed according to the Cunningham Township Assessor. It is estimated that Fernie's will support 50-75 employees annually throughout its components, generating income for community members and reinvesting into the workforce in Champaign County.

Recommendation

City Council is asked to approve the Resolution approving the Redevelopment Agreement with Race Street Ventures, LLC.

Next Steps

If approved, the Agreement will be executed by the parties, and the City will comply with its obligations, as outlined in the Agreement.

Attachments

1. Resolution Approving a Redevelopment Agreement with Race Street Ventures, LLC
2. Redevelopment Agreement by and between the City of Urbana and Race Street Ventures, LLC.
3. Fernie's High Horse Agreement Narrative

Originated by: Michael McMahon, Economic Development

Reviewed: William Kolschowsky Senior Management Analyst / Assistant to the City
Administrator

Approved: Carol Mitten, City Administrator

RESOLUTION NO. _____

**A RESOLUTION APPROVING A REDEVELOPMENT AGREEMENT WITH
RACE STREET VENTURES, LLC**

(Fernie’s High Horse, 118-120 South Race Street)

WHEREAS, the City of Urbana, an Illinois municipal corporation (hereinafter, the “City”), is a home rule unit of local government pursuant to Article 7, § 6 of the Illinois Constitution of 1970 and 65 ILCS 5/1-1-10; and

WHEREAS, Race Street Ventures, LLC (“Developer”), an Illinois limited liability company, is the legal owner of two parcels located at 118-120 South Race Street, Urbana, IL and intends to renovate the parcels in accordance with the terms and conditions contained in the Redevelopment Agreement (hereinafter the “Agreement”) appended to this Ordinance as an exhibit; and

WHEREAS, the City and Developer desire to enter into the Agreement in substantially the form of the exhibit appended hereto and made a part hereof; and

WHEREAS, the City Council, after due consideration, finds that approval of the Agreement, as herein provided, are in the best interests of the residents of the City and is desirable for the welfare of the City’s government and affairs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

The Agreement shall be and hereby is approved in substantially the form appended to and incorporated into this Resolution.

Section 2.

The Mayor of the City of Urbana, Illinois, shall be and is hereby authorized to execute and deliver the Agreement, in substantially the form of the exhibit attached hereto and hereby incorporated by reference, and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to

said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

This Resolution shall be in full force and effect from and after its passage.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

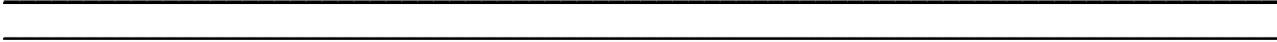
NAYS:

ABSTENTIONS:

Darcy E. Sandefur, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor



REDEVELOPMENT AGREEMENT

by and between the

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

and

RACE STREET VENTURES, LLC

Dated as of February 17, 2025

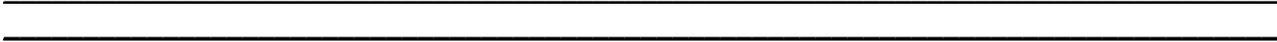


TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I	DEFINITIONS	2
Section 1.1.	Definitions.....	2
Section 1.2.	Construction	3
ARTICLE II	REPRESENTATIONS AND WARRANTIES	3
Section 2.1.	Representations and Warranties of the City	3
Section 2.2.	Representations and Warranties of the Developer	4
Section 2.3.	Disclaimer of Warranties	5
ARTICLE III	CONDITIONS PRECEDENT TO THE UNDERTAKINGS ON THE PART OF THE DEVELOPER AND THE CITY	5
Section 3.1	Conditions Precedent	5
Section 3.2	Reasonable Efforts and Notice of Termination.....	6
ARTICLE IV	CITY’S COVENANTS AND AGREEMENTS	6
Section 4.1	City’s TIF Funded Financial Obligations.....	6
Section 4.2.	Distribution of TIF Funds	6
Section 4.3.	Defense of Redevelopment Project Area	7
ARTICLE V	DEVELOPER’S COVENANTS	7
Section 5.1.	Commitment to Undertake and Complete Project	7
Section 5.2.	Prevailing Wages	8
Section 5.3.	Tax and Related Payment Obligations	8
Section 5.4.	Businesses Owned by Minorities and Females.....	8
Section 5.5.	Documentation of Film Showings and Live Entertainment Events	8
ARTICLE VI	PAYMENT PROCEDURES FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS	9
Section 6.1.	Payment Procedures	9
Section 6.2.	Approval and Resubmission of Requisitions	9
Section 6.3.	Time of Payment	9
ARTICLE VII	DEFAULTS AND REMEDIES	9
Section 7.1.	Events of Default.....	9
Section 7.2.	Rights to Cure	10
Section 7.3.	Remedies	10
Section 7.4.	Costs, Expenses and Fees.....	11

ARTICLE VIII RELEASE, DEFENSE AND INDEMNIFICATION OF CITY 11

Section 8.1. Declaration of Invalidity 11

Section 8.2. Damage, Injury or Death Resulting from Project 11

Section 8.3. Damage or Injury to Developer and Others 11

Section 8.4. No Personal Liability 12

Section 8.5. City Not Liable for Developer Obligations..... 12

Section 8.6. Actions or Obligations of Developer 12

Section 8.7. Notification of Claims 12

ARTICLE IX MISCELLANEOUS PROVISIONS 12

Section 9.1. Entire Agreement and Amendments 12

Section 9.2. Third Parties 12

Section 9.3. Counterparts 13

Section 9.4. Special and Limited Obligation..... 13

Section 9.5. Time and Force Majeure 13

Section 9.6. Waiver 13

Section 9.7. Cooperation and Further Assurances 13

Section 9.8. Notices and Communications..... 13

Section 9.9. Assignment..... 14

Section 9.10. Successors in Interest 14

Section 9.11. No Joint Venture, Agency, or Partnership Created 14

Section 9.12. Illinois Law; Venue..... 14

Section 9.13. Term 15

Section 9.14. Recordation of Agreement 15

Section 9.15. Construction of Agreement 15

EXHIBIT LIST

EXHIBIT A Project Description

EXHIBIT B Legal Description of Property

EXHIBIT C Reporting Form Example

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (including any exhibits and attachments hereto, collectively, this “**Agreement**”) is dated for reference purposes only as of **February 17, 2025**, but actually executed by each of the parties on the dates set forth beneath their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the “**City**”), and **Race Street Ventures, LLC**, an Illinois limited liability corporation (the “**Developer**”). This Agreement shall become effective upon the date of the last of the City and the Developer to execute and date this Agreement and deliver it to the other (the “**Effective Date**”).

RECITALS

WHEREAS, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 *et seq.*), as supplemented and amended (the “**TIF Act**”), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City Council of the City (the “**Corporate Authorities**”) adopted a series of ordinances (Ordinance Nos. 2016-09-084, 2016-09-085, and 2016-09-086 on October 17, 2016) including as supplemented and amended (collectively, the “**TIF Ordinances**”); and

WHEREAS, under and pursuant to the TIF Act and the TIF Ordinances, the City designated the Central Tax Increment Redevelopment Project Area (the “**Redevelopment Project Area**”) and approved the related redevelopment plan, as supplemented and amended (the “**Redevelopment Plan**”), including the redevelopment projects described in the Redevelopment Plan (collectively, the “**Redevelopment Projects**”); and

WHEREAS, as contemplated by the Redevelopment Plan and the Redevelopment Projects, the Developer proposes to undertake (or cause to be undertaken) the Project (including related and appurtenant facilities as more fully defined below); and

WHEREAS, the Properties (as defined below) are within the Redevelopment Project Area; and

WHEREAS, the Developer is the legal owner of the Properties and intends to undertake the Project at an estimated cost of \$2,135,000 with a goal of achieving full commercial and/or residential use of the Property; and

WHEREAS, the Developer is unwilling to undertake the Project without certain tax increment finance incentives from the City, which the City is willing to provide; and

WHEREAS, the City has determined that it is desirable and in the City’s best interests to incentivize the Project in the manner set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms, and phrases used in this Agreement shall have the meaning provided in the above Recitals and from place to place herein, including as follows:

“Distribution Amounts” means, collectively, amounts to be distributed or paid to the Developer from the Fund by the City under and pursuant to Section 4.2 of this Agreement.

“Eligible Redevelopment Project Costs” means those costs paid and incurred in connection with the Project that are authorized to be reimbursed or paid from the Fund as provided in Section 5/11-74.4-3(q) of the TIF Act, including: (a) costs of studies, surveys, development of plans and specifications, including but not limited to professional service costs for architectural, engineering, legal, financial, planning, or other services; (b) property assembly costs, including the acquisition of the Property, site preparation, and the clearing and grading of land; (c) costs of the construction of public works or improvements; and (d) up to 30% per year of interest costs incurred by the Developer related to the construction of the Project subject to the total cost limitations of such interest payments as set forth in subparagraph (D) of such Section, 5/11-74.4-3(q)(11).

“Finance Director” means the Finance Director of the City, or their designee.

“Fund” means, collectively, the “Special Tax Allocation Fund” for the Redevelopment Project Area established under Section 5/11-74.4-8 of the TIF Act and the TIF Ordinances.

“Film Showings” means an advertised event involving the showing of a film, or series of shorts/films to patrons.

“Food and Beverage Sales” means the sales of food and beverages for immediate on-site consumption that are eligible for and subject to the City of Urbana’s Food and Beverage Tax.

“Incremental Property Taxes” means, net of all amounts required by operation of the TIF Act to be paid to other taxing districts, including as surplus, in each calendar year during the term of this Agreement, the portion of the ad valorem real estate taxes arising from levies upon the Property by taxing districts that is attributable to the increase in the equalized assessed value of each taxable lot, block, tract, or parcel of real estate within the Property over the equalized assessed value of each taxable lot, block, tract, or parcel of real estate within the Property as assigned by the Champaign County Clerk which, pursuant to the TIF Ordinances and Section 5/11-74.4-8(b) of the TIF Act, will be allocated to and when collected shall be paid to the Finance Director for deposit by the Finance Director into the Fund established to pay Eligible Redevelopment Project Costs and other redevelopment project costs as authorized under Section 5/11-74.4-3(q) of the TIF Act.

“Live Entertainment Events” means any live entertainment involving performances or delivery of entertainment, by one or more persons to include but not limited to: live music, comedians, podcasts, author readings, pop ups with food specials, curated dinners, etc.

“Prevailing Wage Act” means the Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*) of the State of Illinois, the material terms of which require all contractors and subcontractors to pay all laborers, workers and mechanics performing work on any “public works” (as therein defined) no less than the current “prevailing rate of wages” (hourly cash wages plus fringe benefits) applicable to the county where performed and to comply with all notice, recordkeeping, and filing duties.

“Project” means the construction and installation of improvements on the Property in accordance with the project description a copy of which is attached hereto and made a part hereof as Exhibit A.

“Project Commencement Date” means, as applicable, March 1, 2025, the date on or before which construction of the Project is to commence.

“Project Completion Date” means, subject to “unavoidable delays” as described in Section 9.5 of this Agreement, the date on which the Project is completed as evidenced by the issuance by the City of a certificate of occupancy for the Project upon the Property, which such date shall not be later than March 31, 2026.

“Property” means the real estate in the City consisting of the parcels at 118-120 S. Race Street depicted on Exhibit B hereto, upon or within which the Project is to be undertaken and completed.

“Requisition” means a request by the Developer for a payment or distribution for Eligible Redevelopment Project Costs pursuant to the procedures set forth in Article VI of this Agreement.

“TIF Financing” means financing arrangements to or for the benefit of a developer arising out of the TIF Act that pay or distribute redevelopment project costs in whole or in part.

Section 1.2. Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) definitions include both singular and plural.
- (b) pronouns include both singular and plural and cover all genders.
- (c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction, or effect hereof.
- (d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

(a) Organization and Standing. The City is a home rule municipality duly organized, validly existing, and in good standing under the Constitution and laws of the State of Illinois.

(b) Power and Authority. The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations, and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery, and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City's Corporate Authorities. This Agreement is a legal, valid, and binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that any and all financial obligations of the City under this Agreement shall be limited to the availability of such Incremental Property Taxes therefor as may be specified in this Agreement and that such enforceability may be further limited by laws, rulings, and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium, or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) **No Violation.** Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations, and undertakings hereunder will conflict with, violate, or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.

(e) **Governmental Consents and Approvals.** No consent or approval by any other governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2. Representations and Warranties of the Developer. In order to induce the City to enter into this Agreement, the Developer makes the following representations and warranties to the City:

(a) **Organization.** The Developer is a limited liability corporation, duly organized, validly existing, and in good standing under the laws of the State of Illinois.

(b) **Power and Authority.** The Developer has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations, and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery, and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Developer's board of directors. This Agreement is a legal, valid, and binding agreement, obligation and undertaking of the Developer, enforceable against the Developer in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings, and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium, or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) **No Violation.** Neither the execution nor the delivery or performance of this Agreement will conflict with, violate, or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license, or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree, or other law to which the Developer is a party or by which the Developer or any of its assets may be bound.

(e) **Consents and Approvals.** No consent or approval by any governmental authority or by any other person or entity is required in connection with the execution and delivery by the Developer of this Agreement or the performance by the Developer of its obligations hereunder.

(f) **No Proceedings or Judgments.** There is no claim, action, or proceeding now pending,

or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the Developer is a party and (2) which will, or could, prevent the Developer's performance of its obligations under this Agreement.

(g) **Maintenance of Existence.** During the term of this Agreement, the Developer shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence as an Illinois corporation.

Section 2.3. Disclaimer of Warranties. The City and the Developer acknowledge that neither has made any warranties to the other except as set forth in this Agreement. The City hereby disclaims any and all warranties with respect to the Property and the Project, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability or sufficiency of the Incremental Property Taxes for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of any projections of Incremental Property Taxes, and the Developer assumes all risks in connection with the practical realization of any such projections of Incremental Property Taxes.

ARTICLE III

CONDITIONS PRECEDENT TO THE UNDERTAKINGS ON THE PART OF THE DEVELOPER AND THE CITY

Section 3.1. Conditions Precedent. The undertakings on the part of the City as set forth in this Agreement are expressly contingent upon each of the following:

- (a) **Project Budget.** The Developer shall have delivered to the City an itemized list of any and all estimated costs to complete the Project (the "**Project Budget**") in accordance with such final development plans as may be approved by the City, including a minimum total cost to complete the Project of not less than two million and one hundred thirty-five thousand dollars (\$2,135,000);
- (b) **Ability to Pay.** The Developer shall have provided evidence, in a commercially reasonable form satisfactory to the City, of its ability to pay for the costs of the Project, as itemized in the Project Budget;
- (c) **Property Ownership:** The Developer has and maintains title to the properties for the duration of the Redevelopment Agreement;
- (d) **Construction Schedule.** The Developer shall have delivered to the City a detailed construction schedule for the commencement and completion of the Project, which shall include a Project Commencement Date and a Project Completion Date; and
- (e) **City Approvals.** The Developer shall have obtained approval of the Project in accordance with all applicable laws, codes, rules, regulations, and ordinances of the City, including without limitation all applicable subdivision, zoning, environmental, building code, or any other land use regulations (collectively, the "**City Codes**"), including the issuance of all required permits, it being understood that the City in its capacity as a municipal corporation has discretion to approve the issuance of any such permits. Required City approvals shall include the application for and issuance of the appropriate state and local liquor licenses allowing for the sale of alcohol for

consumption on the premises of the Property subject to this Redevelopment Agreement.

Section 3.2. Reasonable Efforts and Notice of Termination. The Developer shall use due diligence to timely satisfy the conditions set forth in Section 3.1 above on or before the Project Commencement Date, but if such conditions are not so satisfied or waived by the City, then the City may terminate this Agreement by giving written notice thereof to the Developer. In the event of such termination, this Agreement shall be deemed null and void and of no force or effect and neither the City nor the Developer shall have any obligation or liability with respect thereto.

ARTICLE IV **CITY'S COVENANTS AND AGREEMENTS**

Section 4.1. City's TIF Funded Financial Obligations. The City shall have the obligation set forth in Section 4.2 relative to the distribution of TIF Funds for Eligible Redevelopment Project Costs in connection with the Project. Upon the submission to the City by the Developer of a Requisition for distribution of TIF Funds in accordance with Article VI of this Agreement, the City, subject to the terms, conditions, and limitations set forth in Section 4.2 immediately below, agrees to distribute to the Developer from the Fund such amounts (the "**Distribution Amounts**") related to the Project upon the Property.

Section 4.2. Distribution of TIF Funds

(a) **Schedule of Distribution.** The City shall distribute five payments to the Developer based on the following schedule and contingent certain performance benchmarks being met as further described in section 4.2(b):

Payment 1: \$100,000 within 45 days after the City's issuance of the City Building Permit.

Payment 2: \$39,500 within 45 days after the 4th year anniversary of issuance of the Certificate of Occupancy.

Payment 3: \$39,500 within 45 days after the 5th year anniversary of issuance of the Certificate of Occupancy.

Payment 4: \$39,500 within 45 days after the 6th year anniversary of issuance of the Certificate of Occupancy.

Payment 5: \$39,500 within 45 days after the 7th year anniversary of issuance of the Certificate of Occupancy.

(b) **Distribution Conditions:** If any of the following conditions are not met by the Developer or the venue operator during the term of the agreement, the City may find the Developer in default of the agreement and pursue remedies to cure, including the right to terminate the agreement.

i. Developer has and maintains title to the building for the duration of the Redevelopment Agreement.

- ii. Developer provides an itemized list of estimated costs to complete the project and the finished project reflects these costs.
- iii. Developer provides evidence of ability to financially undertake the project.
- iv. Developer provides a detailed construction schedule.
- v. Developer obtains all required City building permit approvals.
- vi. The venue hosts a combination of at least 150 live entertainment events and film showings annually.
- vii. The venue generates at least \$750,000 in food and beverages sales per year.
- viii. The legal entity owning and operating the business located at the Property has and maintains at all times a valid and current state and local liquor licenses allowing for the sale of alcohol for consumption on the premises for the duration of the Redevelopment Agreement.
- ix. The Developer submits a security plan for the live entertainment events at the venue, subject to City approval, and enforces the approved security plan for the duration of the agreement.

In the event the Developer fails to provide or maintain any of the conditions as stated in Section 4.2(b), the City shall give written notice and declare the Developer in default and seek remedy in accordance with Article VII of this Agreement.

(c) **Performance by Venue:** The venue performance period begins 180 days after the date the Certificate of Occupancy is issued (beginning of year one). If either condition vi or vii in Section 4.2(b) is not satisfied in any one-year period from the issuance of the Certificate of Occupancy, the agreement shall be immediately terminated and the Developer shall not have a right to remedy or cure.

Section 4.3. Defense of Redevelopment Project Area. In the event that any court or governmental agency having jurisdiction over enforcement of the TIF Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including the payment of the TIF Funds to be paid by the City is contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement.

ARTICLE V

DEVELOPER'S COVENANTS

Section 5.1. Commitment to Undertake and Complete the Project. The Developer covenants and agrees to commence the Project on or before the Project Commencement Date and to have the Project completed on or before the Project Completion Date. The Developer recognizes and agrees that the City has sole discretion with regard to all approvals and permits relating to the Project, including but not limited to approval of any required permits and any failure on the part of the City to grant or issue any such required permit shall not give rise to any claim against or liability of the City pursuant to this Agreement. The City agrees, however, that any permit application shall be processed in its usual and customary manner and that any such approval shall be made in conformance with the applicable City Codes and shall not be unreasonably denied, withheld, conditioned, or delayed.

Section 5.2. Prevailing Wages. The Developer acknowledges that the Illinois Department of Labor currently takes the position as a matter of its enforcement policy that the TIF financing of the Project under this Agreement does not subject the Project to the Prevailing Wage Act unless the Project also receives funding from another public source. The City makes no representation as to any such application of the Prevailing Wage Act to the Project, and any failure by the Developer to comply with the Prevailing Wage Act, if and to the extent subsequently found to be applicable by any legal authority having jurisdiction, shall not be deemed a “Default” under this Agreement. Notwithstanding the foregoing sentence, the Developer agrees to assume all responsibility for any such compliance (or noncompliance) with the Prevailing Wage Act in connection with the Project under this Agreement in the event of any action by any party to enforce its provisions.

Section 5.3. Tax and Related Payment Obligations. The Developer agrees to pay and discharge, promptly and when the same shall become due, all general ad valorem real estate taxes and assessments, all applicable interest and penalties thereon, and all other charges and impositions of every kind and nature which may be levied, assessed, charged, or imposed upon the Property or any part thereof that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of the Property. The Developer, including any others claiming by or through it, also hereby covenants and agrees not to file any application for property tax exemption for any part of the Property or the Project or any part thereof under any applicable provisions of the Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.). This covenant of the Developer shall be a covenant that runs with the land being the Property upon which the Project is undertaken and shall be and remain in full force and effect during the term of this Agreement and following its expiration or termination, as the case may be, until December 31, 2032, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to the Property, the City shall execute and deliver to such party an instrument, in recordable form, confirming for the record that this covenant has terminated and is no longer in effect.

Section 5.4. Businesses Owned by Minorities and Females. It is the policy of the Corporate Authorities of the City to promote and encourage the use by the Developer of businesses owned by “minorities” and “females” (as such terms are defined in the Business Enterprise for Minorities, Females and Persons with Disabilities Act) in connection with the Project. Toward this end, the Developer shall establish goals for contracting with businesses owned by minorities and females, including a plan by which the Developer intends to meet these goals, and shall submit such plan to the City for review and approval.

Section 5.5. Documentation of Film Showings and Live Entertainment Events. The Developer shall provide annual documentation of the minimum Film Showings and Live Entertainment Events required in Section 4.2(b). The documentation shall provide at minimum: a description of the event, including the name of any act/group/performance, the dates and time of said performances, the estimated attendance, and description of the advertisement and/or marketing associated in a form substantially the same as that attached and marked Exhibit C. In the event it becomes aware of reporting discrepancies or other information indicating noncompliance with the Agreement, the City reserves the right to request additional information on a specific live entertainment events or film showings upon good cause shown by the City. Multiple bands, acts, etc. at the same event, occurring concurrently, in immediate succession or under a single ticket shall be considered a single event for the purposes of performance under this agreement.

ARTICLE VI
PAYMENT PROCEDURES FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS

Section 6.1. Payment Procedures. The City and the Developer agree that only Eligible Redevelopment Project Costs shall be paid solely, and to the extent available, from Incremental Property Taxes that are deposited in the Fund and not otherwise. The City and the Developer intend and agree that the Eligible Redevelopment Project Costs shall be disbursed by the Finance Director for payment to the Developer in accordance with the procedures set forth in this Section 6.1 of this Agreement.

The City hereby designates the Finance Director as its representative to coordinate the authorization of disbursement of Annual Distribution Amounts for the Eligible Redevelopment Project Costs as described in Section 4.2(a). Payments to the Developer of the Annual Distribution Amounts for Eligible Redevelopment Project Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a “**Requisition**”), submitted by the Developer. Each such Requisition shall be accompanied by appropriately supporting documentation, including, as applicable, documentation of Food and Beverage revenues and records indicating the number of live entertainment events taking place in the respective year.

Section 6.2. Approval and Resubmission of Requisitions. The Finance Director shall give the Developer written notice disapproving any of the Requisitions within ten (10) days after receipt thereof. No such approval shall be denied except on the basis that (i) all or some part of the Requisition does not constitute Eligible Redevelopment Project Costs or has not otherwise been sufficiently documented as specified in Section 6.1 of this Agreement; (ii) a “Default” under Section 7.1 of this Agreement by the Developer has occurred and is continuing. If a Requisition is disapproved by such Finance Director, the reasons for disallowance will be set forth in writing and the Developer may resubmit any such Requisition with such additional documentation or verification as may be required, if that is the basis for denial. The same procedures set forth herein applicable to disapproval shall apply to such resubmittals.

Section 6.3. Time of Payment. Provided that performance of this Agreement has not been suspended or terminated by the City under Articles IV or VII hereof, the City shall pay any Annual Distribution Amount attributable to the Project that is approved by any one or more Requisitions under this Article to the Developer within forty-five (45) calendar days after the latest of (i) the date of the approval of any such Requisitions, (ii) the receipt by the City of evidence from the Developer of the payment in full of the total property taxes attributable to the Property in any such applicable calendar year and (iii) the receipt by the City of the last installment of Incremental Property Taxes in any such calendar year.

ARTICLE VII
DEFAULTS AND REMEDIES

Section 7.1. Events of Default. The occurrence of any one or more of the events specified in this Section 7.1 shall constitute a “**Default**” under this Agreement.

By the Developer:

(1) The furnishing or making by or on behalf of the Developer of any statement or representation in connection with or under this Agreement that is false or misleading in any material

respect; or

(2) The failure by the Developer to timely perform any term, obligation, covenant, or condition contained in this Agreement.

By the City:

(1) The failure by the City to pay any of the Annual Distribution Amounts that become due and payable in accordance with the provisions of this Agreement; or

(2) The failure by the City to timely perform any other term, obligation, covenant, or condition contained in this Agreement.

Section 7.2. Rights to Cure. The party claiming a Default under Section 7.1 of this Agreement (the “**Non-Defaulting Party**”) shall give written notice of the alleged Default to the other party (the “**Defaulting Party**”) describing the nature of the Default complained of and the term or provision of this Agreement that the Non-Defaulting Party believes is in default. Except as required to protect against immediate, irreparable harm, the Non-Defaulting Party may not institute proceedings or otherwise exercise any right or remedy against the Defaulting Party until thirty (30) days after having given such notice. In the event a Default is of such nature that it will take more than thirty (30) days to cure or remedy, such Defaulting Party may give the Non-Defaulting Party written notice that (i) the Default will take more than thirty (30) days to cure or remedy; (ii) the Defaulting Party has promptly commenced and is diligently pursuing such cure or remedy; and (iii) the date on or before which the Defaulting Party will have completed such cure or remedy. Provided that the Defaulting Party promptly commences and diligently pursues such cure or remedy, such Defaulting Party shall have an additional period of time reasonably necessary to cure or remedy such Default. During any such period following the giving of notice of the alleged Default, the Non-Defaulting Party may suspend performance under this Agreement until the Non-Defaulting Party receives written assurances from the Defaulting Party, deemed reasonably adequate by the Non-Defaulting Party, that the Defaulting Party will cure or remedy or has cured or remedied the Default and remain in compliance with its obligations under this Agreement. A Default not cured or remedied or otherwise commenced and diligently pursued as provided above shall constitute a “**Breach**” under this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any Default or any Breach shall not operate as a waiver of any such Default, Breach, or of any other rights or remedies it may have as a result of such Default or Breach.

Section 7.3. Remedies. Upon the occurrence of a Breach under this Agreement by the Developer, the City shall have the right to terminate this Agreement by giving written notice to the Developer of such termination and the date such termination is effective. Except for such right of termination by the City, the only other remedy available to either party upon the occurrence of a Breach under this Agreement by the Defaulting Party shall be to institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such Breach, including but not limited to proceedings to compel any legal action for specific performance, or other appropriate equitable relief. Notwithstanding anything herein to the contrary, the sole remedy of the Developer upon the occurrence of a Breach by the City under any of the terms and provisions of this Agreement shall be to institute legal action against the City for specific performance or other appropriate equitable relief and under **no** circumstances shall the City be liable to the Developer for any indirect, special, consequential, or punitive damages, including without limitation, loss of profits or revenues, loss of business opportunity or production, cost of capital, claims by customers, fines or penalties, whether

liability is based upon contract, warranty, negligence, strict liability, or otherwise, under any of the provisions, terms, and conditions of this Agreement. In the event that any failure of the City to pay any Annual Distribution Amounts that become due and payable in accordance with the provisions hereof is due to insufficient Incremental Property Taxes being available to the City, any such failure shall not be deemed to be a Default or a Breach on the part of the City.

Section 7.4. Costs, Expenses and Fees. Upon the occurrence of a Default or Breach which requires either party to undertake any action to enforce any provision of this Agreement, the Defaulting Party shall pay upon demand all of the Non-Defaulting Party's charges, costs, and expenses, including the reasonable fees of attorneys, agents, and others, as may be paid or incurred by such Non-Defaulting Party in enforcing any of the Defaulting Party's obligations under this Agreement or in any litigation, negotiation, or transaction in connection with this Agreement in which the Defaulting Party causes the Non-Defaulting Party, without the Non-Defaulting Party's fault, to become involved or concerned.

ARTICLE VIII

RELEASE, DEFENSE, AND INDEMNIFICATION OF CITY

Section 8.1. Declaration of Invalidity. Notwithstanding anything herein to the contrary, the City, its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors shall not be liable to the Developer for damages of any kind or nature whatsoever or otherwise in the event that all or any part of the TIF Act, or any of the TIF Ordinances or other ordinances of the City adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, shall be declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof; provided that nothing in this Section 8.1 shall limit otherwise permissible claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts, if any, in the event of a Breach of this Agreement by the City.

Section 8.2. Damage, Injury, or Death Resulting from Project. The Developer releases from and covenants and agrees that the City and its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors shall not be liable for, and agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from the Project, except as such may be caused by the intentional conduct, gross negligence, negligence, or other acts or omissions of the City, its Corporate Authorities, officials, agents, employees, or independent contractors that are contrary to the provisions of this Agreement.

Section 8.3. Damage or Injury to Developer and Others. The City and its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or any of its officers, agents, independent contractors, or employees or of any other person who may be about the Property or the Project due to any act of negligence of any person, except as such may be caused by the intentional misconduct, gross negligence, or acts or omissions of the City, its Corporate Authorities, officials, agents, employees, or independent contractors that are contrary to the provisions of this Agreement.

Section 8.4. No Personal Liability. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its Corporate Authorities, officials, agents, employees, or independent contractors in their individual capacities. No member of the Corporate Authorities, elected or appointed officials, agents, employees, or independent contractors of the City shall be personally liable to the Developer **(i)** in the event of a Default or Breach by any party under this Agreement, or **(ii)** for the payment of any Annual Distributions which may become due and payable under the terms of this Agreement.

Section 8.5. City Not Liable for Developer Obligations. Notwithstanding anything herein to the contrary, the City shall not be liable to the Developer for damages of any kind or nature whatsoever arising in any way from this Agreement, from any other obligation or agreement made in connection therewith, or from any Default or Breach under this Agreement; provided that nothing in this Section 8.5 shall limit otherwise permissible claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts in the event of a Breach of this Agreement by the City.

Section 8.6. Actions or Obligations of Developer. The Developer agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, elected and appointed officials, agents, employees, and independent contractors (except as such may be caused by the intentional conduct, gross negligence, negligence, or breach of this Agreement by the City, its Corporate Authorities, officials, agents, employees, or independent contractors) from and against any and all suits, claims, and cost of attorneys' fees, resulting from, arising out of, or in any way connected with **(i)** any of the Developer's obligations under or in connection with this Agreement; **(ii)** the construction or installation of the Project; **(iii)** the Developer's compliance with the Prevailing Wage Act if, as, and when applicable to the Project; or **(iv)** the negligence or willful misconduct of the Developer, its officials, agents, employees, or independent contractors in connection with the Project.

Section 8.7. Notification of Claims. Not later than thirty (30) days after the Developer becomes aware, by written or other overt communication, of any pending or threatened litigation, claim, or assessment, the Developer will, if a claim in respect thereof is to be made against the Developer that affects any of the Developer's rights or obligations under this Agreement, notify the City of such pending or threatened litigation, claim, or assessment, but any omission so to notify the City will not relieve the Developer from any liability that it may have to the City under this Agreement.

ARTICLE IX **MISCELLANEOUS PROVISIONS**

Section 9.1. Entire Agreement and Amendments. This Agreement (together with Exhibits A, and B attached hereto) constitutes the entire agreement by and between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether written or oral, and may not be modified or amended except by a written instrument executed by both of the parties.

Section 9.2. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in

this Agreement intended to relieve or discharge any obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third-party beneficiary rights whatsoever.

Section 9.3. Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 9.4. Special and Limited Obligation. This Agreement shall constitute a special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources, or general taxing power are pledged. The City pledges to the payment of its obligations under Article IV hereof only such amount of the Incremental Property Taxes as is set forth in Article IV, if, as, and when received, and not otherwise.

Section 9.5. Time and Force Majeure. Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in Default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute “unavoidable delays”): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City, and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City.

Section 9.6. Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing and duly executed by the party giving such waiver. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 9.7. Cooperation and Further Assurances. The City and the Developer covenant and agree that each will do, execute, acknowledge, and deliver or cause to be done, executed, and delivered, such agreements, instruments, and documents supplemental hereto and such further acts, instruments, pledges, and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning, and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property, and revenues covenanted, agreed, conveyed, assigned, transferred, and pledged under or in respect of this Agreement.

Section 9.8. Notices and Communications. All notices, demands, requests, or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail in a properly addressed envelope and sent by registered or certified mail, postage prepaid, return receipt requested; (b) personally delivered; (c) sent by a nationally recognized overnight courier, delivery charge prepaid; or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the

City and the Developer at their respective addresses (or at such other address as each may designate by written notice to the other), as follows:

- (i) In the case of the Developer, to:
Race Street Ventures, LLC
901 S. 1st Street
Champaign IL 61820
Attn: Patrick Singer
Tel: 2175493519
- (ii) In the case of the City, to:
City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
Attn: Community Development Director
Tel: (217) 384-2439

Notice shall be deemed received (a) four (4) days after placement with the United States Postal Service in the manner provided above; (b) the day following personal delivery; or (c) the day following deliver by a national recognized overnight courier service. Whenever any party hereto is required to deliver notices, certificates, opinions, statements, or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

Section 9.9. Assignment. The Developer agrees that it shall not sell, assign, or otherwise transfer any of its rights and obligations under this Agreement in whole or in part without the prior express written consent of the City, except that: (i) any assignment of the Annual Distribution Amounts under this Agreement as collateral; or (ii) any related sale, assignment, or transfer of this Agreement in whole to a legal entity having common ownership with the Developer. Except as authorized in this Section above, any assignment in whole or in part shall be void and shall, at the option of the City, terminate this Agreement. No such sale, assignment, or transfer as authorized in this Section, including any with or without the City's prior written consent, shall be effective or binding on the City, however, unless and until the Developer delivers to the City a duly authorized, executed, and delivered instrument that contains any such sale, assignment, or transfer and the assumption of all the applicable covenants, agreements, terms, and provisions of this Agreement by the applicable parties thereto.

Section 9.10. Successors in Interest. Subject to Section 9.9 above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respectively authorized successors, assigns, and legal representatives (including successor Corporate Authorities).

Section 9.11. No Joint Venture, Agency, or Partnership Created. Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the City, the Developer, or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

Section 9.12. Illinois Law; Venue. This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois, whether in the United States District Court for the Central District of Illinois or the Circuit Court for the Sixth Judicial Circuit, Champaign County, Illinois.

Section 9.13. Term. Unless earlier terminated pursuant to the terms hereof, this Agreement shall be and remain in full force and effect from and after the Effective Date and shall terminate upon completion of all payments for Eligible Redevelopment Project Costs in accordance with Section 4.2 and Article VI of this Agreement or the termination of the Redevelopment Project Area, whichever occurs first.

Section 9.14. Recordation of Agreement. Either party may record this Agreement or a Memorandum of this Agreement in the office of the Champaign County Recorder at any time following its execution and delivery by both parties.

Section 9.15. Construction of Agreement. This Agreement has been jointly negotiated by the parties and shall not be construed against a party because that party may have primarily assumed responsibility for preparation of this Agreement.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers or manager(s) as of the date set forth below.

**CITY OF URBANA, CHAMPAIGN COUNTY,
ILLINOIS**

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Date: _____

Race Street Ventures, LLC

By: _____

Date: _____

[Exhibits A, B, and C follow this page and are an integral part of this Agreement in the context of use.]

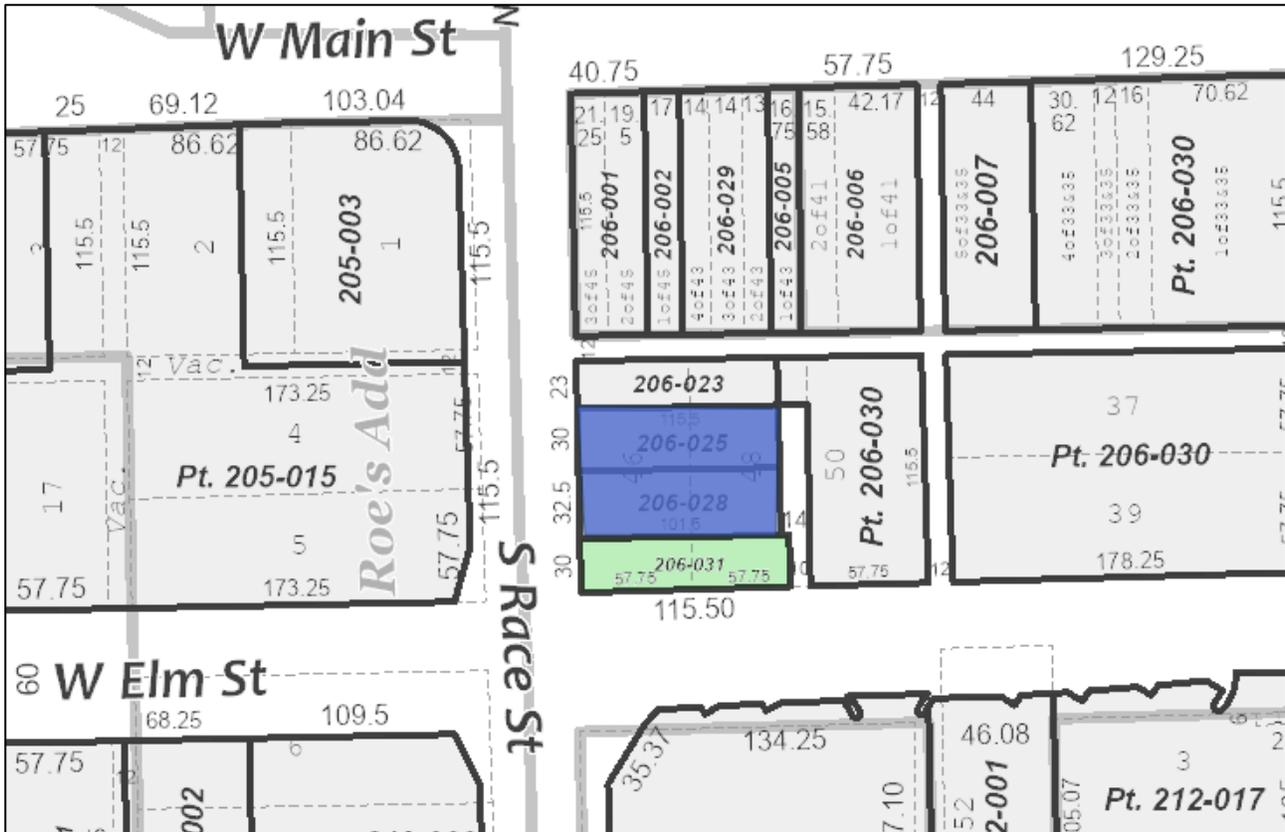
EXHIBIT A

Project Description

The Developer is planning a full rehabilitation of both buildings at 118 S. Race Street and 120 S. Race Street transforming the spaces into Fernie's High Horse. Fernie's will feature an overall capacity of 250, divided into a live performance space (which can be reconfigured as a single-screen cinema with seating up to 100 patrons), a coffeehouse and cafe with a curated bagel menu, a full-service bar, and a patio complete with a stationary food trailer and space for additional food trucks. The space will be equipped to host patrons for standard operating hours seven days a week, while simultaneously engaging in music and theatre events, festivals, and more. On the second floor will be four, two-bedroom apartments, one serving as the "green room" for entertainers.

EXHIBIT B

Property Description



The PIN: 92-21-17-206-025; 92-21-17-206-028

The legal description of the properties is as follows:

Tract 1:

The South 30 feet of the North 53 feet of Lot 46 and the South 30 feet of the North 53 feet of lot 48, except the East 14 feet thereof, in the Original Town of Urbana, as per plat recorded in Deed Record "A" at page 3, situated in the City of Urbana, in Champaign County, Illinois.

Tract 2:

The North 32 1/2 feet of the South 62 1/2 feet of Lot 46 and the North 32 1/2 feet of the South 62 1/2 feet of lot 48, except the East 14 feet thereof, in the Original Town of Urbana, as per plat recorded in Deed Record "A" at page 3, situated in the City of Urbana, in Champaign County, Illinois.

EXHIBIT C

Reporting Form

DATE	7/4/2026	7/5/2026	7/6/2026
PROGRAM / HEADLINER	NEPTUNE'S CORE	AARON FRANKLIN / FRANKLIN BBQ	NOSFERATU
TIME	7:00 pm - 10:00 pm	7:00 pm - 10:00 pm	8:00 PM - 10:00 PM
SPACE	Theater	Patio	Theater
CATEGORY	MUSIC	FOOD	FILM
ESTIMATED ATTENDANCE	150	85	60
PRESALE PRICE	\$15.00	\$15.00	\$0.00
DAY OF SHOW PRICE	\$20.00	\$25.00	\$0.00
FOOD/BEVERAGE SALES	\$1,234.56	\$2,345.67	\$567.79
DESCRIPTION / NOTES	Neptune's Core featuring Fiona Kimble	Pop up dinner feat. Franklin BBQ from Austin, TX	Screening of Nosferatu (2024)



REDEVELOPMENT AGREEMENT PROPOSAL

RACE STREET VENTURES | July 1, 2024

HISTORY

In October 2021, Race Street Ventures LLC, a group of partners from varying fields and local roots in Urbana and Champaign, acquired 118-120 S. Race Street buildings in Downtown Urbana, Illinois. Urbana is on the National Register of Historic Places, and these two buildings are located in the center of its historic downtown district. The acquisition came as a result of a vision and commitment to the Urbana community, as the building owners saw a path forward to preserve the legacy of these two historic buildings through this newly-established ownership group.

GOALS + OVERVIEW

Race Street Ventures is requesting an agreement with the City of Urbana's Redevelopment Agreement Program in order to revitalize the spaces into an attraction that will flourish for decades to come. In the time since the COVID-19 pandemic, the combination of dramatically higher construction costs and high interest rates make this full rehabilitation project impossible to fund and finance without Urbana's investment. We believe this rehabilitation and programming will contribute significantly to the goals set forth by the Economic Development arm of the City of Urbana: providing exceptional economic and community based outcomes for the community.

With an estimated opening date of fall 2025, Fernie's vision and conceptual framework offers an experience and destination unlike any in Urbana or surrounding communities. Fernie's will feature a 250 capacity live performance venue space (for live music, literature, poetry, comedy, and more), a single-screen cinema with seating up to 100 patrons, a coffeehouse and cafe with a curated bagel menu, a full service bar and patio complete with a stationary food trailer and space for additional food trucks from the community, and more. The space will be equipped to host patrons for standard operating hours seven days a week, while simultaneously engaging in one-off events, festivals, and more.

The funding from a Redevelopment Agreement is instrumental in supporting a tourist attraction and performance venue and cinema to support arts and culture in the community, support festivals and fairs in Downtown Urbana, provide space for nationally and internationally touring artists to perform, attracting visitors from a 50 mile radius and beyond.

Two partners in Race Street Ventures, Patrick Singer and Seth Fein, are members of the cultural community and operate [PYGMALION](#), a festival that enters its 20th year of existence in 2024. They have a wide range of experience programming and booking thousands of nationally and internationally touring artists throughout their combined 40 years of experience in live music, comedy, literature, podcasts, and more through comprehensive promotion and production of live performance and programming. Their experience and pedigree is vital to the pursuit of a concept of this nature, as Fernie's aims to support and produce hundreds of performances each year that attract tourism and visitors from the region. Data from past events

Singer and Fein have promoted show that a significant volume of the audience at these events are visitors from outside the immediate area.

Additionally, Fernie's has plans to incorporate a bagel shop and coffeehouse, a meeting space with a patio with food and drink offerings, family-friendly attractions like a dog-friendly patio, food trucks, soft-serve ice cream, and much more.

The partnership group believes Fernie's is an opportunity to further engage and perpetuate many partnerships with area attractions that surround it, including but not limited to: Hotel Royer, University of Illinois at Urbana-Champaign, Rose Bowl Tavern, Lincoln Square Mall, Gallery Art Bar, Urbana Free Library, and many more within the historic Main Street district in Downtown Urbana. Race Street Ventures also collaborates frequently with [Experience Champaign-Urbana](#), the certified Destination Management Organization for Champaign County. Partners inside of Race Street Ventures have worked with Experience Champaign-Urbana for over a decade to great success and collaboration throughout many events and programming that attract visitors to the area.

ECONOMIC IMPACT

Fernie's will be a destination for all of downstate Illinois, providing a new, professionally owned and operated performance and theater space. Studies referred to in this section have been separately submitted.

According to studies done by the National Independent Venue Association, [every \\$1 spent at a live performance generates \\$12 of economic impact](#)¹⁸. Here is a bit more about [NIVA](#)¹⁹:

*The **National Independent Venue Association (NIVA)** was the driving force behind lobbying and grassroots efforts to pass the bipartisan [Save Our Stages Act](#)²⁰, now officially named the [Shuttered Venues Operators Grant Program](#)²¹, which was signed into law as part of the second COVID-19 Relief Bill on December 27, 2020. The program allocates \$16 billion in federal emergency relief via the Small Business Administration, saving the industry from mass collapse.*

Fernie's will reinvest into the Urbana community through a variety of tax revenue streams — namely food and drink and hotel/motel tax. The City of Urbana has committed \$5.5M in tax credit for the remodeling of Hotel Royer into a Hilton Tapestry Collection, a 128-room historic hotel located directly across the street from Fernie's at 210 S. Race Street, Urbana. With the hotel's opening expected fall 2024, patrons visiting the hotel will be drawn into Downtown Urbana in general by Fernie's due to the visibility of Fernie's from the main entrance to the hotel. Fernie's concept and scope is focused on drawing patrons from the hotel to encourage their engagement with other area businesses, not just its own. Similarly, most live performance programming at Fernie's will go well into the evening, leading to additional stays in Urbana,

many at Hotel Royer. Race Street Ventures believes in the overall health and wellness, both economic and cultural, of Urbana.

We believe this project and its scope would be a game-changing investment for Downtown Urbana. The figures used to showcase the economic impact are based on live performances alone, and with the comprehensive nature of the space and what it plans to provide as an attraction for Urbana, its impact will go far beyond this with food and beverage and hotel/motel tax revenue annually.

Data provided by Experience Champaign-Urbana through Zartico shows that over the past year, live music venues in Downtown Urbana are in the top 5 most visited spots in the city and have an average visitor-to-resident ratio of 0.30 (3 visitors for every 10 residents), higher than industry average. Attendees to live music have a high overnight-to-day trip ratio at 2.2 (2.2 overnight stays for every 1 day trip.) Top markets for visitors interested in events and live music include Chicago, Peoria, St. Louis, Indianapolis, and Davenport.

Fernie's will create a broad economic impact for the community and support dozens of jobs itself, and support job creation, livability, and cultural engagement for decades to come throughout the area. Some examples of employment opportunities that will be inclusive of Fernie's operations include production managers, ushers and security personnel, talent buyers, sound engineers, promoter representatives, baristas, bartenders, and more. It is estimated that Fernie's will support 50-75 employees annually throughout its components, generating income for community members and reinvesting into the workforce in Champaign County.

Through data collected from Eventbrite, PYGMALION's ticketing platform, from 13 events in 2023, the sample size of approximately 2400 tickets purchased in advance found that ticket buyers purchased from the following states outside of Illinois: Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Missouri, Indiana, Kentucky, Maine, Michigan, Minnesota, North Carolina, New Jersey, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, Washington DC, and Wisconsin. Ticket buyers spent an average of \$26.99 per transaction and 1.66 tickets per transaction. Per NIVA's economic impact metric of \$1 spent on tickets resulting in \$12 of economic impact, that would alone result in \$323.88 of economic impact per person. According to data collected from PYGMALION's social media followers, 36% fall in the 25-34 age bracket, and an additional 29% fall in 35-44. These patrons are interested in engaging with events in the community and spending disposable income on hotel stays, restaurants and dining, parking, and experiences through ticket purchases.

It is important to note: The data collected above is *just* tickets purchased in advance of the performance, therefore the economic impact is likely larger than what data is showcased. Buyers purchasing tickets in advance of the performance is a showcase of their dedication to visiting the destination, planning a visit to Urbana, and as such, those individuals are likely to spend money on travel, lodging, gas, food and drink, and more beyond their ticket purchase.

Experience Champaign-Urbana shares that in 2022, our region had a record-breaking year and was the 8th highest producing region in the state of Illinois with over \$608.8 million in visitor spending, generating \$160.8 million in payroll, and supporting 4,900 jobs. They anticipate continued record growth into 2023 and beyond. We are eager to bring more of this growth to Urbana. The next section of this proposal is a summary of our projections, based on our expectations of operations and the sources of data cited above.

FINANCIAL SUMMARY AND CONCLUSION

We have separately submitted a spreadsheet outlining our capital budget, construction bid, a projection of operations, and projection of economic impact and tax revenue based on our experience in the industry and the sources of data cited above.

In that spreadsheet, the “Econ Impact” sheet projects an economic impact to Urbana of over \$5,100,000 annually when considering the total impact of attendance and the broader impact of attracting visitors to Urbana. The same sheet calculates the annual tax revenue to Urbana at just under \$200,000, nearly \$1,000,000 over five years.

The same file contains a “Profit and Loss” sheet in which we present our operating and rental projections, along with financing sources, loan amortization, and construction and startup costs. The projections in that sheet show an overall capital need of \$1,667,939. A portion of that need is met by a state tourism grant secured earlier in 2024. But, even with that grant, the rate of return would be far too low to attract investment for the remaining capital needed; investors generally demand 12-18% IRR to invest in real estate and 20% or more in restaurant or bar operations. We respect the many demands upon City resources, and intend to ask for the minimum that will make the project feasible. We believe we can secure the remaining capital needed if (and only if) we can show investors a projected IRR at the lowest end of that market range, 12%. The amount of City assistance needed to reach that minimum IRR is \$375,000, as shown in the projection spreadsheet.

Fernie’s is an operation that will be open 300+ days a year and is being designed as a modular space that can host performances in addition to its general food and drink offerings. Programmers plan to produce and execute at least 100 performances throughout the year once the project is completed. The venture meets the definition of a tourist attraction because of its programming and relative size and scope in the community, which does not currently have a venue that consistently programs and operates a space of this nature. Fernie’s will be programming live music, comedy, author readings, and more, in addition to being a space that could support additional festivals and street fairs as it exists in a main thoroughfare in Downtown Urbana including PYGMALION, the CU Pride Festival, C-U Folk & Roots Festival, and the Champaign-Urbana Jazz Festival. The partners of the venture are certain that with this project, the business would be able to support the creation of even more events in the area due to the nature of the space.



City of Urbana
400 S. Vine Street, Urbana, IL 61801
www.urbanainillinois.us

MEMORANDUM TO THE MAYOR AND CITY COUNCIL

Meeting: February 3, 2025 Committee of the Whole
Subject: An Ordinance Approving a Special Use Permit
(809 W. Green St. / Plan Case No. 2496-SU-24 – Dutch Bros Coffee)

Summary

Action Requested

City Council is being asked to consider a special use permit for a drive-through as an accessory use to a fast-food restaurant (Dutch Bros Coffee).

Plan Commission Recommendation

The Plan Commission reviewed the proposed special use permit on January 16, 2025, and voted unanimously to recommend denial to City Council.

Zoning Board of Appeals Action

A conditional use for the principal use of the site for a fast-food restaurant was unanimously approved by the Zoning Board of Appeals on January 15, 2025.

Relationship to City Services and Priorities

Impact on Core Services

Approval of the special use permit will have no direct impact on City services.

Strategic Goals & Plans

The 2005 Comprehensive Plan identifies the future land use of the site as “Campus Mixed-Use”. As detailed in the attached staff report to Plan Commission, the proposal is somewhat responsive to that designation; however, the Plan Commission found that the proposal is not consistent with the Comprehensive Plan (see *Discussion* below).

Previous Council Actions

N/A

Discussion

While the staff report to the Plan Commission recommended approval of the special use permit, the Plan Commission expressed several concerns related to the site plan, especially related to circulation of automobile traffic on-site and at the entry/exit drive along Green Street. The Plan Commission also expressed concerns that a drive-through at this location does not match the intent of the current

(2005) or draft (*Imagine Urbana*) Comprehensive Plans, or the B-1, Neighborhood Business, zoning designation of the property.

In articulating their findings recommending denial of the proposal to Council, the Plan Commission stated that:

1. With regards to the criteria “that the proposed use is conducive to the public convenience at this location”, for reasons based on the Comprehensive Plan, a proposed drive-through is not consistent with the intended pattern of mixed use in relation to the University of Illinois at this location.
2. With regards to the criteria “that the proposed use is designed, located and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare”, the site plan is unworkable for pedestrians, unworkable for parking for online orders and drivers having to walk across vehicular traffic to pick up their orders, unworkable for the entrance because of cross traffic conflicts, unworkable with exiting on Green Street because of the demand to turn left into the left turn lane, unworkable because of the two way entrance being a gridlock at three points, and unworkable with pedestrian and bicycle traffic.
3. With regards to the criteria “that the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of the district in which it shall be located, except where such regulations and standards are modified by Section VII-7”, that the proposed site plan is inconsistent with the Comprehensive Plan and with the changes that the City is evolving through our plans for this district and for the reconfigurations of the streets on Lincoln Avenue, which the City has done on Green Street already.

The Plan Commission’s findings highlight inconsistencies between the Comprehensive Plan and zoning, in that the purpose and intent of the Campus Mixed-Use future land use and the B-1 zoning classification are largely incompatible. The Campus Mixed-Use designation includes design and density expectations that are difficult to meet in the B-1 District.

However, the zoning in place is the appropriate point of departure for this discussion about the suitability of the proposed drive-through use. In fact, as highlighted in the staff report to the Plan Commission, the proposed use moves the use of this site in the direction intended for the Campus Mixed-Use designation in several important ways.

The proposed drive-through coffee shop provides a commercial use adjacent to residential use. (Mixed-use need not always be on the same site to achieve the objectives of the land use designation.) The site would be converted from one that is exclusively auto-oriented with multiple curb cuts on both Lincoln Avenue and Green Street, to one that is much more pedestrian-oriented. Both the placement of the building and the elimination of all but one curb cut help accomplish this.

Staff finds that the criteria for the drive-through in this zone are met. Practically speaking, it is important to recognize that there are constraints on this site in the short-term that affect the usability of this property for other compatible purposes in this zone. On the zoning side, the type of density and use contemplated by a Campus Mixed-Use designation are not achievable under the existing zone, yet attempts to introduce greater density on the east side of Lincoln Avenue have not been supported in the past. On the development side, the cost of site acquisition has been increased by restrictive covenants related to use that the contract purchaser has had to pay to modify. A low-density, low-intensity use for a site this valuable is unlikely to materialize.

The lease to Dutch Bros is for 15-years, after which time the restrictive covenants also reportedly lapse. Depending on the demand for residential and/or mixed-use development at that time, the circumstances might then be ripe to achieve the full potential contemplated by the Campus Mixed-Use designation. In the meantime, however, staff recommends that Dutch Bros drive-through use would make an appropriate improvement to this corner site.

Recommendation

City Council is being asked to consider the special use permit application. The Plan Commission voted unanimously, five ayes to zero nays, to recommend that Council deny the application. The staff report to the Plan Commission placed a greater emphasis on the special use criteria specific to the B-1 district and recommend approval.

Next Steps

If approved, the applicant may apply for buildings permits to develop the site for Dutch Bros.

If Council denies the application, staff recommends rezoning the property to CMU, Campus Mixed-Use, to match the intent of the Comprehensive Plan and to make the property more likely to be redeveloped.

Attachments

1. An Ordinance Approving a Special Use Permit (809 W. Green St. / Plan Case No. 2496-T-24 – Dutch Bros Coffee)
2. Plan Commission Staff Report (January 16, 2025)
3. Draft Plan Commission Minutes (January 16, 2025)
4. Letter from applicant “Re: Development Concerns of Dutch Bros Coffee at proposed site of 809 W. Green Street” (January 29, 2025)

Originated by: Kevin Garcia, Principal Planner, Zoning Administrator

Reviewed: William Kolschowsky, Senior Management Analyst / Assistant to the City Administrator

Approved: Carol Mitten, City Administrator

ORDINANCE NO. _____

AN ORDINANCE APPROVING A SPECIAL USE PERMIT

(809 W. Green St. / Plan Case No. 2496-SU-24 – Dutch Bros Coffee)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Ordinance constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

WHEREAS, Jonathan Thompson, on behalf of RSCC, LLC, has petitioned the City for approval of a special use permit to allow a drive-through at 809 West Green Street; and

WHEREAS, the Zoning Ordinance requires a special use permit for drive-through as an accessory use to a Fast Food Restaurant in the B-1, Neighborhood Business, Zoning District; and

WHEREAS, the proposed accessory use would be conducive to the public convenience, as the site location and the site design make it easily accessible by people walking, biking, driving, or taking the bus; and the two-lane drive-through, and the closing of access from Lincoln Avenue, should also minimize inconvenience to the public; and

WHEREAS, the proposed accessory use would not be injurious or detrimental to the B-1 zoning district, or injurious to the general public, as first, the two-lane drive-through will minimize the chances that cars will queue in a detrimental way; second, it has been designed to eliminate automobile access on Lincoln Avenue, which has more traffic (and thus, more potential for public harm) than Green Street; and finally, it has been designed so that automobile access to the drive-through is from the northeastern corner of the site, which is the least-problematic place to put it; and

WHEREAS, the proposed accessory use would conform to the regulations and standards of, and preserve the essential character of, the B-1 zoning district; and

WHEREAS, the proposed drive-through use is generally consistent with the 2005 Comprehensive Plan; and

WHEREAS, after due publication, the Urbana Plan Commission held a public hearing on January 16, 2025, and voted with five (5) ayes, and zero (0) nays to forward Plan Case 2496-SU-24 to the Urbana City Council with a recommendation to deny the request for a special use permit; and

WHEREAS, approval of the special use permit, with the condition set forth below, is consistent with the requirements of Section VII-4 of the Urbana Zoning Ordinance, Special Use Procedures, and with the general intent of that section of the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

A Special Use Permit is hereby approved to allow a drive-through as an accessory use to an approved Fast Food Restaurant at 809 West Green Street, with the following conditions:

1. The development shall generally conform to the submitted site plans and elevations in Ordinance Attachment A;
2. The number of automobile parking spaces shall be 16 at most;
3. At least six bicycle parking spaces shall be provided;
4. A landscaping plan shall be required prior to construction. At a minimum, the plan should include some combination of bushes and shrubbery on the western side of the lot, between the right-of-way and the drive-through lanes;
5. Outdoor seating areas shall be provided; and
6. Restrooms shall be available for customers.

TRACT 1: BEGINNING AT A POINT 54 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 3 OF THE JOSEPH W. SIM'S ADDITION OF OUTLOTS TO THE TOWN, NOW CITY OF URBANA, AND RUNNING THENCE EAST 151.74 FEET, THENCE NORTH 16.18 FEET, THENCE WEST 65 FEET, THENCE NORTH 43.82 FEET, THENCE WEST 86.74 FEET, THENCE SOUTH 60 FEET TO THE PLACE OF BEGINNING, SITUATED IN THE CITY OF URBANA, IN CHAMPAIGN COUNTY, ILLINOIS.

TRACT 2:
PARCEL A: THE WEST 86.74 FEET OF LOT 3 IN JOSEPH W. SIM'S ADDITION OF OUTLOTS TO THE TOWN, NOW CITY OF URBANA, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 8 OF DEEDS, PAGE 328, EXCEPTING THE SOUTH 114 FEET THEREOF; AND

PARCEL B: A FURTHER PORTION OF SAID LOT 3 DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL A, THENCE EAST 65 FEET, THENCE SOUTH 176 FEET, THENCE WEST 65 FEET, THENCE NORTH 176 FEET TO THE POINT OF BEGINNING, THE LAST 132.18 FEET, MORE OR LESS BEING ALONG THE EAST LINE OF SAID PARCEL A.

AND EXCEPTING THEREFROM THE FOLLOWING:

1) A PORTION OF SAID PARCEL A DESCRIBED AS BEING ALL THAT PART OF PARCEL A NORTH OF THE SOUTH LINE OF THE NORTH 3 FEET OF SAID PROPERTY; AND WEST OF THE EAST LINE OF THE WEST 5 FEET OF SAID PROPERTY; AND INCLUDING A TRIANGULAR SHAPED TRACT HAVING A SIDE 22.0 FEET IN LENGTH COINCIDING WITH SAID SOUTH LINE, AND ANOTHER SIDE 18.00 FEET IN LENGTH COINCIDING WITH SAID EAST LINE; CONTAINING 1104.12 SQUARE FEET, MORE OR LESS, AND

2) THE NORTH 3 FEET OF THE SAID PARCEL B CONTAINING 195.0 SQUARE FEET, MORE OR LESS.

SITUATED IN THE COUNTY OF CHAMPAIGN AND STATE OF ILLINOIS

P.I.N.: 92-21-17-103-001

Address: 809 West Green Street, Urbana, Illinois

Section 2.

Upon approval of this Ordinance, the City Clerk is directed to record a certified copy of this Ordinance with the Champaign County Office of Recorder of Deeds. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this date day of Month, Year.

AYES:

NAYS:

ABSTENTIONS:

Darcy E. Sandefur, City Clerk

APPROVED BY THE MAYOR this date day of Month, Year.

Diane Wolfe Marlin, Mayor

SITE INFORMATION

BUILDING SQ. FT.:	950 S.F.
PARKING STALLS:	16 SPACES
PROTECTED QUEUING:	21 CARS
SITE ACREAGE#:	±.61 AC.
SITE SQ. FT.±:	±26,696.92 S.F.

DEVELOPER

COMPANY:	DUTCH BROS COFFEE
NAME:	CODY HERBSTER
PHONE:	312.859.8328

DESIGNER

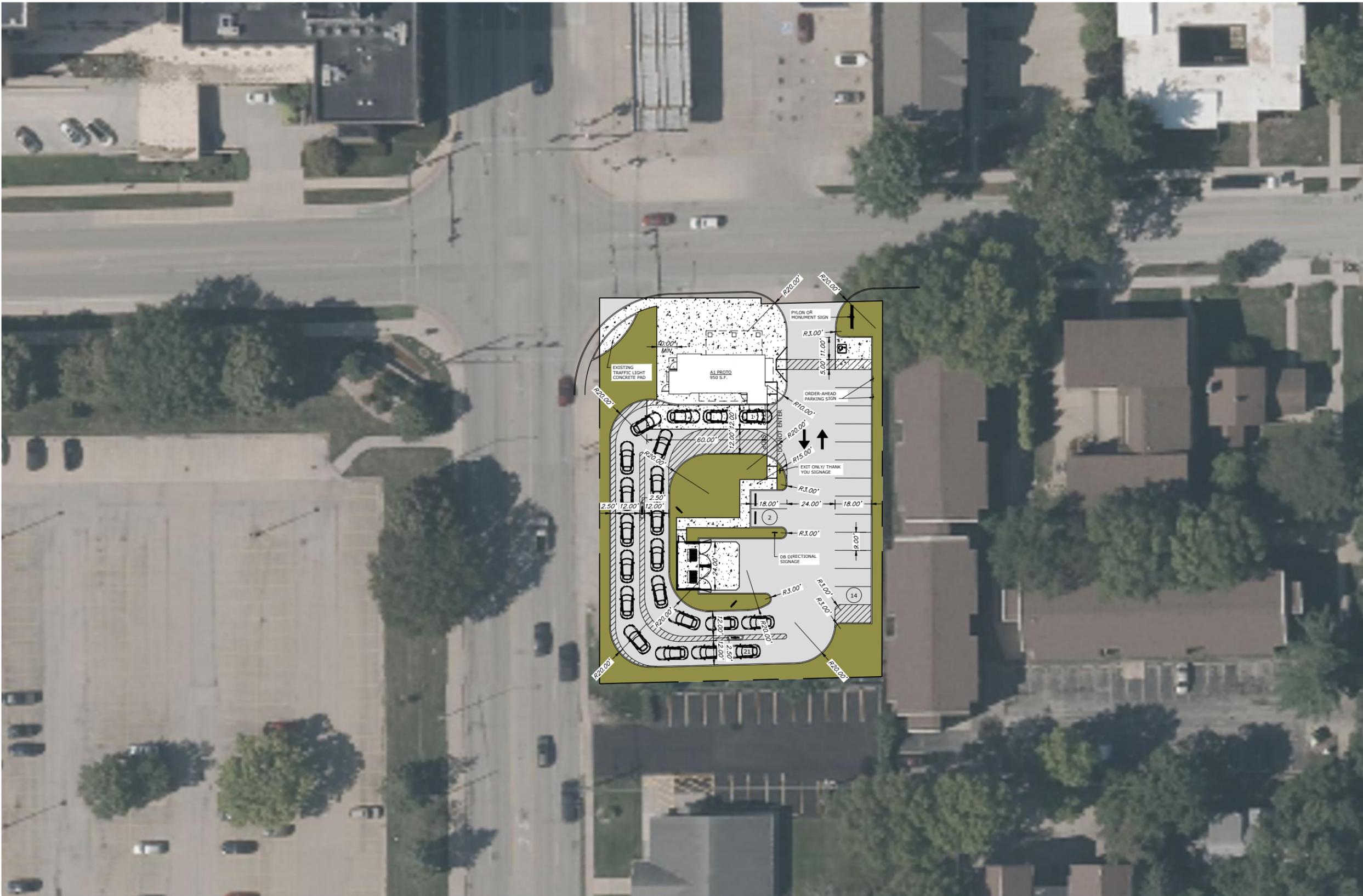
COMPANY:	CORALIC, LLC
NAME:	EDIN CORALIC
PHONE:	314.578.4953

ARCHITECT

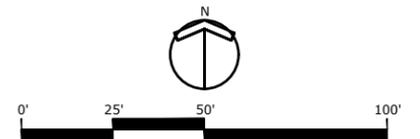
COMPANY:	CORALIC, LLC
NAME:	EDIN CORALIC
PHONE:	314.578.4953

DISCLAIMER

SITE PLAN PREPARED WITHOUT BENEFIT OF TITLE OPINION, DEED RESTRICTION, OR SURVEY. SITE SUBJECT TO CHANGE PENDING ALL STATE AND CITY ORDINANCES OR DEED RESTRICTIONS. BUILDING AND SITE SIGN LOCATION, SQUARE FOOTAGE, AND TYPE SUBJECT TO CHANGE PENDING ALL STATE AND CITY ORDINANCES OR DEED RESTRICTIONS.



Ordinance Attachment A



SITE PLAN
W/ CARS

Dutch Bros. Coffee

IL0301_Urbana (809 W Green St)

12/6/2024





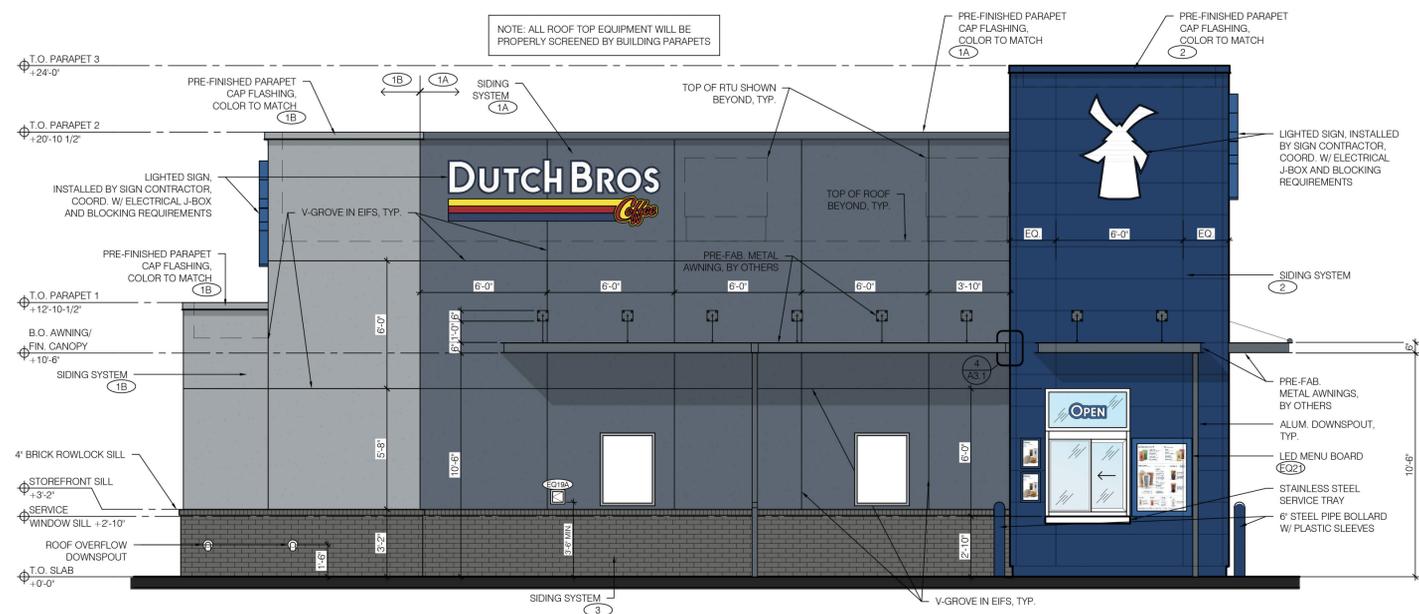
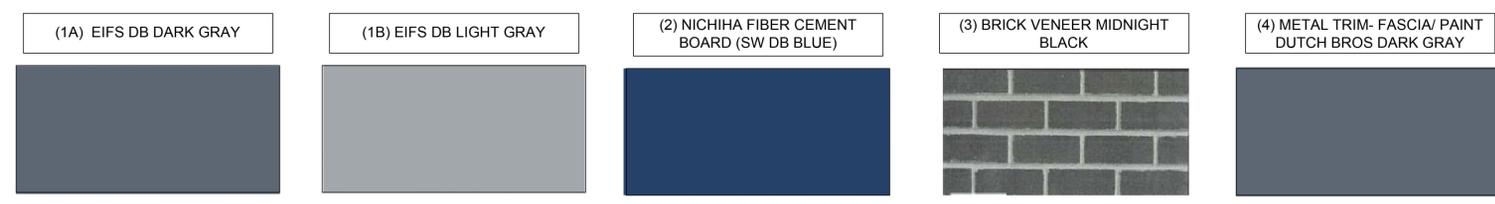
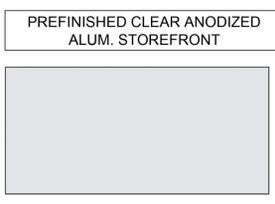
ARCHITECT
CORALIC, LLC
EDIN CORALIC
9700 MACKENZIE ROAD, STE. 222,
ST. LOUIS, MO 63123
p. 314.578.4953
edin@coralicarchitecture.com

STRUCTURAL ENGINEER
JAMES C. KREHER
JIM KREHER
208 N. MAIN STREET,
COLUMBIA, IL 62236
p. 618.281.8505
jimk@kreherengineering.com

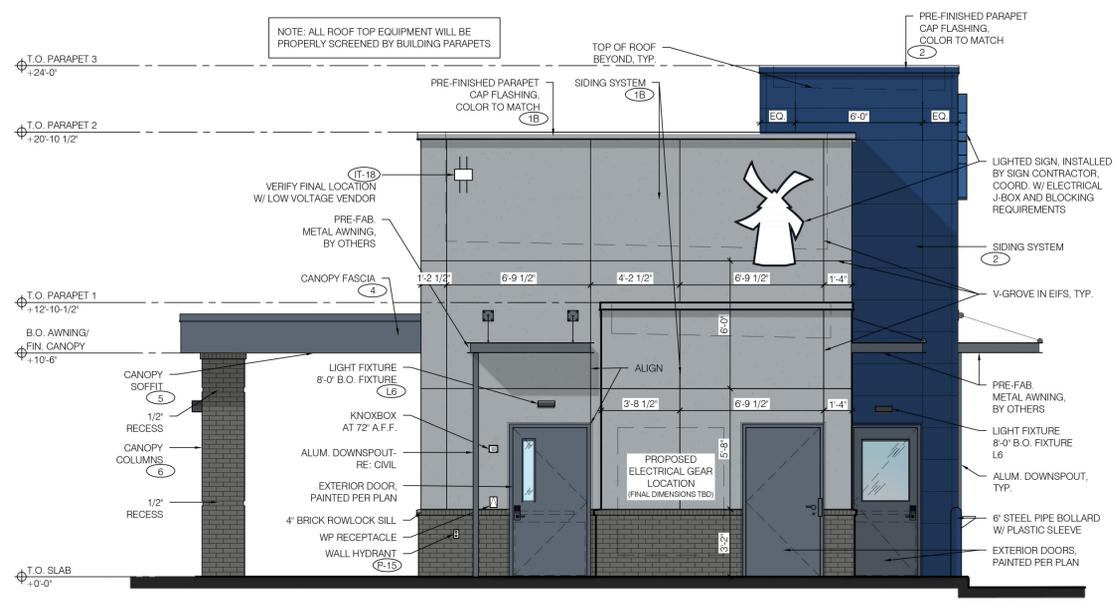
MEP ENGINEER
CASE ENGINEERING
MATT CASE
796 MERUS CT.
FENTON, MO 63026
T. 636.349.1600 F. 636.349.1730
mcase@caseengineeringinc.com

EXTERIOR FINISH SCHEDULE - PROTOTYPICAL w/ CANOPY				
ID TAG	MATERIAL	MANUFACTURER	MODEL	REMARKS
ZONE 1 (BODY)				
1A	EIFS	DRYVIT	OUTSULATION EIF SYSTEM	COLOR: BLDG DB DARK GRAY
1B	EIFS	DRYVIT	OUTSULATION EIF SYSTEM	COLOR: BLDG DB LIGHT GRAY
ZONE 2 (TOWER)				
2	FIBER CEMENT SIDING	NICHIHA	ILLUMINATION AWP 1818 W/ MATCHING PANEL CORNERS	COLOR: BLDG DB BLUE
ZONE 3 (BASE)				
3	BRICK VENEER AND SILL	INTERSTATE BRICK	MODULAR 3 5/8"-2 1/4"-7 5/8"	COLOR: MIDNIGHT BLACK - TO MATCH DEVELOPMENT STANDARDS
ZONE 4 (FRAMED CANOPY)				
4	FASCIA	WESTERN STATES METAL ROOFING	T-GROOVE, 10"	3 SIDES; COLOR: BLDG DB DARK GRAY
5	SOFFIT	HEWN ELEMENTS	NATURAL NORTHWESTERN SPRUCE	1x6, T&G, 1/8" REVEAL, SEALED
6	COLUMNS	INTERSTATE BRICK	MODULAR 3 5/8"-2 1/4"-7 5/8"	COLOR: MIDNIGHT BLACK - TO MATCH DEVELOPMENT STANDARDS

NOTE: GC TO PROVIDE 3"x2" SMOOTH DOWNSPOUTS, AND ALL NECESSARY ADAPTORS, AT AWNING AND CANOPY LOCATIONS; COLOR: BLDG DB DARK GRAY



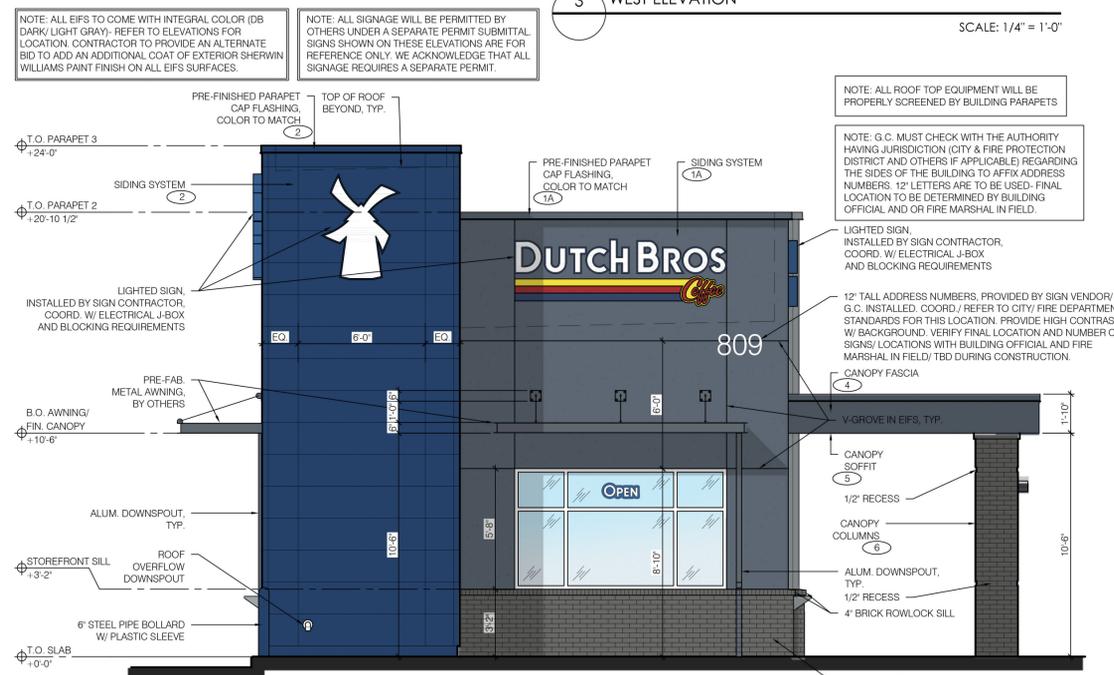
4 SOUTH ELEVATION - DRIVE-THRU WINDOW SCALE: 1/4" = 1'-0"



3 WEST ELEVATION SCALE: 1/4" = 1'-0"



2 NORTH ELEVATION - WALK-UP WINDOW SCALE: 1/4" = 1'-0"



1 EAST ELEVATION SCALE: 1/4" = 1'-0"



Project No: IL0301
Dutch Bros Coffee
New Freestanding Store
809 W GREEN STREET,
URBANA, IL 61801
for: Dutch Bros Coffee
110 SW 4th St, Grants Pass, OR 97156

ISSUED FOR PERMIT XX.XX.XX

REV.	DATE	DESCRIPTION

SHEET NAME:

BUILDING ELEVATIONS

SHEET NUMBER:

A6.1

*The name DUTCH BROS. and all associated logos, distinctive designs, content, information, and other materials featured, displayed, contained herein, and made available by Dutch Bros, including but not limited to the "look and feel" of the establishments and products, all text, images, colors, configurations, graphics, designs, illustrations, photographs, and pictures (collectively, the "Materials") are owned by and/or licensed by DB Franchising USA, LLC and are protected by copyright, trademark, trade dress, patent, and/or other intellectual property rights and unfair competition laws under the United States and foreign laws.



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Kevin Garcia, Principal Planner

DATE: January 10, 2025

SUBJECT: **Plan Case 2496-SU-24:** A request by Jonathan Thompson, on behalf of RSCC, LLC, for a Special Use Permit to allow a drive through for a proposed restaurant at 809 West Green Street in the B-1 (Neighborhood Business) Zoning District.

Introduction

Jonathan Thompson, on behalf of RSCC, LLC, requests a special use permit to allow a drive-through for a proposed restaurant at 809 West Green Street. Section VIII-5.G of the Zoning Ordinance requires a special use permit for any drive-through facility in the B-1, Neighborhood Business, Zoning District. The site was most recently a gas station and convenience store, but that closed in 2021 and the site has been vacant since then.

The property is currently owned by Mac's Convenience Stores, LLC, which also owns the Circle K directly north of the site, across Green Street, as well as the other Circle K stores in the Champaign-Urbana area. The applicant plans to purchase the property if their requests for special and conditional use permits are approved.

Section VIII-5.G states: *“Drive-through facilities for any use in the B-1, Neighborhood Business Zoning District shall be considered accessory to the principal use and shall require the granting of a Special Use Permit...”*

The proposed principal use is a “Fast Food Restaurant”, which requires a conditional use permit from the Zoning Board of Appeals (ZBA). There will be a public hearing for that request at the ZBA meeting on Wednesday, January 15, 2025. It is likely, therefore, that by the time of the Plan Commission hearing, the principal use question will be resolved. Regardless, it is the duty of the Plan Commission to focus on whether or not to recommend a drive-through as an accessory use at this site.

The Plan Commission must review the special use permit application, hold a public hearing, and make a recommendation to the City Council. The City Council must then approve, approve with certain conditions, or deny the request.

Background

Description of the Site and Surrounding Properties

The site is approximately 27,000 square feet (0.62 acres); it is located at the southeast corner of Green Street and Lincoln Avenue. It is directly east of the University of Illinois campus, and sits kitty-corner to Hendrick House. For around 30 years, from the early 1990s to 2021, the site held a gas station and convenience store, most recently a Circle K.

Nearby uses include housing (northwest, northeast, east, and southeast), a gas station/convenience store (north), a church (south), and the University of Illinois (west). The table below shows 2005 Comprehensive Plan future land use designations of the site and surrounding land (Exhibits B and C).

Table 1. Zoning, Existing Land Use, Future Land Use Designation

	Zoning	Existing Land Use	Future Land Use
Site	B-1, Neighborhood Business	Vacant (former Gas Station/Convenience Store)	Campus Mixed-Use
North	B-1, Neighborhood Business	Gas Station/Convenience Store	Campus Mixed-Use
East	R-5, Medium High Density Multiple-Family Housing	Apartments	Multifamily
South	R-5, Medium High Density Multiple-Family Housing	Church	Campus Mixed-Use
West	R-5, Medium High Density Multiple-Family Housing	Parking / University of Illinois	Institutional

Proposed Use/Activities

The proposed use is for a Dutch Bros coffee shop, which would have walk-up and drive-through service. There will be no interior seating; however, the applicant has stated that there will be exterior seating, and restrooms in the building will be available for customers. According to the application (see Exhibit D), Dutch Bros¹ is the fastest-growing quick-service restaurant in America. They sell coffee and coffee drinks, other soft drinks, and a few snacks.²

Typically, Dutch Bros sites are auto-oriented in their design. In preliminary discussions with the applicant, City staff expressed a desire for a more “pedestrian-oriented” and “urban” site plan, given that the location is both zoned for neighborhood business and is in a neighborhood and location where many people walk, bike, ride scooters, and take transit. The proposed site plan is responsive to staff’s desires, with the building placed near the corner of Lincoln Avenue and Green Street, with direct connections between the building and the sidewalk, with parking at the eastern edge of the site, and with the drive-through to the south of the building. While there is no bike parking shown on the plans (which are preliminary), staff recommend that bike parking for at least six bicycles be provided as a condition of approval.³ Staff also recommend that Plan Commission consider reducing the amount of automobile parking.

Discussion

Comprehensive Plan

The 2005 Comprehensive Plan designates this property for “Campus Mixed Use” future land use:

The Campus Mixed-Use classification is intended for limited areas that are close to campus. These areas promote urban-style private development with a mix of uses that commonly include commercial, office and residential. Design Guidelines shall ensure that developments contain a strong urban design that emphasizes a pedestrian scale with buildings close to the street, wide sidewalks, and parking under and behind structures. The design and density of development should capitalize on existing and

¹ See: <https://www.dutchbros.com/>

² See: <https://www.dutchbros.com/menu>

³ Only one bicycle parking space would be required based on the requirements of the Zoning Ordinance.

future transit routes in the area. Large-scale developments containing only single uses are discouraged within this classification.

The proposal aligns to some extent with the future land use description. It provides a commercial use in close proximity to residential uses (i.e., a “horizontal” rather than “vertical” mix). While the proposed building is relatively small with respect to size of the lot, and does not provide the density of development envisioned by the future land use description, its placement on the site and the overall site design are responsive to the desire for pedestrian-scale buildings close to the street. The parking is not behind or under the building, but it is placed to the eastern edge and to the interior of the site, rather than adjacent to the street. The amount of parking proposed is 60 percent higher than required; this could be reduced to the minimum to better match the intent of the Comprehensive Plan and the B-1 district (see “Parking” section below).

Furthermore, given the development regulations of the B-1 district and minimum parking requirements, it would be difficult to build a vertical mixed-use building, or anything else that is very dense, on the site.

Site Plans

Access

Currently, the site is designed almost exclusively for access by car. The frontages along Green Street and Lincoln Avenue are, to a large extent, very wide driveways, so there are many potential conflict points between people driving and people walking on the sidewalk, or biking in the bike lane along Green Street, and between people pulling out of the site onto Lincoln Avenue. The proposed site plan would eliminate many of those conflict points by consolidating automobile access to one point along Green Street. This should make it safer to walk, bike, and drive to the site, and past the site, and would entirely eliminate any conflict points along Lincoln Avenue. Furthermore, by placing the building close to the corner of Lincoln Avenue and Green Street, it will make walking and biking to the site more convenient.

Drive-Through

The proposed drive-through has two lanes, which is typical for Dutch Bros locations. Dutch Bros uses two lanes to reduce wait times for customers, with the setup allowing employees to take orders from both lanes before merging into a single line for order pickup.⁴ This is similar to other fast-food chains, including the 7Brew location at University Avenue and Broadway Avenue in Urbana.

While a two-lane drive-through may appear to be less desirable than a single-lane drive-through when first considered, two lanes will allow more queueing of cars on-site and will reduce the likelihood that cars queue so much that the driveway, sidewalk, bike lanes, or travel lanes along Green Street are blocked. In Urbana, the single-lane drive-throughs at Starbucks (at Schnucks) and Jimmy John’s (at Broadway and University Avenues) have consistently had such stacking issues over the years. In this case, a two-lane drive-through is preferable, given the amount of traffic (i.e., people) that pass by the site.

⁴ See “Site Plan w/Cars” in Exhibit E for how this would work on the site.

Parking

The proposed site plan includes 16 parking spaces, which is six more than the 10 that are required for a 950-square-foot restaurant.⁵ Most of the parking is along the east side of the lot, and would need to be screened with a fence or landscaping since there are apartments on the lot to the east.⁶

Urbana's parking requirements for restaurants are the same regardless of whether a restaurant is a "sit-down" or "fast-food" restaurant, which has historically resulted in fast-food restaurants being required to provide more parking than they need.⁷ In addition, the proposed fast-food restaurant will not have any indoor seating, so the need for parking would likely be even less than for a fast-food restaurant with indoor seating. Providing 10 parking spaces would likely be adequate; providing 16 spaces, as proposed, does not appear to be justified.

The Zoning Ordinance requires one bike parking space for the site, based on the size of the building. While not shown on the plans, which are preliminary, staff recommend parking for at least six bicycles, given the location and amount of bike traffic in the surrounding area.

Open Space and Landscaping

The site currently has no usable open space. While the B-1 district does not require any open space, the proposed site plan would add some usable open space to the northwest corner of the site, which is the most desirable location for it, being near the intersection of two important streets.

Staff recommend that, as a condition of approval, a landscaping plan be required prior to construction. The Plan Commission may suggest elements that the plan should include, at a minimum, some combination of bushes and shrubbery should be provided on the western side of the lot, between the right-of-way and the drive-through.

Requirements for a Special Use Permit

According to Section VII-4.A. of the Urbana Zoning Ordinance, an application for a special use permit shall demonstrate the following:

1. *That the proposed use is conducive to the public convenience at that location.*

The proposed use is conducive to the public convenience. The site location, at the corner of two prominent streets, and the site design make it easily accessible by people walking, biking, driving, or taking the bus. The placement of the building near the corner of Lincoln Avenue and Green Street and connecting the outdoor seating and walk-up ordering area to the sidewalk along Green Street, will make it especially convenient for people walking or biking to the site. The two-lane drive-through, and the closing of access from Lincoln Avenue, should also minimize *inconvenience* to the public.

Staff find this criterion met.

⁵ All restaurants require one parking space per 100 ft² of floor area within the building (exterior seating areas are excluded).

⁶ There is currently a fence along that property line that could be retained to provide the required screening.

⁷ More parking spaces tend to be used, and for a longer period of time, at "sit-down" versus "fast-food" restaurants, due to the nature of the businesses.

2. That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.

The proposed drive-through use is designed so that it will not be unreasonably injurious or detrimental to the public. First, it is a two-lane drive-through, which will minimize the chances that cars will queue in a detrimental way (e.g., by blocking the sidewalk). Second, it has been designed to eliminate automobile access on Lincoln Avenue, which has more traffic (and thus, more potential for public harm) than Green Street. Finally, it has been designed so that automobile access to the drive-through is from the northeastern corner of the site, which is the least-problematic place to put it.

Staff find this criterion met.

3. That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-7.

The B-1 district "...is intended to provide commercial areas of limited size...for the convenience of adjacent residential areas, for needs occurring regularly or frequently." For those who drink them, coffee and other caffeinated beverages are frequent needs (daily, sometimes multiple times daily). While a drive-through would certainly serve customers who do not necessarily live adjacent to the site, the site had been designed in such a way that nearby residents who walk or bike to the site will have the most convenient access to it.

In addition, the site is located on a prominent street corner where many people pass by every day who do not live in the immediate area; that should not preclude a use that serves those people in addition to the immediate neighborhood, despite the intent of the district being focused on serving nearby residents.

The accessory use drive-through (and principal use fast-food restaurant) both meet the applicable regulations and standards of the district.

Staff find these criteria met.

In response to the requirements in Section VII-4.A. of the Zoning Ordinance, the Plan Commission shall make a recommendation to the City Council for or against the proposed special use, and may also recommend such additional conditions and requirements on the operation of the proposed use as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of this Ordinance, including but not limited to conditions that:

1. Regulate the location, extent, and intensity of such use;
2. Require adherence to an approved site plan;
3. Require landscaping and the screening of such use by means of fences, walls, or vegetation;
4. Stipulate a required minimum lot size or yards, and maximum height of buildings and structures;
5. Regulate vehicular access and volume, and the design and location of parking and loading areas and structures;
6. Require conformance to health, safety, and sanitation requirements as necessary;
7. Regulate signs and outdoor lighting; and
8. Any other conditions deemed necessary to affect the purposes of the Zoning Ordinance.

Summary of Findings

1. The proposed use would be conducive to the public convenience, as the site design and placement of the drive-through would make it easily accessible by people walking, biking, driving, or taking the bus.
2. The proposed project would not be injurious or detrimental to the B-1 zoning district, or injurious to the general public, as it will minimize the chances that cars will queue in a detrimental way, will eliminate automobile access on Lincoln Avenue, and has been designed so that automobile access to the drive-through is from the northeastern corner of the site, which is the least-problematic place for access.
3. The proposed project would conform to the regulations and standards of, and preserve the essential character of, the B-1 zoning district.
4. The proposed project is generally consistent with the 2005 Comprehensive Plan and the future land use designation of Campus Mixed-Use.

Options

The Plan Commission has the following options in Plan Case 2496-SU-24:

1. Recommend approval of the special use permit without any conditions.
2. Recommend approval of the special use permit with any conditions deemed appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the City's municipal code.
3. Recommend denial of the special use permit. If the Plan Commission elects to do so, it must articulate the findings supporting its denial.

Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission recommend **APPROVAL** of the proposed special use permit in Plan Case No. 2496-SU-24, with the following conditions:

1. The development shall generally conform to the submitted site plans.
2. The number of automobile parking spaces shall be reduced to 10.
3. At least six bicycle parking spaces be provided.
4. A landscaping plan is required prior to construction. At a minimum, the plan should include some combination of bushes and shrubbery on the western side of the lot, between the right-of-way and the drive-through lanes.

- Attachments:
- Exhibit A: Location Map
 - Exhibit B: Zoning Map
 - Exhibit C: Future Land Use Map
 - Exhibit D: Application for Special Use Permit
 - Exhibit E: Site Plans
 - Exhibit F: Elevations
 - Exhibit G: Site Photos

MINUTES OF A REGULAR MEETING**URBANA PLAN COMMISSION****DRAFT****DATE:** January 16, 2025**TIME:** 7:00 P.M.**PLACE:** Council Chambers, City Hall, 400 South Vine Street, Urbana, Illinois**MEMBERS ATTENDING:** Dustin Allred, Will Andresen, Lew Hopkins, Bill Rose, Chenxi Yu**MEMBERS ABSENT:** Karen Simms**MEMBERS EXCUSED:** Andrew Fell, Debarah McFarland**STAFF PRESENT:** Kevin Garcia, Principal Planner; Teri Andel, Administrative Assistant II**OTHERS PRESENT:** Jonathan Thompson**A. CALL TO ORDER and ROLL CALL**

Chair Allred called the meeting to order at 7:04 p.m. Roll call was taken, and there was a quorum of the members present.

B. CHANGES TO THE AGENDA

There were none.

C. APPROVAL OF MINUTES OF PREVIOUS MEETING

There were none.

D. COMMUNICATIONS

- Email from Pierre Moulin regarding Plan Case No. 2496-SU-24

E. CONTINUED PUBLIC HEARINGS

There were none.

F. OLD BUSINESS

There was none.

G. NEW PUBLIC HEARINGS

Plan Case No. 2496-SU-24 – A request by Jonathan Thompson, on behalf of RSCC, LLC, for a Special Use Permit to allow a drive-through for a proposed restaurant at 809 West Green Street in the B-1 (Neighborhood Business) Zoning District.

Chair Allred opened Plan Case No. 2496-SU-24. Kevin Garcia, Principal Planner and Zoning Administrator, presented the staff report to the Plan Commission. He began by noting the reason for the special use permit request, which is to allow a drive-through for a proposed restaurant. He gave a brief description noting the land use and location of the proposed site as well as the neighboring properties. He talked about zoning of the property and the surrounding area. He showed photos of the property and of the view from the property in all directions. Using Exhibit E, site plan, he talked about the layout of the proposed development indicating where the walk-up window (north side) and the drive-through window (south side) would be located. He stated that the site plan prioritized pedestrian walk-up service over drive-through service. He explained how the proposed use relates to the 2005 Comprehensive Plan. He talked about access and how the site plan relates to the recently completed Lincoln Avenue Study.

Mr. Garcia explained that the Lincoln Avenue Study calls for the following changes to be made to Lincoln Avenue between Green Street and Florida Avenue:

- Four travel lanes plus a center turn lane reduced to two travel lanes plus a center turn lane
- Raised bike lane in each direction
- Parkway between the bike lane and the sidewalk

As a result, he said that the access drives from the proposed site onto Lincoln Avenue would be closed off, which is what the applicant has shown on the site plan. He then talked about the layout of the drive-through and parking.

Mr. Garcia reviewed the requirements for a special use permit from Section VII-4.A of the Urbana Zoning Ordinance. He stated the conditions that the Zoning Board of Appeals placed on approval of a conditional use permit to allow a fast-food restaurant in the B-1 (Neighborhood Business) Zoning District on the site. He presented staff's recommendation for the Plan Commission's recommendation to City Council including the condition that "all the conditions approved by the Zoning Board of Appeals for approval of the conditional use permit be met". He added that if the Plan Commission wanted to add any conditions, they may do so.

He said that he could take questions and mentioned that the applicant was available to answer questions as well.

Chair Allred asked the Plan Commission members if they had questions for City staff.

Chair Allred asked for clarification regarding the condition to strongly encourage the applicant to provide outdoor seating and a public restroom, which was recommended by staff and approved by the Zoning Board of Appeals, as to whether the City Council would be voting on this since the Zoning Board of Appeals has final decision for a conditional use permit. Mr. Garcia replied that even though the focus of the City Council is tied to the drive-through as an accessory use, he believed that they could still include this condition.

Mr. Hopkins stated that there is no way this condition could be enforced. Mr. Garcia explained that the Zoning Board of Appeals did not want to make a binary condition that the applicant have to provide outdoor seating and a public restroom because it was kind of up in the air at this point.

Chair Allred stated that it was good that the applicant plans to vacate the access driveways along Lincoln Avenue and removing those points of interaction between cars and pedestrians/bicyclists. He asked if there are any spacing requirements in the City's Manual of Practice that address how far away an access drive should be signaled intersections. Mr. Garcia stated that staff uses the Champaign Urban Area Transportation Study (CUUATS) Access Management Guidelines to determine how far away an access drive should be. The general rule is the furthest away from a stop light is best.

Chair Allred asked if the requirements for stacking lanes in a drive-through are met in the proposed plans. Mr. Garcia said yes they would. Essentially, they are designed for 90 feet, which equals the length of 5 cars. This is established for drive-throughs that have kiosks. In the future, the City may want to refine this to allow for restaurant staff coming out to the vehicles to take orders.

Chair Allred stated that one of the criteria the Plan Commission considers when reviewing a rezoning request is the length of time that a property has been vacant. He asked if this is something that the Plan Commission can consider for the proposed special use permit request. Mr. Garcia replied saying that they may be able to tie it to one of the criteria for a special use permit, such as whether it is conducive to the public convenience to have a property sitting vacant for a really long time.

Mr. Rose asked if the company would also be taking online orders. Mr. Garcia said yes. They have proposed designated parking spaces for people who order online. Mr. Rose felt that this could contribute to additional congestion at the entrance because people who have ordered ahead would not be inclined to drive away if there is already traffic congestion on the lot.

Mr. Hopkins stated that he is having a problem with the level of questions they are asking before the applicant has not yet spoken. Chair Allred stated that he has questions for staff to clarify and then they can ask the applicant to come forward.

Chair Allred asked if it would be possible to restrict the exit onto Green Street to "right turn only". Mr. Garcia stated that City staff had discussed this many months ago. If someone comes off Lincoln Avenue and needs to continue on Lincoln Avenue after getting their order, they would have to turn right onto Green Street and do a u-turn or turn right onto Green Street and go through the neighborhood. If the City forced people to turn right when exiting, then it would create more issues than just allowing them to turn left onto Green Street.

With there being no additional questions for City staff, Chair Allred invited the applicant to approach the Plan Commission.

Jonathan Thompson, in-house counsel for RSCC, the applicant, approached the Plan Commission to speak. He mentioned that he agreed with a lot of what Mr. Garcia had said and that some of the conditions make sense. He pointed out that the reason they are proposing 16 parking spaces versus 10 is because Dutch Bros tends to employ more employees than a typical coffee shop of this size. They will have a couple of employees outside taking orders and more employees working

inside. If they have eight employees working and two parking spaces designated for disabilities, then that would not leave many parking spaces for the general public if they only provided 10 spaces. He said it would not aesthetically hurt to have a few more parking spaces, plus they plan to have a screening fence or landscaping to block the view of the neighbors on the east side.

Mr. Thompson stated that he talked with Dutch Bros and they are considering whether they should provide outdoor seating. They are concerned that that outdoor seating will trigger the need for public bathroom(s). The problem with providing public bathrooms is that people try to gain access to the interior of the coffee shop, which is a safety concern for the business.

He stated that Dutch Bros is good with the other four conditions.

Mr. Hopkins asked if Dutch Bros had ever developed a configuration exactly like the proposed layout before. Mr. Thompson stated that he could not say 100% sure; however, he felt certain that they had used this model before.

Mr. Rose asked if Dutch Bros planted itself in signature pedestrian and bicycle locations. Could he give the Commission some examples of where significant accommodation had been made to customers other than with the drive-through. Mr. Thompson replied that he could not speak on other locations. He pointed out that Dutch Bros has proposed the building be situated in a spot that makes it friendly for pedestrians to walk up to the window along Green Street.

Chair Allred asked if there are any plans to screen the stacked drive-through lanes from the activity on Lincoln Avenue. Mr. Thompson stated that they do not have a landscape plan as of yet. It will be developed and worked out with City staff. They would be sure to make it aesthetically pleasing and address any concerns of the City.

Mr. Garcia addressed a question that was asked by Mr. Rose. He explained that Dutch Bros does provide walk up services for pedestrians at many of their locations. As far as he knows, all of their locations have drive-throughs.

With there being no further audience input, Chair Allred closed the public input portion of the hearing and opened it for Plan Commission discussion and/or motion(s).

Mr. Rose commented that in the application, the applicant provided answers to the three criteria required for a special use permit. He finds their answers completely deficient and non-responsive. Their answers fail to identify what the City of Urbana wants and needs out of a property like this. He said that he has real difficulty approving an application that shows this level of deficiency.

Mr. Hopkins stated that he would be voting to reject this application on the premise that he views it to be a completely unsuccessful attempt to create a viable site plan. He pointed out that the Comprehensive Plan specifies what the City intends to have happen in these areas. It identifies this specific property as *Campus Mixed Use* in the Plan. A drive-through specifically does not fundamentally belong at this location. It is an anathema to what the City is trying to do on the edges of the University of Illinois campus and in high concentrated areas. It has the effect of bringing automobiles to an intersection and location where we are trying to avoid adding automobiles that do not need to be there. The City is trying to create a zone where people park when they arrive to town and walk once they have arrived.

He talked about how the site plan does not show a convenient way for people coming from any direction to get to the walk-up window. People will arrive at the corner and then have to walk around Green Street and back up. He said that if they were really designing this for pedestrian access, then there would be pedestrian access, and there is not. It does not make sense that the proposed development would fundamentally be a walk-up and drive-through business.

Mr. Hopkins commented that most of the year, people are not going to sit outside to get a coffee, so the pretention of outdoor seating is almost meaningless. He gave an example of a homeless person using the outdoor restroom every morning at a place nearby. The idea that there may be a public restroom with outside access is nonsense. It is not simply a security question but more about the idea of what this location is about. The idea to have a walk up outdoor as a way to create something that belongs here, in his opinion, is completely unpersuasive. The idea to get the drive-through to work if you simulate movement of automobiles is gridlock nightmare. You come in one location, which may or may not meet the 50-foot throat dimension. You also have some cars coming in to park in the “order online” parking spaces, and the drivers have to walk crossing the traffic exiting the property. He has never seen a drive-through operation that has a two-way exit where the exit traffic has to cross the entry traffic, and he does not believe it is possible. A driver backing out of one of the parking spaces will have to block traffic in both directions coming and going. Therefore, the site plan is completely unworkable.

He said that he is voting against this for two reasons. The first reason is because this business does not belong in this location. The second reason is because the attempt to make it look like it belongs here is a disaster.

Mr. Rose said that his notes say “traffic pattern unworkable”, and it is for some of the reasons that Mr. Hopkins expressed. He also sees a problem with the merging of the two lanes in the drive-through. Mr. Hopkins stated that he did not feel that the merging of the two lanes to be a problem.

Chair Allred stated that he agrees with Mr. Hopkins concerns about the traffic circulation on the proposed site plan. He also has concerns about the entry/exit to the site. Exiting left onto Green Street in an area that is already congested by design with bus traffic, cyclists, and pedestrians creates potentially harmful interactions.

He said that the City has an opportunity to do something better and more closely aligns with what we want to achieve in the Comprehensive Plan.

Mr. Hopkins moved that the Plan Commission forward Case No. 2496-SU-24 with a recommendation of denial. Mr. Rose seconded the motion.

Mr. Rose stated that the applicant has design responsibility. The design should be responsive to the three criteria that are expressed. While he finds staff's response to be cogent, staff does not have design responsibility. He finds the applicant's response to be deficient.

Mr. Hopkins stated the following reasons for recommending denial:

1. With regards to the criteria *“that the proposed use is conducive to the public convenience at this location”*, for reasons based on the Comprehensive Plan, a proposed drive-through is not consistent with the intended pattern of mixed use in relation to the University of Illinois at this location.

2. With regards to the criteria *“that the proposed use is designed, located and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare”*, he said that the site plan is unworkable for pedestrians, unworkable for parking for Online Orders and drivers having to walk across vehicular traffic to pick up their orders, unworkable for the entrance because of cross traffic conflicts, unworkable with exiting on Green Street because of the demand to turn left into the left turn lane, unworkable because of the two way entrance being a gridlock at three points, and unworkable with pedestrian and bicycle traffic.

3. With regards to the criteria *“that the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of the district in which it shall be located, except where such regulations and standards are modified by Section VII-7”*, Mr. Hopkins stated that the proposed site plan is inconsistent with the Comprehensive Plan and with the changes that the City is evolving through our plans for this district and for the reconfigurations of the streets on Lincoln Avenue, which the City has done on Green Street already.

Roll call on the motion was as follows:

Mr. Andreson	-	Yes	Mr. Hopkins	-	Yes
Mr. Rose	-	Yes	Ms. Yu	-	Yes
Mr. Allred	-	Yes			

The motion passed unanimously with a vote of 5-0.

Mr. Garcia stated that this case would be forwarded to the Committee of the Whole on February 3, 2025.

H. NEW BUSINESS

There was none.

I. AUDIENCE PARTICIPATION

There was none.

J. STAFF REPORT

There was none.

K. STUDY SESSION

Imagine Urbana Comprehensive Plan Draft – Future Land Use Descriptions

Mr. Garcia showed the updates he had made to the Development Opportunities Map. He talked about potential information to be presented at future meetings.

L. ADJOURNMENT OF MEETING

The meeting was adjourned at 8:24 p.m.

Respectfully submitted,



Kevin Garcia, Secretary
Urbana Plan Commission



RSCC Group
10540 North Second Street
Machesney Park, IL 61115
(815) 633-6161
www.RSCCGroup.com

Item F3.

January 27, 2025

City Council of Urbana Illinois
1101 N. Coler Avenue
Urbana, IL 61801

Re: Development Concerns of Dutch Bros Coffee at proposed site of 809 W. Green Street

Dear City Council,

On behalf of RSCC Group, I am writing to address the concerns raised regarding the proposed Dutch Bros Coffee development project. Below, we have organized our responses to each key concern for clarity.

1. “Traffic of the site plan is completely non-workable.”

“Concerns about potential traffic issues both within the site and along Green Street as vehicles enter and exit.”

- The site has been specifically designed to handle projected traffic volumes efficiently. Dutch Bros Coffee currently operates close to 1,000 sites across the U.S., and this proposed configuration is their most successful and thoroughly tested for optimal traffic flow.
- The current traffic counts are as follows: Data obtained from State of Illinois GIS Traffic Map.
 - Green Street East bound 2,400 vehicles per day.
 - Green Street West bound 3,900 vehicles per day.
 - Lincoln Avenue North bound 13,100 vehicles per day.
 - Lincoln Avenue South bound 12,400 vehicles per day.
- Three of the traffic flow patterns: Vehicles heading east on Green Street, north and south traffic from Lincoln Ave would enter the site on a right-in-turn basis which is the quickest form of a turning movement at a given intersection.



RSCC Group
10540 North Second Street
Machesney Park, IL 61115
(815) 633-6161
www.RSCCGroup.com

Item F3.

- Previous site had open access to the entire site from both Green St. and Lincoln Ave.
 - This site has a single input and a single output. This results in one car entering and exiting the site at any given moment.
 - Dutch Bros Coffee does not use menu boards to take orders. They have staff on site taking orders with iPads, resulting in an efficient order and serve process, creating a smooth flow of vehicles. They operate close to 1,000 drive-thru locations and have mastered the speed and efficiency of their sites to meet their customers' needs.
- 2. “Doubts as to whether a drive-thru was appropriate for this location and aligned with the city’s goals for this area.”**
- The current site has been a vacated Gas Station for roughly 5 years.
 - The current site has a history of contamination.
 - This site will receive an NFR letter from the State of Illinois in the next 60 days
 - The property has restrictive covenants on uses for the corner. It currently restricts food and beverage use of any kind.
 - RSCC Group was able to negotiate the removal of restrictive covenants for this use.
 - Due to the significant investment required for property acquisition and covenant removal, a traditional walk-up café model would not be economically viable at this location. Industry data shows that drive-through quick-service restaurants generate 40-60% higher revenue compared to standard walk-in establishments, making this model essential to the project's financial sustainability and long-term success in the community.
 - It is my understanding that the neighbors on the East side of Lincoln Avenue prefer a low-density solution for this corner. The building is 1033 square feet and the busiest hours of the day are 11am – 2pm.
 - RSCC Group would consider this an interim use that is a drastic improvement compared to an abandoned gas station and a transition to use property that satisfies long-term objectives.



RSCC Group
10540 North Second Street
Machesney Park, IL 61115
(815) 633-6161
www.RSCCGroup.com

Item F3.

3. **“We strongly recommend that there be outdoor seating and restrooms made available to customers in final plan.”**
 - Dutch Bros Coffee has committed to an outdoor seating area and restroom access for those utilizing that space.
 - Dutch Bros Coffee will create an attractive area to enjoy their product and the day.
 - Dutch Bros Coffee becomes part of the community. They are active in philanthropic activities and organizations and are a true asset to any community.

4. **“Will Dutch Bros Coffee utilize this site without a drive thru?”**
 - No.
 - This is our preferred first site in the Champaign-Urbana marketplace and one of the first in downstate Illinois. We have identified an alternative site in an adjoining marketplace.

We trust this detailed response addresses the concerns raised by the Council. We welcome any additional questions and would be pleased to provide further information or clarification as needed. We look forward to collaborating with the City Council to ensure this project's success and positive impact on the Urbana community. If any more concerns arise, we would be happy to help talk through them and we look forward to working with you all.

Sincerely,

RSCC Group

MEMORANDUM TO THE URBANA, IL COMMITTEE OF THE WHOLE & CITY COUNCIL

Meeting: February 17, 2025 Committee of the Whole

Subject: Ordinance No. 2024-12-042: An Ordinance Establishing Approval, Policy, and Reporting Requirements for Police Surveillance Technology

Sponsored: Council Members Grace Wilken & Jaya Kolisetty

Summary

Action requested

City Council is asked to approve the attached Ordinance, which requires and clarifies the process for procurement and use of policing technology and databases that can be used to monitor, track, and identify specific individuals or groups. This Ordinance codifies the public approval process for specific surveillance technologies or databases; it does not dictate the use of any given technology (that would be voted on by Council).

Overall, the Ordinance establishes the Council approval and public input process for new and existing policing technologies and databases. The attached definitions clarify the relevant types of technology and databases, the Use Report, Use Policy, and Policing Technology Annual Report.

Brief Background & Previous Action

City of Urbana adopted the Ten Shared Principles on June 22, 2020 in Resolution No. 2020-06-031R which states “We reject discrimination toward any person that is based on race, ethnicity, religion, color, nationality, immigrant status, sexual orientation, gender, disability, or familial status;” provides support to “build and rebuild trust through procedural justice, transparency, accountability, and honest recognition of past and present obstacles” and advocates for “the four pillars of procedural justice, which are fairness, voice (i.e., an opportunity for citizens and police to believe they are heard), transparency, and impartiality”

City of Urbana reaffirmed its commitment as a sanctuary city in Resolution No. 2016-12-070R, stating that “the City Council and the Mayor will join with councils and mayors from other communities around the country to stand with our immigrant residents and defend policies that welcome and protect immigrants...” and that “no city employee or official or department or agency of the City of Urbana shall request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or the investigation is required by a court order...”

The City of Urbana commissioned the completion of a review of UPD and UFD policies and staffing requirements by Berry Dunn consultants. The report on the first phase of the study included community stakeholder meetings, professional stakeholder meetings, community interest group and individual meetings, and an online survey, all of which included responses from community members showing “a desire for more active transparency” (page 58). The report noted transparency as one of the four pillars of procedural justice and is included in the six pillars of 21st Century Policing, and that not providing transparency through community input “can foster mistrust and damage relationships” (page 159).

In, September of 2021, the Urbana City Council was asked to approve a budget amendment, allowing the City to move funds in order to purchase automatic license plate readers. After much discussion and public input, including Town Hall Meetings, the budget amendment failed, with a 4 to 3 vote, in November of 2021. This instance highlighted the fact that there was no procurement policy for police surveillance technology.

During the budget discussions in June of 2023, Council Members Wilken and Evans proposed additional language to the budget ordinance that clarified the intended use of approved funds and required Council approval and due public process for the purchase of certain surveillance technologies. That proposed language failed, with a 5 to 2 vote. There was feedback from Council members on how to improve the language, and comments that they would entertain a discussion about surveillance policy in the future.

In response to the proposed budget language, on the June 26, 2023 City Council meeting, Mayor Marlin stated that, “The city of Urbana will not authorize or purchase Automated License Plate Reader (ALPR) technology, without explicit majority approval from the Urbana City Council. While the prior debate and vote on ALPRs centered on a budget amendment to purchase ALPRs, rather than a general policy statement, the council discussion and 4-3 vote defeating the amendment, made the position of the majority of council very clear.”

The attached Ordinance is a product inspired from years of discussion and thought in the Urbana community. The Ordinance is intended to simply codify the understanding by which the City has been operating for years, and define mechanisms public reporting. It has undergone some preliminary reviews, and continued feedback and collaboration is welcomed.

Financial Impact

There is no expected direct financial impact of this Ordinance.

Additional Information & Resources

Model Legislation from the Policing Project, New York University School of Law (this is similar to the originally proposed Ordinance):

<https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5df2acb192c2512f27a73c12/1576185009882/ADAPT+Act.pdf>

General resources on legislation for policing technology from the Policing Project:

<https://www.policingproject.org/policing-technology-model-statutes-and-legislative-resources>

Ordinance on surveillance technology from Boston, MA (these definitions were used for the updated Ordinance):

<https://www.boston.gov/sites/default/files/file/2021/09/Docket%20%230397%20%282%29.pdf>

Boston Police Department 2023 Annual Surveillance Technology Report:

https://www.boston.gov/sites/default/files/file/2024/07/2023%20City%20of%20Boston%20Annual%20Surveillance%20Reports_0.pdf

Oakland, CA Ordinance to amend the City Code regarding police surveillance:

<https://cao-94612.s3.us-west-2.amazonaws.com/documents/OMC-9.64-January-2021-005.pdf>

Oakland, CA Privacy Commission – other resources and ordinances:

<https://www.oaklandca.gov/documents/privacy-advisory-board-ordinances-and-resolution>

ACLU Community Control Over Police Surveillance (this is the same group that created the guiding principles that were attached in the packet for the December 16, 2024 Committee of the Whole meeting):

<https://www.aclu.org/community-control-over-police-surveillance#:~:text=The%20proliferation%20in%20local%20police,color%20and%20low%20income%20communities.>

Research on data privacy and communities of color, from the Brookings Institution:

<https://www.brookings.edu/articles/police-surveillance-and-facial-recognition-why-data-privacy-is-an-imperative-for-communities-of-color/>

ACLU article on the use of ALPR data by ICE (US Immigration and Customs Enforcement) to target people who have immigrated to the US, including in Illinois and in “sanctuary cities”:

<https://www.aclu.org/news/immigrants-rights/documents-reveal-ice-using-driver-location-data>

Forbes article on lawsuits over license plate readers:

<https://www.forbes.com/sites/larsdaniel/2024/10/22/warrantless-surveillance-federal-lawsuit-challenges-flock-safety-cameras/>

Attachments

1. Mark-up version of Ordinance No. 2024-12-042: An Ordinance Establishing Approval, Policy, and Reporting Requirements for Surveillance Technology and Databases
2. Clean, updated version of Ordinance No. 2024-12-042: An Ordinance Establishing Approval, Policy, and Reporting Requirements for Surveillance Technology and Databases
3. Attachment A, Definitions (Ordinance No. 2024-12-042)



MEMORANDUM TO THE CITY COUNCIL

Meeting: January 6, 2025, Committee of the Whole
Subject: Initial Staff Response to Proposed Ordinance No. 2024-12-042 (An Ordinance Establishing Approval, Policy, and Reporting Requirements for Policing Surveillance Technology and Databases)

Summary

Action Requested

Based on the complexity of the implications of proposed Ordinance No. 2024-12-042, staff are requesting that the proposed Ordinance be kept in the Committee of the Whole. In addition, staff request that the scope of the proposed Ordinance be narrowed significantly to address Police Surveillance Technology only.

Brief Background

At the December 16, 2024, Committee of the Whole, Councilmembers Kolisetty and Wilken introduced proposed Ordinance No. 2024-12-042. There had been no prior consultation with staff related to the specific content of the proposed Ordinance. Inasmuch as the December 16 meeting was on the cusp of the winter holiday break, the Mayor requested time for staff to begin to compose a response and the proposed Ordinance was kept in Committee.

Relationship to City Services and Priorities

Impact on Core Services

As currently written, the proposed Ordinance would have a significant impact on the operations of the Urbana Police Department (UPD). There would be direct and indirect implications for nearly every aspect of Police operations, including dispatch (through METCAD), record keeping (partially through METCAD), FOIA responses, emergency response, criminal investigations, general communications, training, cross-jurisdictional cooperation, security planning for large-scale outdoor public events, and staffing.

Strategic Goals & Plans

The proposed Ordinance does not directly address any of the Mayor/Council Strategic Goals for 2024-2025.

Previous Council Actions

There are no previous Council actions directly related to this Ordinance or this broad subject matter. The memo attached to the proposed Ordinance (no author initially identified) mentions various efforts that have been made over time by the current Council to regulate the use and purchase of police surveillance technology in Urbana on a much narrower scale.

Discussion

Additional Background Information

There are many operational impacts that would result from the proposed Ordinance, which staff are just beginning to examine and assess. As a starting point, we have begun with the factual foundation by identifying what technology and databases would potentially be impacted by this Ordinance. Given the limited availability of staff over the holiday break, we began with a list of databases that are either in use or available for use by the UPD. The list that we have compiled thus far is attached.

The scope of the proposed Ordinance is so broad that myriad other databases potentially implicated have not yet been included in the attached list. These would include databases that are publicly accessible (e.g., LinkedIn, YouTube, etc.) and those that are potentially accessible with a search warrant (e.g., Facebook account information, Google metadata, etc.).

Some information has been provided regarding ordinances that have been implemented in other jurisdictions. These have been represented as being similar in nature to the proposed Ordinance, which draws heavily on input from the American Civil Liberties Union. However, none of the ordinances that we have reviewed thus far is as broad in scope as that proposed here. The ordinances staff has reviewed so far are limited in scope to law enforcement surveillance technology. To date, no similar ordinances have been found from agencies with which UPD most often coordinates, i.e., City of Champaign, University of Illinois, or Champaign County Sheriff's Office.

Operations Impact

Staff is not yet prepared to discuss the full breadth of the operational impacts of this proposed Ordinance, but the impacts would be substantial. As mentioned above, they would include dispatch, record keeping, FOIA, emergency response, criminal investigations, general communications, training, cross-jurisdictional cooperation, security planning for large-scale public events, and staffing. Among the most significant effects would be those aspects of Urbana law enforcement that are performed collaboratively. For example, if some database that is used by METCAD was not authorized for use by UPD, and the METCAD Policy Board and Executive Director would not agree to discontinue using it, Urbana's only recourse would be to stand up its own dispatch system, at great expense both financially and from a regional efficiency and effectiveness standpoint.

A more detailed exploration of the operational impact of this proposed Ordinance will be provided in a future memo.

Policy or Statutory Impacts

Clearly there are policy implications related to this proposed Ordinance. More time is needed to explore the full extent of the impacts. Among other things, the draft Ordinance calls into question the extent to which the UPD could maintain the confidentiality of its (and its regional partners') law enforcement practices. Likewise, the confidentiality of law enforcement records that would reveal unique and specialized investigative techniques and are exempt from disclosure under FOIA could be eroded or nullified as a result of this proposed Ordinance, potentially subjecting such sensitive investigatory materials to voluntary public disclosure.

Staff are still researching the extent to which the proposed Ordinance would exercise power that is beyond the purview of the Council.

A more detailed exploration of the policy and statutory impacts of this proposed Ordinance will be provided in a future memo.

Fiscal and Budget Impact

UPD and the City are not currently staffed at a level to meet all the requirements of the proposed Ordinance. The staff time it will take even to fully explore the proposed Ordinance itself will be substantial amount, particularly on the part of senior UPD staff and the City's Legal Division.

A more detailed exploration of this topic will be provided in a future memo.

Community Impact

We recognize that both the substance and timing of this proposed Ordinance are, in part, motivated by a desire to protect certain individuals in our community who could be made subject to federal law enforcement actions related to their immigration status, their efforts to seek reproductive healthcare, their exercise of first amendment rights, or their status as a member of a protected class. Efforts to address related concerns have recently been taken by the State of Illinois through the adoption of Public Act 103-540, which prohibits the sharing of data collected by Automated License Plate Readers (ALPRs) with other state or local law enforcement agencies for the purpose of enforcing any law 1) interfering with a person's right to reproductive healthcare or 2) allowing for detention or investigation of a person based on immigration status. This new state law is limited to the sharing of ALPR data and does not address or prohibit sharing such data with federal law enforcement agencies, but it could provide something of a model or starting point for addressing concerns articulated in the proposed Ordinance in this community.

Recommendation

Staff recommend that this item be kept in the Committee of the Whole. There is a tremendous amount of complexity to explore as a result of this proposal. Staff needs time to develop the various topic areas listed above in order to advise Council and the public regarding consequences, both intended and unintended.

We also request that the scope of the proposed Ordinance be narrowed. So far, the Ordinances that have been shared with staff appear to be focused on police surveillance technology and the data it generates. Narrowing the scope of the Ordinance in that way would focus everyone's attention and efforts on the most sensitive area for the community impacts of concern.

At this early stage of the discussion, it would be beneficial for staff to hear a discussion by Council of their distinction between the law enforcement roles of investigating crimes, providing surveillance, and the overlap between the two. Staff's operating assumption is that one of UPD's roles in the community will continue to be to solve crimes. If so, the restrictions proposed by this Ordinance need to be weighed against that expectation.

Next Steps

Staff will continue to develop responses in the areas outlined above. It is not possible to fully explore all the impacts of the proposed Ordinance by the next Committee of the Whole on January 20, 2025. However, staff will focus on providing a list of technology tools that would be impacted by the proposed Ordinance. In addition, we will continue to review the ordinances that have been implemented in other jurisdictions to understand their scope and staffing requirements. Summaries of the ordinances reviewed by staff will be provided to Council.

Attachments

List of Law Enforcement Databases

Originated by: Carol Mitten, City Administrator
Reviewed: Dave Smysor, Deputy Police Chief
 Matt Roeschley, City Attorney
Approved: Diane Wolfe Marlin, Mayor

Name of Database	Owner of Database	Purpose of Database
ASEANAPOL Database	ASEANAPOL	Enhances collaboration and intelligence sharing among ASEAN law enforcement agencies.
NIBIN (National Integrated Ballistic Information Network)	ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives)	Links ballistic evidence from crime scenes to specific firearms and suspects.
ATF E-Trace	Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)	Web-based firearms tracing system aiding law enforcement in tracking the history of firearms recovered from crime scenes.
TikTok	ByteDance	Monitors trends and public videos for evidence of crimes or disturbances.
Carfax for Police	Carfax, Inc.	Provides accident and vehicle history reports to support investigations involving vehicles.
Champaign County Warrants Database	Champaign County Sheriff's Office	Tracks outstanding warrants within Champaign County.
Cook County Integrated Criminal Justice Information System	Cook County Government	Integrates criminal justice data across Cook County for better case management.
Dataminr	Dataminr, Inc.	Analyzes social media and public data for real-time alerts on potential threats or public safety concerns.
EPIC (El Paso Intelligence Center)	DEA (Drug Enforcement Administration)	Provides tactical intelligence support for federal, state, and local law enforcement agencies, focusing on drug-related criminal activities and border security.
NADDIS (Narcotics and Dangerous Drugs Information System)	DEA (Drug Enforcement Administration)	Contains drug-related intelligence, including suspect profiles, drug trafficking organizations, and case reports.
ARCOS (Automation of Reports and Consolidated Orders System)	DEA (Drug Enforcement Administration)	Tracks controlled substances from manufacture to distribution, aiding in identifying and preventing diversion into illegal channels.
TECS (Treasury Enforcement Communications System)	DHS (Department of Homeland Security)	Tracks travelers entering and leaving the U.S., monitors customs enforcement, and supports border security.
IDENT (Automated Biometric Identification System)	DHS (Department of Homeland Security)	Stores biometric data, including fingerprints and facial recognition, for identifying individuals entering or exiting the U.S.
SEVIS (Student and Exchange Visitor Information System)	DHS (Department of Homeland Security)	Monitors international students and exchange visitors in the U.S., ensuring compliance with immigration policies.
HSIN (Homeland Security Information Network)	DHS (Department of Homeland Security)	Provides a secure platform for sharing sensitive information between federal, state, and local law enforcement agencies.
ATS (Automated Targeting System)	DHS (Department of Homeland Security)	Analyzes data to identify high-risk cargo, travelers, and conveyances entering the U.S.
DuckDuckGo	DuckDuckGo, Inc.	Provides anonymous searches for investigators gathering OSINT.
DepartmentWare	Envisage Technologies	A personnel management software designed for law enforcement agencies to track certifications, training, and compliance for officers, as well as sharing information between officers and departments.
Schengen Information System (SIS)	European Union	Facilitates information exchange on persons and property across Schengen member states.
Europol Information System (EIS)	Europol	Supports EU law enforcement agencies with data on serious crimes and terrorism.
NCIC (National Crime Information Center)	FBI	Provides information on wanted persons, stolen vehicles, and criminal history records.
CODIS (Combined DNA Index System)	FBI	Enables the matching of DNA profiles to aid in solving crimes.
CJIS (Criminal Justice Information Services)	FBI	Supports a variety of criminal justice services, including fingerprints and criminal background checks.
N-DEx (National Data Exchange)	FBI	Facilitates the sharing of criminal justice data among local, state, and federal agencies.
IAFIS (Integrated Automated Fingerprint Identification System)	FBI	Provides automated fingerprint search capabilities and electronic image storage.
NIBRS (National Incident-Based Reporting System)	FBI	Collects detailed data on each single crime occurrence to provide comprehensive crime statistics.
UCR (Uniform Crime Reporting Program)	FBI	Compiles official data on crime in the United States for law enforcement management.
ViCAP (Violent Criminal Apprehension Program)	FBI	Maintains a nationwide database to collect, analyze, and correlate information on violent crimes such as homicides, sexual assaults, and missing persons, assisting in linking crimes that may cross jurisdictional boundaries.

Geofeedia	Geofeedia, Inc.	Provides location-based social media monitoring to track real-time activity.
YouTube	Google LLC	Monitors uploaded videos for evidence or public safety threats.
Google	Google LLC	Used for OSINT, locating suspects or witnesses, and verifying identities.
ICJIA Data Portal (Illinois Criminal Justice Information Authority)	Illinois Criminal Justice Information Authority (ICJIA)	Offers a wide range of criminal justice data, including crime trends, victimization, and arrest statistics, for use in planning and policy-making.
Illinois Department of Corrections Inmate Search	Illinois Department of Corrections	Provides information on incarcerated individuals within the Illinois prison system.
I-UCR (Illinois Uniform Crime Reporting System)	Illinois State Police	Collects and reports crime statistics for the state of Illinois, helping agencies track crime trends and meet federal reporting requirements.
Illinois Automated Victim Notification System (AVN)	Illinois State Police	Notifies victims and concerned individuals about changes in the custody status of offenders.
Illinois Sex Offender Registry	Illinois State Police	Provides a publicly accessible registry of convicted sex offenders in Illinois, supporting public awareness and investigative efforts.
Concealed Carry License Database	Illinois State Police	Tracks individuals licensed to carry concealed firearms within the state.
Illinois Statewide Terrorism and Intelligence Center (STIC)	Illinois State Police	Serves as a fusion center for sharing intelligence and information related to terrorism and other criminal activities.
Illinois Amber Alert System	Illinois State Police	Facilitates rapid dissemination of alerts for abducted children.
Illinois eCitation Program	Illinois State Police	Streamlines the citation process for traffic and ordinance violations in Illinois.
Wayback Machine (Internet Archive)	Internet Archive	Views historical versions of websites, tracking changes to online content.
Interpol I-24/7	Interpol	Provides secure global police communication and access to databases on criminals and stolen property.
LexisNexis Accurint	LexisNexis Risk Solutions	Provides powerful investigative tools for locating individuals, verifying identities, and uncovering relationships between people, businesses, and assets.
LinkedIn	LinkedIn Corporation (Microsoft)	Used for investigations into professional networks, particularly for white-collar crimes or fraud.
Facebook	Meta Platforms, Inc.	Used for reviewing public posts, groups, and messages to gather information on suspects, victims, or ongoing incidents.
Instagram	Meta Platforms, Inc.	Analyzes images and videos to gather evidence and monitor public accounts.
CrowdTangle	Meta Platforms, Inc.	Tracks content performance and trends to identify patterns relevant to investigations.
Bing	Microsoft Corporation	Used to search for public records, news articles, and OSINT.
NamUs (National Missing and Unidentified Persons System)	National Institute of Justice (NIJ)	Serves as a national repository and resource center for missing persons and unidentified decedent records.
NICB (National Insurance Crime Bureau)	National Insurance Crime Bureau (Private Organization)	Provides tools and resources to combat insurance fraud and vehicle theft, including the VINCheck system for identifying stolen vehicles.
Pipl	Pipl, Inc.	Provides detailed profiles, including public records, contact information, and social media links.
Platelogix	Private Company	Aggregates data from license plate readers (LPRs) to assist in investigations involving vehicle movements.
Social Media Analysis Tools (e.g., X1 Social Discovery)	Private Vendors	Offers tools for collecting and analyzing data from social media platforms to assist with investigations.
Shodan	Shodan, LLC	Searches for devices connected to the internet, such as security cameras or IoT devices.
LEADS (Law Enforcement Agencies Data System)	State of Illinois	Provides Illinois law enforcement agencies with access to criminal justice data.
LEADS (Law Enforcement Agencies Data System)	State of Illinois	Provides Illinois law enforcement agencies with access to statewide criminal justice data, including driver's licenses, vehicle registrations, and wanted persons.
CLEAR by Thomson Reuters	Thomson Reuters	Offers comprehensive data analytics and investigative tools for background checks, locating individuals, and asset identification.

TLOxp by TransUnion	TransUnion	Offers investigative data for law enforcement to locate individuals, track criminal activities, and conduct risk assessments.
IDicore	TransUnion	Offers advanced data fusion and analytics tools to locate individuals, investigate fraud, and perform due diligence. Provides comprehensive reports on people, businesses, assets, and affiliations.
Lost and Stolen Passport Database	U.S. Department of State	Tracks passports reported as lost or stolen to prevent their misuse for travel or fraud.
IVLP (International Visitor Leadership Program Database)	U.S. Department of State	Tracks participants in State Department exchange programs, supporting public diplomacy and security efforts.
SMART (State Messaging and Archive Retrieval Toolset)	U.S. Department of State	Maintains records of diplomatic cables and communications, supporting investigations related to international incidents.
CA-PPT (Consular Affairs Passport Database)	U.S. Department of State (Bureau of Consular Affairs)	Stores passport information for U.S. citizens, including application data, issuance records, and passport status. Used to investigate fraudulent passports and verify identities.
CCD (Consular Consolidated Database)	U.S. Department of State (Bureau of Consular Affairs)	A repository for visa and consular records, including information on foreign nationals applying for visas. Used for identity verification, fraud detection, and screening.
TIPOFF Terrorist Watchlist Database	U.S. Department of State (Bureau of Intelligence and Research)	Maintains records on known or suspected terrorists. Used to support screening efforts for visa applications and international travel.
UNODC SHERLOC	United Nations Office on Drugs and Crime (UNODC)	Provides a platform for sharing information on organized crime, including case law and legislation.
OffenderWatch	Watch Systems, LLC	A comprehensive sex offender registry management system used by law enforcement to track, manage, and share information about registered sex offenders.
Twitter	X Corp. (formerly Twitter, Inc.)	Monitors public tweets for potential threats, criminal activity, and real-time updates.
X1 Social Discovery	X1 Discovery, Inc.	Collects and preserves data from social media for evidence collection and investigations.
Yahoo Search	Yahoo Inc.	Used for locating public information, historical articles, and more.



MEMORANDUM TO THE CITY COUNCIL

Meeting: January 21, 2025 Committee of the Whole
Subject: Supplemental Staff Response to Proposed Ordinance No. 2024-12-042 (An Ordinance Establishing Approval, Policy, and Reporting Requirements for Policing Surveillance Technology and Databases)

Summary

This memo is provided as a supplement to the Initial Staff Response to Proposed Ordinance No. 2024-12-042, which was scheduled to be considered at the January 6, 2025 Committee of the Whole.

Discussion

Additional Background Information

Staff have prepared additional background information related to the proposed Ordinance.

The following is a list of technology owned by the Urbana Police Department (UPD) that is capable of being used for surveillance. It should be noted that this list reflects what would be included as “surveillance technology” under the definition in the proposed Ordinance. UPD does not use any of these items for surveillance. Particularly in the case of body-worn cameras (BWCs) and squad car cameras, these are used primarily as police accountability tools.

The technology items are listed in two categories: law enforcement-specific technology and technology available to the general public.

Law Enforcement-Specific Technology

- Motorola V700 BWCs (60) – the current set of BWCs is the replacement for the original set that was purchased about five years ago. The use of BWCs by the UPD is required by State law.
- Motorola M500 Squad Car Cameras (15) – purchased at the same time as the current BWCs. These are not required by State law, but are a long-standing best practice.
- SIMSI – SIMSI is a data analytics tool that identifies spatial patterns of human behavior (aggregated not individuals). The purpose of this software is for a one-year pilot to assist with the efficient placement of officers based on existing patterns of potential problems. It is like a more granular and sophisticated set of heat maps.

Publicly Available Technology

- Security cameras at 610 Glover (3) – there are two interior cameras and one exterior camera. These cameras provide protection to the Police Department’s evidence storage. One Lieutenant has real-time access to these cameras.
- “Spy” pens (2) – these pens have audio recording capability only. They were purchased to assist the Police officers who were investigating a spying allegation against a School District employee several years ago. These have never been used.
- Mini camera (1) – a camera about the size of a deck of cards. Not in use.
- Trail camera (1) – not in use.
- Night vision monocular – very old; not in use.
- Key fob camera – this is a camera that is made to look like a vehicle key fob. Very old; not in use.
- FLIR Scout III monocular – this is a thermal viewer for night vision. This version has been discontinued by the manufacturer. The City’s monocular is very old and not in use.
- Blink cameras (10-15) – some of these cameras were purchased and some were donated for distribution to members of the community. They are not used by the Police Department.

Recommendation

Staff’s recommendation is for the City Council to provide guidance as to any narrowing of the scope of the proposed Ordinance that they would support in order for staff to focus their efforts on further responding to the proposal.

Originated by: Dave Smysor, Deputy Police Chief

Reviewed: Larry Boone, Chief of Police
Carol Mitten, City Administrator
Matt Roeschley, City Attorney

Approved: Diane Wolfe Marlin, Mayor



MEMORANDUM TO THE CITY COUNCIL

Meeting: February 3, 2025 Committee of the Whole
Subject: Supplemental Staff Response to Proposed Ordinance No. 2024-12-042 (An Ordinance Establishing Approval, Policy, and Reporting Requirements for Policing Surveillance Technology and Databases)

Summary

This memo is provided as a second supplement to the Initial Staff Responses to Proposed Ordinance No. 2024-12-042.

Discussion

Additional Background Information

Following the introduction of proposed Ordinance No. 2024-12-042 (An Ordinance Establishing Approval, Policy, and Reporting Requirements for Policing Surveillance Technology and Databases) on December 16, 2024, City staff have undertaken to analyze and better understand the potential impact of the proposal. Part of that work has entailed the identification of current technologies used by the Urbana Police Department that would be subject to the processes and procedures outlined in the proposed ordinance. Another component of the work done by City staff to understand the proposal has been to review similar or related ordinances adopted by other communities across the United States for the purpose of gathering information concerning their scope, application, procedural components, and other content in order to better inform public discussion about proposed Ordinance No. 2024-12-042.

Staff have reviewed similar ordinances or administrative policies adopted by the following communities:

- Boston, MA
- Berkeley, CA
- Cambridge, MA
- Davis, CA
- Grand Rapids, MI
- Lawrence, MA
- Madison, WI
- Nashville, TN
- New York, NY
- Oakland, CA

- Palo Alto, PA
- San Francisco, PA
- San Francisco Bay Area Rapid Transit District
- Santa Clara County, CA
- Seattle, WA
- Somerville, MA
- Yellow Springs, OH

A document containing additional information about each of the above communities and their respective ordinances and regulations is attached to this memorandum as Attachment 1. This document is a spreadsheet containing relevant information culled from each community's ordinance, as well as additional information about each community for context. The information from the respective ordinances is summarized and discussed in this memorandum.

Surveillance Technology

One point of emphasis in the review of other ordinances was to ascertain the types of technology they encompass and regulate. A common aspect among the overwhelming majority of the ordinances and policies reviewed was that their scope was limited to or focused on "surveillance technology." "Surveillance technology" also seems to be defined very similarly across communities, with far more parallels than variations.

Definitions of "surveillance technology" typically contemplate the regulation of tools, systems, and devices used to monitor, collect, or analyze information about individuals or groups. Below are common elements and examples found in local definitions:

Common Features of "Surveillance Technology"

- **Technology Used for Monitoring:** Many definitions include technologies designed to monitor individuals or their activities, whether in public or private spaces.
- **Data Collection and Processing:** Includes systems that collect, store, and analyze data such as images, audio, or biometric information.
- **Intent and Purpose:** Definitions often specify the intended use of surveillance technology, such as crime prevention, public safety, or general monitoring.
- **Broad or Specific Scopes:** Some ordinances use broad terms to encompass all monitoring tools, while most others contain lists of specific technologies subject to the ordinance.

Examples from Other Local Ordinances

San Francisco, CA

- Defines "surveillance technology" as "any software, electronic device, system, or tool used, designed, or primarily intended to collect, retain, process, or share audio, electronic, visual, location, thermal, biometric, olfactory, or similar information on individuals."

- Explicitly excludes common office equipment (e.g., printers, telephones) unless used for surveillance purposes.

Oakland, CA

- Similar to San Francisco but emphasizes technologies “capable of monitoring and identifying individuals” and includes tools like license plate readers, drones, and facial recognition software.

Seattle, WA

- Defines surveillance technologies as “any electronic device, software program, or hosted software solution that is designed to monitor, track, or analyze behavior or data about identifiable individuals or groups.”
- Excludes everyday technology such as body cameras unless used in conjunction with surveillance systems.

Somerville, MA

- Broadly includes “technologies that collect, analyze, or process personal or location information,” with a specific ban on facial recognition technology.

Specific Technologies

Specific technologies commonly included in “Surveillance Technology” ordinances include the following examples:

- Facial recognition systems
- Automated license plate readers (ALPRs)
- Video and audio recording devices
- Biometric tracking systems (e.g., iris or fingerprint scanners)
- GPS tracking systems
- Drones or unmanned aerial systems
- Social media monitoring tools

Common Exclusions

Most ordinances explicitly exclude technologies not used for surveillance purposes, including the following:

- Standard office equipment
- Parking ticket systems
- 911 dispatch systems
- Personal communication devices (e.g., phones) unless configured for surveillance

Other Common Elements Among “Surveillance Technology” Ordinances and Regulations

- Approval by a city council or elected governing body prior to purchase, acquisition, or agreement to such technology.
- Some larger cities have a two-step approval process that includes prior approval by an appointed committee or board prior to review and approval by the governing body.
- “Surveillance Use Policy.” Nearly every ordinance reviewed calls for the adoption of a “surveillance use policy” governing and setting forth the parameters and protocols for using such technologies.
- Annual reporting on use of “surveillance technology” following approval.
- About half of all ordinances and regulations reviewed require public hearings as part of the approval process in front of the elected body. Others contemplate approval via resolution or as part of the budget approval process.
- Most ordinances contain exceptions to the approval requirement for exigent or emergent circumstances involving law enforcement investigations that necessitate the temporary use of specific technologies that might otherwise fall within the scope of the ordinance.
- Nearly half of the ordinances reviewed contain outright prohibitions on the use of facial recognition technology.
- Finally, approximately half of the ordinances reviewed apply specifically to police departments or law enforcement applications, while the other half apply more broadly to any departments of the organization that utilize applicable technology.

Recommendation

Staff’s recommendation is for the City Council to provide guidance as to any narrowing of the scope of the proposed Ordinance that they would support in order for staff to focus their efforts on further responding to the proposal.

Originated by: Matt Roeschley

Reviewed: Carol Mitten, City Administrator

Approved: Diane Wolfe Marlin, Mayor



CAMPAIGN ZERO



FIGHT FOR THE FUTURE



DEMAND PROGRESS



National Network for Arab American Communities



MILLIONHOODIES MOVEMENT FOR JUSTICE



Community Control Over Police Surveillance – Guiding Principles

The Community Control Over Police Surveillance effort, including the legislation being sponsored in connection with it, is guided by the below principles. Legislation may vary from city to city to reflect local concerns and circumstances.

Surveillance technologies should not be funded, acquired, or used without express city council approval: Surveillance technologies should not be funded, acquired or used without the knowledge of the public and the approval of their elected representatives on the city council. Agencies seeking to use a previously acquired surveillance technology in a new manner must also receive specific city council approval of the new use(s).

Local communities should play a significant and meaningful role in determining if and how surveillance technologies are funded, acquired, or used: When used indiscriminately, surveillance technologies create oppressive, stigmatizing environments, especially for communities that are disproportionately targeted by their use, such as communities of color, low income communities, and politically active communities. Rather than allowing the police to unilaterally decide if and how surveillance technologies may be acquired and used, we believe local communities and their elected officials should be empowered to make those determinations.

The process for considering the use of surveillance technologies should be transparent and well-informed: The city council should not approve the funding (including submitting applications), acquisition, or deployment of any surveillance technologies without holding a public hearing. To facilitate a well-informed public debate, far in advance of the hearing, the police or other agency seeking to use the surveillance technology shall publically report on, among other things, the technology to be acquired, its capabilities, how precisely it would be used, how its data would be preserved and protected, its acquisition and operational costs, and how potential adverse impacts on civil rights and civil liberties will be prevented.

The use of surveillance technologies should not be approved generally; approvals, if provided, should be for specific technologies and specific, limited uses: Prior to the public hearing, the police or other agency seeking to acquire and/or use a surveillance technology must identify the technology and its proposed uses with specificity, so they can be debated with specificity. It should be unlawful for the police or any other agency to use a

surveillance technology that has not been expressly approved, or to deploy an approved surveillance technology in a manner that has not been expressly and precisely approved.

Surveillance technologies should not be funded, acquired, or used without addressing their potential impact on civil rights and civil liberties: Historically, government surveillance has had a significant, detrimental impact on civil rights and civil liberties, including those guaranteed by the First, Fourth and Fourteenth Amendments to the United States Constitution. In recognition of this fact, prior to holding a public hearing, the police or other agency seeking to fund, acquire, or use a surveillance technology should expressly identify the potential adverse impacts the technology may have on civil rights and civil liberties and what specific measures it will undertake to prevent such adverse impacts.

Surveillance technologies should not be funded, acquired, or used without considering their financial impact: Prior to holding a public hearing, the police or other agency seeking to fund, acquire, and/or use a surveillance technology should provide information on the surveillance technology’s financial benefits and costs, including its acquisition and annual operational costs.

To verify legal compliance, surveillance technology use and deployment data should be reported publically on an annual basis: A public approval process for the acquisition and use of surveillance technology will be of limited value unless the city council and public can verify the legal requirements pertaining to its use, including those regarding the protection of civil rights and civil liberties, have been adhered to. Annual reporting requirements will empower the city council and public to monitor the use and deployment of approved surveillance technologies.

City council approval should be required for all surveillance technologies and uses; there should be no “grandfathering” for technologies currently in use: The same public approval process for the acquisition and use of new surveillance technologies should be applied to surveillance technologies that are currently in use. Any technologies and existing uses that are not expressly approved pursuant to a transparent, community-focused process should have to be discontinued.

Ordinance No. 2024-12-042

AN ORDINANCE ESTABLISHING APPROVAL, POLICY, AND REPORTING REQUIREMENTS FOR POLICING SURVEILLANCE TECHNOLOGY AND DATABASES

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Resolution constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

WHEREAS, the City of Urbana reaffirmed its commitment as a sanctuary city in Resolution No. 2016-12-070R, stating that “the City Council and the Mayor will join with councils and mayors from other communities around the country to stand with our immigrant residents and defend policies that welcome and protect immigrants...” and that “no city employee or official or department or agency of the City of Urbana shall request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or the investigation is required by a court order...”; and

WHEREAS, the City of Urbana adopted the Ten Shared Principles on June 22, 2020 in Resolution No. 2020-06-031R which states “We reject discrimination toward any person that is based on race, ethnicity, religion, color, nationality, immigrant status, sexual orientation, gender, disability, or familial status;” provides support to “build and rebuild trust through procedural justice, transparency, accountability, and honest recognition of past and present obstacles” and advocates for “the four pillars of procedural justice, which are fairness, voice (i.e., an opportunity for citizens and police to believe they are heard), transparency, and impartiality”; and

WHEREAS, it is the Urbana City Council (“Council” or “City Council”) and City’s responsibility to legislate matters of public safety and accountability to the public, and any new technology or major systems regarding public safety require due public process and approval from City Council; and

WHEREAS, the Urbana City Council finds that no decision relating to police technology should be made without collaborative community input and consideration of the impact such technologies may have on civil rights and civil liberties, including those rights guaranteed by Article I of the Illinois Constitution and the First, Fourth, and Fourteenth Amendments to the United States Constitution; and

WHEREAS, the use of surveillance technologies are known to have had a significant, detrimental impact on civil rights and civil liberties, including those guaranteed by the First, Fourth

and Fourteenth Amendments to the United States Constitution, and thus it is incumbent on the police or other agency seeking to fund, acquire, or use a surveillance technology to expressly identify the potential adverse impacts the technology may have on civil rights and civil liberties and what specific measures it will undertake to prevent such adverse impacts; and

WHEREAS, surveillance technologies can create oppressive, stigmatizing environments when used indiscriminately, especially for communities that have historically been disproportionately targeted by their use, such as communities of color, low income communities, and politically active communities; and

WHEREAS, the urgency to publicly process the acquisition of surveillance technologies is necessitated by new concerns whether surveillance technologies will be used to apprehend people from out-of-state seeking abortions and other reproductive healthcare in Illinois; people without legal immigration status who seek asylum and would be sought for deportation; peaceful individuals or organizations exercising their rights, including expressing grievances against the government; and people whose race, national origin, ethnic identity, gender identity, sexual orientation, or other protected demographics place them under potential for additional surveillance; and

WHEREAS, the need for a public process to acquire surveillance technologies is further required because of the likelihood that federal law enforcement agencies will access any data stored by surveillance technologies; and

WHEREAS, as of the passing of this ordinance, there is no current city policy on the use and acquisition of police surveillance technology, and it is therefore necessary to clarify the Council's position on the required processes of public accountability;

NOW THEREFORE BE IT ORDAINED by the City Council, of the City of Urbana, Illinois, as follows:

Section 1. Purpose:

The purpose of this ordinance is to provide transparency, oversight, and accountability regarding the acquisition and use of surveillance technology and surveillance data by the City of Urbana and all departments and officials (hereinafter "City" or "City Department"), and to protect privacy, civil rights, and racial and immigrant justice.

Section 1.2. Approval Process for ~~Policing~~ Surveillance Technology and Database Acquisition or Use

(a) ~~The Urbana Police Department must~~ Any City Department seeking to acquire or use new surveillance technology or surveillance data, shall, prior to such acquisition or use obtain

written approval by majority vote of the Urbana City Council prior to purchasing, acquiring, or using any new surveillance ~~policing~~ technology or database (as defined in Attachment A of this Ordinance), ~~or using an existing surveillance ~~policing~~ technology or database in a new manner not previously approved~~, which includes linking or cross-referencing existing databases, adding new categories of data to a database, or using new analytic tools on an existing database.

(b) At least sixty (60) days prior to seeking approval of a surveillance ~~policing~~ technology or database, the City shall submit to the City Council and make publicly available a written surveillance ~~policing~~ technology or database “Use Report,” along with a draft of the proposed surveillance ~~policing~~ technology or database “Use Policy” (as defined in Attachment A of this Ordinance).

(c) The public shall have forty-five (45) days subsequent to filing of the surveillance ~~policing~~ technology or database “Use Report” and “Use Policy” to submit formal comments to the City Council.

Section 2 3. Standard for Approval of ~~Policing~~ Surveillance Technology or Database

(a) In deciding whether to approve the request, the City Council shall consider whether the public safety benefits of the use of the surveillance ~~policing~~ technology or database outweigh the economic, social, and community costs, including potential negative impacts on civil liberties and civil rights and potential disparate impacts on particular communities or groups.

Section 3 4. Reporting and Approval of Existing ~~Policing~~ Surveillance Technologies and Databases

(a) For all existing or hereinafter approved surveillance ~~policing~~ technology and databases in use, a “Policing Technology Annual Report” will be publicly available and presented to City Council each year, which includes a current copy of the “Use Policy” for each technology and other information included in the definitions in Attachment A.

(b) For all surveillance technology and databases referenced here that are already in use at the time this Ordinance is approved:

(i) The City shall present to City Council a “Use Report” and “Use Policy” for each technology or database in use, within one hundred twenty (120) days of the passing of this Ordinance, unless otherwise extended with written approval from City Council.

(ii) The existing surveillance ~~policing~~ technologies and databases shall require a formal approval process (as outlined in Section 1 and 2 of this Ordinance) as soon as the information on each technology is made available.

(iii) If the Council has not approved the continuing use of the surveillance ~~policing~~ technology, including the Use Report and the Use Policy, within one hundred eighty (180) days of its submission to the Council, the City Department shall cease its use of the surveillance ~~policing~~ technology and the sharing of surveillance data therefrom until such time as Council approval is obtained in accordance with this Ordinance.

Section 4 5. Contractual Agreements Involving Surveillance Technology & Databases

(a) ~~It shall be unlawful for the City or any agency to enter into any~~ Except where otherwise allowed under this Ordinance all contracts or agreements for the acquisition or use of surveillance technology, regardless of duration or cost, that conflicts with the provisions of this Ordinance, ~~and any conflicting provisions in such contracts or agreements, including but not limited to non-disclosure agreements, shall be deemed void and legally unenforceable~~ shall require formal approval by a majority vote of the City Council prior to execution.

(b) Prior to approval, the City Department shall provide all members of City Council with an unredacted copy of any and all contract(s) or other agreement(s) for the purchase, acquisition, or use of ~~by City Council for purchasing, acquiring, or using any new~~ surveillance ~~policing~~ technology or database, ~~all members of City Council shall be provided a non-redacted copy of any and all contract(s) or other agreement(s) for review for any new~~ surveillance ~~policing~~ technology or ~~policing~~ database.

(c) ~~It shall be unlawful for the Urbana Police Department~~ The Mayor's Office and all City Departments are hereby prohibited from entering into any contract or other agreement that facilitates the receipt of privately generated and owned surveillance data, or government generated and owned surveillance data, to any non-governmental entity in exchange for any monetary or any other form of consideration from any source, including the assessment of any additional fees, interest, or surcharges on unpaid fines or debts. Any contracts or agreements signed prior to the enactment of this ordinance that violate this section shall be terminated as soon as is legally permissible.

Section 6. Exigent Circumstances

(a) Notwithstanding the provisions of this ordinance, the Urbana Police Department or other City Department may temporarily acquire or temporarily use surveillance technology in exigent circumstances for a period not to exceed 30 days, with approval from the Mayor or their designee, without following the provisions of approval stated in this ordinance before that acquisition or use.

- (b) If the Urbana Police Department or other City Department acquires or uses surveillance technology in exigent circumstances under this section, the Urbana Police Department or other City Department must:
- (i) Report that acquisition or use to the City Council in writing within 30 days following the end of those exigent circumstances and the use of the surveillance technology.
 - (ii) Submit a Use Report and, if necessary, a technology-specific Use Policy to the City Council regarding that Surveillance Technology within 30 days following the end of those Exigent Circumstances.
 - (iii) Include that surveillance technology in the next Surveillance Technology Annual Report to the City Council following the end of those Exigent Circumstances.
 - (iv) If the Urbana Police Department or other City Department is unable to meet the 30-day timeline to submit a surveillance technology Use Report and, if necessary, a technology-specific Use Policy to the City Council, the Urbana Police Department or other City Department must notify the City Council in writing requesting to extend this period. The City Council may grant extensions in 30-day increments beyond the original 30-day timeline to submit a surveillance technology Use Report, and, if necessary, a technology-specific Use Policy.
 - (v) Any surveillance technology Use Report, and, if necessary, any technology-specific Use Policy submitted to the City Council under this subsection shall be made publicly available on the City's website upon submission to the City Council.
 - (vi) Any Surveillance Technology Use Report and, if necessary, technology-specific Use Policy submitted to the City Council under this section may be redacted to the extent required to comply with an order by a court of competent jurisdiction, or to exclude information that, in the reasonable discretion of the Urbana Police Department or other City Department, would, if disclosed, materially jeopardize an ongoing investigation or otherwise represent a significant risk to public safety and security; provided, however, that any information redacted pursuant to this paragraph will be released in the next Surveillance Technology Annual Report following the point at which the reason for such redaction no longer exists.
- (c) Departments using approved surveillance technologies or other technologies with unutilized and unapproved surveillance capabilities may apply a technical patch or upgrade that is necessary to mitigate cyber security threats to the City's environment. The department shall

not use any unapproved new surveillance capabilities of the technology until the requirements of this ordinance are met or unless the Mayor or the Mayor’s designee determines that the use is unavoidable; in that case, the Mayor shall request City Council approval as soon as possible. The request shall include a report to the City Council of how the altered surveillance capabilities were used since the time of the upgrade.

Section 7. Exclusionary Rule; Deletion/Destruction Requirement

- (a) Any data or other information created or collected in contravention of this ordinance, and any data or information derived therefrom, shall be deleted and destroyed as soon as possible, and may not:
 - (i) Be offered as evidence by any City government entity, agency, department, prosecutorial office, or any other subdivision thereof, in any criminal or civil action or proceeding against any member of the public, except as evidence of the violation of this Act; or
 - (ii) Be voluntarily provided to another person or entity for use as evidence or for any other purpose.
- (b) Notwithstanding the above, if, upon the discovery of data or other information that was created or collected in contravention of this ordinance, it appears such data or information may be material to the defense in a criminal prosecution, a copy of the relevant, potentially material data or other information shall be turned over to the defendant before it is deleted and destroyed.

Section 6 8. Definitions

The list of relevant definitions is included in Attachment A as part of this Ordinance.

PASSED BY THE CITY COUNCIL this ____ day of _____, 2024.

AYES:

NAYS:

ABSTENTIONS:

Darcy E. Sanderfur, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, 2024.

Diane Wolfe Marlin, Mayor.

ATTACHMENT A

(Ordinance No. 2024-12-042)

Definitions:

- 1) *Exigent Circumstances* means the Urbana Police Chief or their designee's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render it impracticable to obtain a warrant, requires the use of the surveillance technology or the surveillance data it provides. The use of surveillance technology in exigent circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.
- 2) *Surveillance* means the act of observing or analyzing the movements, behavior, or actions of identifiable individuals.
- 3) *Surveillance Data* means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the City or operated at the direction of the City.
- 4) *Surveillance Technology* means any device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, associational, or similar information specifically associated with, or capable of being associated with, any identifiable individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.
 - a) Examples of Surveillance Technology include, but are not limited to:
 1. International mobile subscriber identity (IMSI) catchers and other cell-site simulators;
 2. Automatic license plate readers;
 3. Electronic toll readers;
 4. Closed-circuit television cameras except as otherwise provided herein;
 5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
 6. Mobile DNA capture technology;
 7. Gunshot detection and location hardware and services;
 8. GPS tracking systems that monitor an individual's location without authorization;
 9. X-ray vans;
 10. Video and audio monitoring and/or recording technology, such as surveillance cameras;
 11. Surveillance enabled or capable light bulbs or light fixtures;

12. Tools, including software and hardware, used to gain unauthorized access to a mobile device, computer, computer service, or computer network;
 13. Social media monitoring software;
 14. Through-the-wall radar or similar imaging technology;
 15. Passive scanners of radio networks;
 16. Long-range Bluetooth and other wireless-scanning devices;
 17. Thermal imaging or “forward-looking infrared” devices or cameras;
 18. Electronic database systems containing Surveillance Data about Identifiable Individuals;
 19. Radio-frequency identification (RFID) scanners; and
 19. Software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software.
- b) Surveillance Technology does not include the following devices, software, or hardware, which are exempt from the requirements of this ordinance, unless the devices, hardware, or software are modified to include additional surveillance capabilities:
1. Routine office hardware, such as televisions, computers, and printers, that are in widespread public use and will not be used for any surveillance or surveillance-related functions;
 2. Parking ticket devices (PTDs) and related databases;
 3. Manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is used for manually capturing and manually downloading video and/or audio recordings;
 4. Cameras installed in or on a police vehicle;
 5. Cameras installed pursuant to state law authorization in or on any vehicle or along a public right-of-way solely to record traffic violations or traffic patterns, provided that the Surveillance Data gathered is used only for that purpose;
 6. Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
 7. City databases that do not and will not contain any Surveillance Data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology;
 8. Manually-operated technological devices that are used primarily for internal City communications and are not designed to surreptitiously collect Surveillance Data, such as radios and email systems;
 9. Parking access and revenue control systems, including proximity card readers and transponder readers at City-owned or controlled parking garages;
 10. Card readers and key fobs used by City employees and other authorized persons for access to City-owned or controlled buildings and property;

11. Cameras installed on City property solely for security purposes, including closed-circuit television cameras installed by the City to monitor entryways and outdoor areas of City-owned or controlled buildings and property for the purpose of controlling access, maintaining the safety of City employees and visitors to City buildings, and protecting City property;
12. Security cameras including closed-circuit television cameras installed by the City to monitor cashiers' windows and other cash-handling operations and to maintain the safety of City employees and visitors to such areas;
13. Cameras installed solely to protect the physical integrity of City infrastructure; or
14. Technology that monitors only City employees in response to complaints of wrongdoing or in order to prevent waste, fraud, or abuse of City resources.

(c) "Use Report" shall mean a publicly released, legally enforceable written report that includes, at a minimum, the following:

- (i) Information describing the ~~policing~~ surveillance technology and how it works;
- (ii) Information on the proposed purpose(s) of the ~~policing~~ surveillance technology;
- (iii) If the ~~policing~~ surveillance technology will not be uniformly deployed throughout the city, what factors will be used to determine where the technology will be deployed or targeted;
- (iv) The fiscal impact of the ~~policing~~ surveillance technology;
- (v) An assessment of whether use of the ~~policing~~ surveillance technology will have an unwarranted disparate impact on protected classes and demographics, as defined in the Illinois Civil Rights Act of 2003, the Urbana Human Rights Ordinance, and other relevant laws and policies.
- (vi) An assessment identifying any potential adverse impacts the ~~policing~~ surveillance technology, if deployed, might have on civil liberties and civil rights, and what specific, affirmative measures will be implemented to safeguard the public from the potential adverse impacts.

(d) "Use Policy" shall mean a publicly released, legally enforceable written policy governing the use of the ~~policing~~ surveillance technology that, at a minimum, includes and addresses the following:

- (i) What specific purpose(s) the ~~policing~~ surveillance technology is intended to advance.
- (ii) Description of the authorization for use of the ~~policing~~ surveillance technology: specifically, what legal and procedural rules will govern each authorized use; what potential uses of the ~~policing~~ surveillance technology will be expressly prohibited such as the warrantless surveillance of public events and gatherings; and how and under what circumstances will

surveillance data that was collected, captured, recorded, or intercepted by the police technology be analyzed and reviewed.

(iii) Description of data collection, protection, and retention: specifically, what types of surveillance data will be collected, captured, recorded, intercepted, or retained by the police technology; what safeguards will be used to protect surveillance data from unauthorized access; for what maximum limited time period the surveillance data will be retained; and by what process the surveillance data will be regularly deleted after the retention period.

(iv) Description of data sharing: specifically, which governmental agencies, departments, bureaus, divisions, or units will be approved for data sharing; how such sharing is necessary for the stated purpose and use of the ~~policing~~ surveillance technology; and what mechanisms will ensure any entity sharing access to the ~~policing~~ surveillance technology or surveillance data complies with the applicable surveillance use requirements within the Urbana “Use Policy” and does not further disclose the surveillance data to unauthorized persons and entities.

(e) “~~Policing~~ Surveillance Technology Annual Report” shall mean a written report covering ~~on~~ each ~~policing~~ surveillance technology in use over the past year that is publicly released at least once per year and shall, at a minimum, include the following:

(i) A summary of how each ~~policing~~ surveillance technology and database was used.

(iii) Total annual costs for each ~~policing~~ surveillance technology and database, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year.

(iii) How often collected surveillance data was shared with and received from any external persons or entities; under what legal standard(s) the information was disclosed; and the justification for the disclosure(s).

(iv) A summary of complaints or concerns that were received about each ~~policing~~ surveillance technology and database.

(v) The results of any internal audits, any information about violations of the Use Policy, and any actions taken in response to complaints or concerns.

(vi) Justification for the continued use of each surveillance technology and database and safeguards to protect civil liberties, privacy, and against discrimination.

Ordinance No. 2024-12-042

AN ORDINANCE ESTABLISHING APPROVAL, POLICY, AND REPORTING REQUIREMENTS FOR SURVEILLANCE TECHNOLOGY AND DATABASES

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Resolution constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

WHEREAS, the City of Urbana reaffirmed its commitment as a sanctuary city in Resolution No. 2016-12-070R, stating that “the City Council and the Mayor will join with councils and mayors from other communities around the country to stand with our immigrant residents and defend policies that welcome and protect immigrants...” and that “no city employee or official or department or agency of the City of Urbana shall request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or the investigation is required by a court order...”; and

WHEREAS, the City of Urbana adopted the Ten Shared Principles on June 22, 2020 in Resolution No. 2020-06-031R which states “We reject discrimination toward any person that is based on race, ethnicity, religion, color, nationality, immigrant status, sexual orientation, gender, disability, or familial status;” provides support to “build and rebuild trust through procedural justice, transparency, accountability, and honest recognition of past and present obstacles” and advocates for “the four pillars of procedural justice, which are fairness, voice (i.e., an opportunity for citizens and police to believe they are heard), transparency, and impartiality”; and

WHEREAS, it is the Urbana City Council (“Council” or “City Council”) and City’s responsibility to legislate matters of public safety and accountability to the public, and any new technology or major systems regarding public safety require due public process and approval from City Council; and

WHEREAS, the Urbana City Council finds that no decision relating to police technology should be made without collaborative community input and consideration of the impact such technologies may have on civil rights and civil liberties, including those rights guaranteed by Article I of the Illinois Constitution and the First, Fourth, and Fourteenth Amendments to the United States Constitution; and

WHEREAS, the use of surveillance technologies are known to have had a significant, detrimental impact on civil rights and civil liberties, including those guaranteed by the First, Fourth and Fourteenth Amendments to the United States Constitution, and thus it is incumbent on the

police or other agency seeking to fund, acquire, or use a surveillance technology to expressly identify the potential adverse impacts the technology may have on civil rights and civil liberties and what specific measures it will undertake to prevent such adverse impacts; and

WHEREAS, surveillance technologies can create oppressive, stigmatizing environments when used indiscriminately, especially for communities that have historically been disproportionately targeted by their use, such as communities of color, low income communities, and politically active communities; and

WHEREAS, the urgency to publicly process the acquisition of surveillance technologies is necessitated by new concerns whether surveillance technologies will be used to apprehend people from out-of-state seeking abortions and other reproductive healthcare in Illinois; people without legal immigration status who seek asylum and would be sought for deportation; peaceful individuals or organizations exercising their rights, including expressing grievances against the government; and people whose race, national origin, ethnic identity, gender identity, sexual orientation, or other protected demographics place them under potential for additional surveillance; and

WHEREAS, the need for a public process to acquire surveillance technologies is further required because of the likelihood that federal law enforcement agencies will access any data stored by surveillance technologies; and

WHEREAS, as of the passing of this ordinance, there is no current city policy on the use and acquisition of police surveillance technology, and it is therefore necessary to clarify the Council's position on the required processes of public accountability;

NOW THEREFORE BE IT ORDAINED by the City Council, of the City of Urbana, Illinois, as follows:

Section 1. Purpose:

The purpose of this ordinance is to provide transparency, oversight, and accountability regarding the acquisition and use of surveillance technology and surveillance data by the City of Urbana and all departments and officials (hereinafter "City" or "City Department"), and to protect privacy, civil rights, and racial and immigrant justice.

Section 2. Approval Process for Surveillance Technology and Database Acquisition or Use

(a) Any City Department seeking to acquire or use new surveillance technology or surveillance data, shall, prior to such acquisition or use obtain written approval by majority vote of the Urbana City Council prior to purchasing, acquiring, or using any new surveillance technology or database (as defined in Attachment A of this Ordinance), which includes

linking or cross-referencing existing databases, adding new categories of data to a database, or using new analytic tools on an existing database.

(b) At least sixty (60) days prior to seeking approval of a surveillance technology or database, the City shall submit to the City Council and make publicly available a written surveillance technology or database “Use Report,” along with a draft of the proposed surveillance technology or database “Use Policy” (as defined in Attachment A of this Ordinance).

(c) The public shall have forty-five (45) days subsequent to filing of the surveillance technology or database “Use Report” and “Use Policy” to submit formal comments to the City Council.

Section 3. Standard for Approval of Surveillance Technology or Database

(a) In deciding whether to approve the request, the City Council shall consider whether the public safety benefits of the use of the surveillance technology or database outweigh the economic, social, and community costs, including potential negative impacts on civil liberties and civil rights and potential disparate impacts on particular communities or groups.

Section 4. Reporting and Approval of Existing Surveillance Technologies and Databases

(a) For all existing or hereinafter approved surveillance technology and databases in use, a “Policing Technology Annual Report” will be publicly available and presented to City Council each year, which includes a current copy of the “Use Policy” for each technology and other information included in the definitions in Attachment A.

(b) For all surveillance technology and databases referenced here that are already in use at the time this Ordinance is approved:

(i) The City shall present to City Council a “Use Report” and “Use Policy” for each technology or database in use, within one hundred twenty (120) days of the passing of this Ordinance, unless otherwise extended with written approval from City Council.

(ii) The existing surveillance technologies and databases shall require a formal approval process (as outlined in Section 1 and 2 of this Ordinance) as soon as the information on each technology is made available.

(iii) If the Council has not approved the continuing use of the surveillance technology, including the Use Report and the Use Policy, within one hundred eighty (180) days of its submission to the Council, the City Department shall cease its use of the surveillance technology and the sharing of surveillance data therefrom until such time as Council approval is obtained in accordance with this Ordinance.

Section 5. Contractual Agreements Involving Surveillance Technology & Databases

- (a) Except where otherwise allowed under this Ordinance all contracts or agreements for the acquisition or use of surveillance technology, regardless of duration or cost, shall require formal approval by a majority vote of the City Council prior to execution.
- (b) Prior to approval, the City Department shall provide all members of City Council with an unredacted copy of any and all contract(s) or other agreement(s) for the purchase, acquisition, or use of any new surveillance technology or database.
- (c) The Mayor's Office and all City Departments are hereby prohibited from entering into any contract or other agreement that facilitates the receipt of privately generated and owned surveillance data, or government generated and owned surveillance data, to any non-governmental entity in exchange for any monetary or any other form of consideration from any source, including the assessment of any additional fees, interest, or surcharges on unpaid fines or debts. Any contracts or agreements signed prior to the enactment of this ordinance that violate this section shall be terminated as soon as is legally permissible.

Section 6. Exigent Circumstances

- (a) Notwithstanding the provisions of this ordinance, the Urbana Police Department or other City Department may temporarily acquire or temporarily use surveillance technology in exigent circumstances for a period not to exceed 30 days, with approval from the Mayor or their designee, without following the provisions of approval stated in this ordinance before that acquisition or use.
- (b) If the Urbana Police Department or other City Department acquires or uses surveillance technology in exigent circumstances under this section, the Urbana Police Department or other City Department must:
 - (i) Report that acquisition or use to the City Council in writing within 30 days following the end of those exigent circumstances and the use of the surveillance technology.
 - (ii) Submit a Use Report and, if necessary, a technology-specific Use Policy to the City Council regarding that Surveillance Technology within 30 days following the end of those Exigent Circumstances.
 - (iii) Include that surveillance technology in the next Surveillance Technology Annual Report to the City Council following the end of those Exigent Circumstances.

(iv) If the Urbana Police Department or other City Department is unable to meet the 30-day timeline to submit a surveillance technology Use Report and, if necessary, a technology-specific Use Policy to the City Council, the Urbana Police Department or other City Department must notify the City Council in writing requesting to extend this period. The City Council may grant extensions in 30-day increments beyond the original 30-day timeline to submit a surveillance technology Use Report, and, if necessary, a technology-specific Use Policy.

(v) Any surveillance technology Use Report, and, if necessary, any technology-specific Use Policy submitted to the City Council under this subsection shall be made publicly available on the City's website upon submission to the City Council.

(vi) Any Surveillance Technology Use Report and, if necessary, technology-specific Use Policy submitted to the City Council under this section may be redacted to the extent required to comply with an order by a court of competent jurisdiction, or to exclude information that, in the reasonable discretion of the Urbana Police Department or other City Department, would, if disclosed, materially jeopardize an ongoing investigation or otherwise represent a significant risk to public safety and security; provided, however, that any information redacted pursuant to this paragraph will be released in the next Surveillance Technology Annual Report following the point at which the reason for such redaction no longer exists.

- (c) Departments using approved surveillance technologies or other technologies with unutilized and unapproved surveillance capabilities may apply a technical patch or upgrade that is necessary to mitigate cyber security threats to the City's environment. The department shall not use any unapproved new surveillance capabilities of the technology until the requirements of this ordinance are met or unless the Mayor or the Mayor's designee determines that the use is unavoidable; in that case, the Mayor shall request City Council approval as soon as possible. The request shall include a report to the City Council of how the altered surveillance capabilities were used since the time of the upgrade.

Section 7. Exclusionary Rule; Deletion/Destruction Requirement

- (a) Any data or other information created or collected in contravention of this ordinance, and any data or information derived therefrom, shall be deleted and destroyed as soon as possible, and may not:
- (i) Be offered as evidence by any City government entity, agency, department, prosecutorial office, or any other subdivision thereof, in any criminal or civil action or proceeding against any member of the public, except as evidence of the violation of this Act; or

- (ii) Be voluntarily provided to another person or entity for use as evidence or for any other purpose.

- (b) Notwithstanding the above, if, upon the discovery of data or other information that was created or collected in contravention of this ordinance, it appears such data or information may be material to the defense in a criminal prosecution, a copy of the relevant, potentially material data or other information shall be turned over to the defendant before it is deleted and destroyed.

Section 8. Definitions

The list of relevant definitions is included in Attachment A as part of this Ordinance.

PASSED BY THE CITY COUNCIL this ____ day of _____, 2024.

AYES:

NAYS:

ABSTENTIONS:

Darcy E. Sanderfur, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, 2024.

Diane Wolfe Marlin, Mayor

ATTACHMENT A

(Ordinance No. 2024-12-042)

Definitions:

- 1) *Exigent Circumstances* means the Urbana Police Chief or their designee's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render it impracticable to obtain a warrant, requires the use of the surveillance technology or the surveillance data it provides. The use of surveillance technology in exigent circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.
- 2) *Surveillance* means the act of observing or analyzing the movements, behavior, or actions of identifiable individuals.
- 3) *Surveillance Data* means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the City or operated at the direction of the City.
- 4) *Surveillance Technology* means any device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, associational, or similar information specifically associated with, or capable of being associated with, any identifiable individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.
 - a) Examples of Surveillance Technology include, but are not limited to:
 1. International mobile subscriber identity (IMSI) catchers and other cell-site simulators;
 2. Automatic license plate readers;
 3. Electronic toll readers;
 4. Closed-circuit television cameras except as otherwise provided herein;
 5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
 6. Mobile DNA capture technology;
 7. Gunshot detection and location hardware and services;
 8. GPS tracking systems that monitor an individual's location without authorization;
 9. X-ray vans;
 10. Video and audio monitoring and/or recording technology, such as surveillance cameras;
 11. Surveillance enabled or capable light bulbs or light fixtures;

12. Tools, including software and hardware, used to gain unauthorized access to a mobile device, computer, computer service, or computer network;
 13. Social media monitoring software;
 14. Through-the-wall radar or similar imaging technology;
 15. Passive scanners of radio networks;
 16. Long-range Bluetooth and other wireless-scanning devices;
 17. Thermal imaging or “forward-looking infrared” devices or cameras;
 18. Electronic database systems containing Surveillance Data about Identifiable Individuals;
 19. Radio-frequency identification (RFID) scanners; and
 19. Software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software.
- b) Surveillance Technology does not include the following devices, software, or hardware, which are exempt from the requirements of this ordinance, unless the devices, hardware, or software are modified to include additional surveillance capabilities:
1. Routine office hardware, such as televisions, computers, and printers, that are in widespread public use and will not be used for any surveillance or surveillance-related functions;
 2. Parking ticket devices (PTDs) and related databases;
 3. Manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is used for manually capturing and manually downloading video and/or audio recordings;
 4. Cameras installed in or on a police vehicle;
 5. Cameras installed pursuant to state law authorization in or on any vehicle or along a public right-of-way solely to record traffic violations or traffic patterns, provided that the Surveillance Data gathered is used only for that purpose;
 6. Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
 7. City databases that do not and will not contain any Surveillance Data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology;
 8. Manually-operated technological devices that are used primarily for internal City communications and are not designed to surreptitiously collect Surveillance Data, such as radios and email systems;
 9. Parking access and revenue control systems, including proximity card readers and transponder readers at City-owned or controlled parking garages;
 10. Card readers and key fobs used by City employees and other authorized persons for access to City-owned or controlled buildings and property;

11. Cameras installed on City property solely for security purposes, including closed-circuit television cameras installed by the City to monitor entryways and outdoor areas of City-owned or controlled buildings and property for the purpose of controlling access, maintaining the safety of City employees and visitors to City buildings, and protecting City property;
12. Security cameras including closed-circuit television cameras installed by the City to monitor cashiers' windows and other cash-handling operations and to maintain the safety of City employees and visitors to such areas;
13. Cameras installed solely to protect the physical integrity of City infrastructure; or
14. Technology that monitors only City employees in response to complaints of wrongdoing or in order to prevent waste, fraud, or abuse of City resources.

(c) "Use Report" shall mean a publicly released, legally enforceable written report that includes, at a minimum, the following:

- (i) Information describing the surveillance technology and how it works;
- (ii) Information on the proposed purpose(s) of the surveillance technology;
- (iii) If the surveillance technology will not be uniformly deployed throughout the city, what factors will be used to determine where the technology will be deployed or targeted;
- (iv) The fiscal impact of the surveillance technology;
- (v) An assessment of whether use of the surveillance technology will have an unwarranted disparate impact on protected classes and demographics, as defined in the Illinois Civil Rights Act of 2003, the Urbana Human Rights Ordinance, and other relevant laws and policies.
- (vi) An assessment identifying any potential adverse impacts the surveillance technology, if deployed, might have on civil liberties and civil rights, and what specific, affirmative measures will be implemented to safeguard the public from the potential adverse impacts.

(d) "Use Policy" shall mean a publicly released, legally enforceable written policy governing the use of the surveillance technology that, at a minimum, includes and addresses the following:

- (i) What specific purpose(s) the surveillance technology is intended to advance.
- (ii) Description of the authorization for use of the policing technology: specifically, what legal and procedural rules will govern each authorized use; what potential uses of the surveillance technology will be expressly prohibited such as the warrantless surveillance of public events and gatherings; and how and under what circumstances will surveillance data that was collected, captured, recorded, or intercepted by the police technology be analyzed and reviewed.

(iii) Description of data collection, protection, and retention: specifically, what types of surveillance data will be collected, captured, recorded, intercepted, or retained by the police technology; what safeguards will be used to protect surveillance data from unauthorized access; for what maximum limited time period the surveillance data will be retained; and by what process the surveillance data will be regularly deleted after the retention period.

(iv) Description of data sharing: specifically, which governmental agencies, departments, bureaus, divisions, or units will be approved for data sharing; how such sharing is necessary for the stated purpose and use of the surveillance technology; and what mechanisms will ensure any entity sharing access to the surveillance technology or surveillance data complies with the applicable surveillance use requirements within the Urbana “Use Policy” and does not further disclose the surveillance data to unauthorized persons and entities.

(e) “Surveillance Technology Annual Report” shall mean a written report covering each surveillance technology in use over the past year that is publicly released at least once per year and shall, at a minimum, include the following:

(i) A summary of how each surveillance technology and database was used.

(iii) Total annual costs for each surveillance technology and database, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year.

(iii) How often collected surveillance data was shared with and received from any external persons or entities; under what legal standard(s) the information was disclosed; and the justification for the disclosure(s).

(iv) A summary of complaints or concerns that were received about each surveillance technology and database.

(v) The results of any internal audits, any information about violations of the Use Policy, and any actions taken in response to complaints or concerns.

(vi) Justification for the continued use of each surveillance technology and database and safeguards to protect civil liberties, privacy, and against discrimination.

Community	Population	Form of Govt	Form of Regulation / Year Adopted	Scope and Common Procedural Components	Temp Exception for - Exigencies or Emergencies?	Exception for Technical Patch/Updates to Existing/Approved Software?	Facial Recognition Prohibition?	Compliance Approval for Technology Already in Use?	Scope	Required Approvals	Public Hearing Requirement?
Boston	700,000	Mayor / Council	Ordinance / 2021	"surveillance technology" "surveillance use policy" "annual surveillance report" "	Yes	Yes	No	No	All city departments	City Council - cost/benefit test	No
Berkeley	125,000	Council / Manager	Ordinance / 2018	Prior authorization; "surveillance technology"; "surveillance use policy"; anything new - purchase, use, agreement to use, other acquisition; ongoing annual reporting	Yes	No	Yes	Yes	All city departments	Police Review Commission re: use policy; City Council re: technology; Council cost/benefit test	No
Cambridge	115,000	Council / Manager	Ordinance / 2018	"surveillance technology"; "annual surveillance report"; "surveillance use policy"	Yes	Yes	Yes	Yes	All city departments	City Council - cost/benefit test	Yes (required for passage of all ordinances)
Davis	70,000	Council / Manager	Ordinance / 2018	"surveillance technology"; "annual surveillance report"; "surveillance use policy"	Yes	No	No	Yes	All city departments	City Council - cost/benefit test	Yes
Grand Rapids	200,000	City Manager/Commission	A.P. 2015; rev 2022	"surveillance equipment"	Yes	No	No	No	All city departments	City Commission - best interests test	Yes
Lawrence	100,000	Council / Manager	Ordinance / 2018	"surveillance technology" "surveillance use policy" "annual surveillance report"	Yes	No	No	Yes - approval of pre-existing uses	All city departments	City Council - cost/benefit test	Yes
Madison	270,000	Mayor / Alder	Ordinance / 2020	"surveillance technology" "annual surveillance technology report"	Yes	Yes	Yes	Only if change in use of existing tech	All city departments	City Council - cost/benefit test	No - Budget request or resolution
Nashville	715,000	Mayor / Council	Ordinance / 2017; amend 2023	"deployment of surveillance technology in public rights-of-way" "surveillance technology"	*Exception for temporary use in police investigations	No	No	No	Only for LPRs and R-O-W sensors	City Council - cost/benefit test	Yes
NYC	8,400,000	Commission	Ordinance / 2020	"surveillance impact and use policy"	No	No	No	Yes	Police	Police Commissioner	No
Oakland	430,000	Mayor / Council	Ordinance / 2021	"surveillance technology" "annual surveillance report" "surveillance use policy" "surveillance impact report"	Yes	No	No; but prohibits Biometric Surveillance	Yes	Police	Privacy Advisory Commission; City Council - cost/benefit test	No
Palo Alto	70,000	Council / Manager	A.P. 2018; rev 2020	"surveillance technology" "surveillance use policy" "annual surveillance report"	No	No	No	No	Police	City Council - cost/benefit test	No
San Francisco	810,000	Mayor/Council	Ordinance / 2019	"annual surveillance report" "surveillance impact report" "surveillance technology" "surveillance technology policy"	Yes	No	Yes	Yes	Police	Board of Supervisors	Yes
S.F. Bay Area Rapid Transit	7,700,000	Board of Directors	Ordinance / 2018	"surveillance technology" "surveillance annual report" "surveillance use policy" "surveillance impact report"	Yes	No	No	Yes	Entire organization	Board of Directors - cost/benefit test	Yes
Santa Clara County	1,900,000	Board of Trustees	Ordinance / 2016	surveillance technology "surveillance annual report" "surveillance use policy" "surveillance impact report"	Yes	No	No	Yes	All county departments	Board of Trustees - cost/benefit test	No
Seattle	770,000	Mayor / Council	Ordinance / 2017; rev 2018	surveillance technology "surveillance annual report" "surveillance use policy" "surveillance impact report"	Yes	Yes	No	No	All city departments	City Council	No
Somerville	85,000	Mayor / Council	Ordinance / 2019	surveillance technology "surveillance annual report" "surveillance use policy" "surveillance impact report"	Yes	Yes	Yes (different ordinance)	No	Police	City Council	No
Yellow Springs	3,500	Council / Manager	Ordinance / 2018	surveillance technology "surveillance annual report" "surveillance use policy" "surveillance impact report"	Yes	No	No	Yes	All village departments	Village Council - cost/benefit test	Yes (required for passage of all ordinances)