

Wylie Economic Development Corporation

Board Special Called Meeting



November 22, 2022 – 8:00 AM

WEDC Office Conference Room - 250 South Highway 78, Wylie, Texas
75098

CALL TO ORDER

INVOCATION & PLEDGE OF ALLEGIANCE

COMMENTS ON NON-AGENDA ITEMS

Any member of the public may address Board regarding an item that is not listed on the Agenda. Members of the public must fill out a form prior to the meeting in order to speak. Board requests that comments be limited to three minutes for an individual, six minutes for a group. In addition, Board is not allowed to converse, deliberate or take action on any matter presented during citizen participation.

REGULAR AGENDA

1. Consider and act upon a commercial lease at 104 S Ballard.

EXECUTIVE SESSION

Sec. 551.072. DELIBERATION REGARDING REAL PROPERTY; CLOSED MEETING.

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on its negotiating position.

- ES1. Consider the sale or acquisition of properties located at Ballard/Brown, Brown/Eubanks, FM 544/Cooper, FM 544/Sanden, Jackson/Oak, Regency/Steel, State Hwy 78/Alanis, State Hwy 78/Ballard, and State Hwy 78/Brown.

Sec. 551.087. DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS; CLOSED MEETING.

This chapter does not require a governmental body to conduct an open meeting:

- (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or
- (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

- ES2. Deliberation regarding commercial or financial information that the WEDC has received from a business prospect and to discuss the offer of incentives for Projects: 2013-9a, 2017-6a, 2021-2d, 2021-5a, 2021-6a, 2021-6c, 2021-8a, 2021-9a, 2021-9b, 2021-9f, 2021-11a, 2021-12a, 2022-1b, 2022-4d, 2022-7b, 2022-7c, 2022-8b, and 2022-9f.

RECONVENE INTO OPEN SESSION

Take any action as a result from Executive Session.

FUTURE AGENDA ITEMS

ADJOURNMENT

CERTIFICATION

I certify that this Notice of Meeting was posted on November 18, 2022 at 5:00 p.m. on the outside bulletin board at Wylie City Hall, 300 Country Club Road, Building 100, Wylie, Texas, a place convenient and readily accessible to the public at all times.

Stephanie Storm, City Secretary

Date Notice Removed

The Wylie Municipal Complex is wheelchair accessible. Sign interpretation or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972.516.6020. Hearing impaired devices are available from the City Secretary prior to each meeting.

If during the course of the meeting covered by this notice, the Board should determine that a closed or executive meeting or session of the Board or a consultation with the attorney for the City should be held or is required, then such closed or executive meeting or session or consultation with attorney as authorized by the Texas Open Meetings Act, Texas Government Code § 551.001 et. seq., will be held by the Board at the date, hour and place given in this notice as the Board may conveniently meet in such closed or executive meeting or session or consult with the attorney for the City concerning any and all subjects and for any and all purposes permitted by the Act, including, but not limited to, the following sanctions and purposes:

Texas Government Code Section:

- § 551.071 – Private consultation with an attorney for the City.
- § 551.072 – Discussing purchase, exchange, lease or value of real property.
- § 551.073 – Discussing prospective gift or donation to the City.
- § 551.074 – Discussing personnel or to hear complaints against personnel.
- § 551.076 – Discussing deployment of security personnel or devices or security audit.
- § 551.087 – Discussing certain economic development matters.

AGENDA REPORT

Meeting Date:	<u>November 22, 2022</u>	Item Number:	<u>1</u>
Department:	<u>WEDC</u>		<i>(Staff Use Only)</i>
Prepared By:	<u>Jason Greiner</u>	Account Code:	<u></u>
Date Prepared:	<u>November 21, 2022</u>	Exhibits:	<u>1</u>

Subject

Consider and act upon a commercial lease at 104 S Ballard.

Recommendation

Motion to approve a commercial lease between the WEDC and Loteria Fruteria Wylie, LLC at 104 S Ballard.

Discussion

Staff will lead the discussion about this item.

**FIRST AMENDMENT TO
COMMERCIAL LEASE**

THIS FIRST AMENDMENT TO COMMERCIAL LEASE (“Amendment”) is made to be effective as of _____, 2022, between **WYLIE ECONOMIC DEVELOPMENT CORPORATION** (“Landlord”) and **LOTERIA FRUTERIA WYLIE, LLC** (“Tenant”).

R E C I T A L S

WHEREAS, the Pilikia ‘Aina, LLC (“Original Landlord”) and All The Rave Nutrition, LLC (“Original Tenant”) entered into that certain Commercial Lease dated on or about March 10, 2020 (the “Lease”), regarding the use and occupancy of 104 S. Ballard Street, in Wylie, Texas as more particularly described in the Lease (the “Leased Premises”); and

WHEREAS, Original Landlord assigned the Lease to Landlord when Landlord purchased the Leased Premises from Landlord; and

WHEREAS, Original Tenant subsequently assigned the Lease to Tenant; and

WHEREAS, Landlord and Tenant desire to amend the Lease in certain respects as set forth below.

NOW THEREFORE, in consideration of the recitals set forth above and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the parties agree to amend and modify the Lease as follows:

1. **Capitalized Terms**. Unless otherwise defined herein, capitalized terms shall have the meaning as set forth in the Lease.
2. **Landlord Termination**. Landlord and Tenant agree herein to modify Section 3.A. of the Lease to add the following sentence to the end of Section 3.A of the Lease:

“Notwithstanding anything to the contrary contained herein, Landlord shall have the right to terminate this Lease at any time and for any reason, in Landlord’s sole discretion, by delivering ninety (90) days prior written notice to Tenant.”

3. **Base Monthly Rent Table**. Landlord and Tenant agree herein to modify Section 4.A. of the Lease to delete the rent table shown therein and replace it with the table shown below:

Dates		Base Monthly Rent \$
From	To	
12/01/2022	05/31/2023	\$2,770
06/01/2023	05/31/2024	\$3,000
06/01/2024	05/31/2025	\$3,150

4. **Place for Payment.** Landlord and Tenant agree herein to modify Section 4.E. of the Lease to delete the name and address listed therein and replace it with the name and address listed below:

“Name: Wylie Economic Development Corporation
Address: 250 South Highway 78, Wylie, Texas 75098.”

5. **Taxes and Assessments.** Landlord and Tenant agree herein to delete Section 6 of the Lease in its entirety and replace it with the following Section 6.A. and 6.B.:

“6.A. Tenant shall pay and fully discharge all taxes, special assessments, and governmental charges of every character imposed during the term of this lease or any extensions thereof on the furniture, trade fixtures, appliances, and other personal property placed by Tenant in , on, or about the leased premises.

6.B. Tenant shall pay and fully discharge all real property taxes (otherwise referred to as **Leasehold Taxes**), special assessments, and governmental charges of every character imposed on the leased premises during the term of this lease or any extensions thereof, including any special assessments imposed on or against the premises for the construction or improvement of public works. Tenant acknowledges their understanding of Leasehold Taxes assessed by the Collin Central Appraisal District (CCAD) being the cumulative tax rate assessed by the City of Wylie, Wylie ISD, Collin County, and Collin College multiplied by the **annual** Minimum Rent as referenced in section 4.A. Should the CCAD assessed leasehold taxes be assessed in the manner other than that scenario described above, Landlord and Tenant will negotiate in good faith to develop mutually beneficial language to address this section 6.B.”

6. **Use of Lease Premises.** Landlord and Tenant agree herein to delete Section 9.A. of the Lease in its entirety and replace it with the following Section 9.A.:

“A. Tenant may use the leased premises for the following purpose and no other: for the sale of drinks, snacks, ice cream, and popsicles.”

7. **Landlord Notice Information.** The Landlord contact information for notices listed in Section 34 of the Lease is deleted in its entirety and replaced with the Landlord contact information for notices listed below:

“Wylie Economic Development Corporation
Address: 250 South Highway 78, Wylie, Texas 75098
Phone: 972-442-7901
Landlord also consents to receive notices by e-mail at: jason@wylieedc.com”

8. **Tenant Notice Information.** The Tenant contact information for notices listed in Section 34 of the Lease is deleted in its entirety and replaced with the Tenant contact information for notices listed below:

“Loteria Fruteria Wylie, LLC

Address: 104 South Ballard Avenue, Wylie, Texas 75098

Phone: 469-993-5455

Tenant also consents to receive notices by e-mail at: loteriafruteriawylietx@gmail.com”

9. **Continued Validity.** Except as amended herein, each and every term of the Lease shall remain in full force and effect as originally written and executed.

10. **Deletion of Extension Addendum.** Landlord and Tenant agree that the Commercial Lease Addendum for Extension of Term is hereby deleted in its entirety. Tenant acknowledges and agrees that Tenant does not have any right to extend the term of the Lease beyond May 31, 2025. If Landlord and Tenant agree to extend the term of the Lease beyond May 31, 2025, the terms shall be set forth in a separate written amendment.

11. **Deletion of Right of First Refusal Addendum.** Landlord and Tenant agree that the Commercial Lease Addendum for Right of First Refusal is hereby deleted in its entirety. Tenant acknowledges and agrees that Tenant does not have any right of first refusal, right of option, or any other right to purchase the Leased Premises or any other property owned by Landlord.

12. **Counterparts/Delivery.** This instrument may be executed in any number of counterparts and by the different parties on separate counterparts, and each such counterpart shall be deemed to be an original but all such counterparts shall together constitute one and the same agreement. The parties hereto may execute and deliver this instrument by forwarding facsimile, electronic pdf, or other means of copies of this instrument showing execution by the parties sending the same. The parties agree and intend that such signature shall have the same effect as an original signature, that the parties shall be bound by such means of execution and delivery, and that the parties hereby waive any defense to validity based on any such copies or signatures.

13. **Captions.** Headings of paragraphs are for convenience of reference only and shall not be construed as part of this Amendment.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the date set forth above.

LANDLORD:

WYLIE ECONOMIC DEVELOPMENT
CORPORATION

By: _____
Jason Greiner, Executive Director

TENANT:

LOTERIA FRUTERIA

By: _____
Name: _____
Title: _____

DRAFT