

NOTICE: ANY SUBJECT APPEARING ON THIS AGENDA, REGARDLESS OF HOW THE MATTER IS STATED, MAY BE ACTED UPON BY THE BOARD OF DIRECTORS OF TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION.

TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION
BOARD OF DIRECTORS MEETING

AGENDA

DECEMBER 16, 2020 - 3:00 P.M.

KENNETH T. NUNN COUNCIL ROOM- CITY HALL
1801 9th Ave. N.
Texas City, TX 77590

PLEASE NOTE:

Due to the COVID-19 Disaster and the CDC's recommendation regarding social distancing measures the Texas Economical Board of Directors will meet telephonically and electronically, and the public will not be allowed to be physically present at this meeting. Texas Governor Greg Abbott waived on a temporary basis certain sections of the Texas Open Meetings Act. The meeting will be audible to members of the public and allow for two-way communications for those desiring to participate.

Any person interested in speaking on any item on the Agenda must call in the number below and sign in to the conference then wait for the Mayor to request any public comments. Public comments may not apply to all items on the agenda.

To join the telephone audio conference please use the following instructions.

Dial 1 (267) 831 0333 or (888) 475 4499 (Toll Free) or (877) 853 5257 (Toll Free)

Webinar ID: 838 4695 1775

You will automatically be muted when joining the conference. To raise your hand or notify the call manager for attention, please dial *9 on your phone during the call. When appropriate the call manger will unmute your line and the system will notify you that you can now speak. Public comments may not apply to all items on the agenda.

To view the web presentation or listen to audio without participating, please visit <http://edc.texascitytx.gov>

You will then be redirected to the conference and given instructions to enable viewing. We ask that if you will be joining the telephone conference to speak, please mute your computer audio. When using telephone audio with computer audio on, a feedback loop can be created causing disruptive echoing or a loud static. Disruptive audio will cause your line to be muted by the call manager.

After the meeting, a recording of this meeting's audio will be made available to the public.

1. ROLL CALL

2. NEW BUSINESS
 - a. Consider approval of the October 21, 2020 Meeting Minutes.

 - b. Consider and take action on Resolution No. 20-46, approval of a Sign Agreement with 6th Street Vault LLC located at 701 6th Street North.

 - c. Consider and take action on Resolution No. 20-47, approving a Property Improvement Agreement with 6th Street Vault LLC located at 701 6th Street North.

- d. Consider and take action on Resolution No. 20-48, approving an Exclusive License Agreement with 6th Street Vault LLC for 701 6th Street North.
 - e. Consider and take action on Resolution No. 20-49, approving a Property Improvement Agreement with Jason Alcorn for 525 7th Avenue North.
 - f. Consider and take action on Resolution No. 20-50, approving a Ground Lease with E. Nicole Baxley for 718 6th Street North.
 - g. Consider and take action on Resolution No. 20-51, approving a Ground Lease with Joey Quiroga for 718 6th Street North.
 - h. Consider and take action on Resolution No. 20-52, approving a Ground Lease with Patricia Ramirez for 718 6th Street North.
3. UPDATES
- a. Texas City- La Marque Chamber of Commerce Update
 - b. City of Texas City Staff Update
4. BOARD COMMENTS
5. ADJOURNMENT

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS, AT A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AND ON THE CITY'S WEBSITE ON DECEMBER 11, 2020 PRIOR TO 3:00 P.M., AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

Texas City Economic Development Corporation

TCEDC Agenda

2. a.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider approval of the October 21, 2020 Meeting Minutes.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Minutes

TEXAS CITY ECONOMIC DEVELOPMENT CORPORATION
BOARD OF DIRECTORS MEETING

MINUTES

OCTOBER 21, 2020 - 3:00 p.m.

VIA ZOOM

The Texas City Economic Development Corporation Board of Directors met October 21, 2020, at 3:00 p.m., via ZOOM. A quorum having been met, the meeting was called to order at 3:04 p.m. by Mark Ciavaglia with the following in attendance:

(1) ROLL CALL

Present: Mark Ciavaglia, Chairperson
Matthew T. Doyle, Mayor / Director
Mitchell Chuoke, Director
Randy Dietel, Director
Laura Boyd, Ex-Officio Member / Treasurer

Absent: Phil Roberts, Director

Staff Present: Nicholas Finan, Executive Director of Management Services
Rhomari Leigh, Board Secretary
Garrett McLeod, Economic Development Director
George Fuller, City Staff
Ryan McClellan, City Staff

Attendees: Page Michel
Melissa Duarte

(2) NEW BUSINESS

- (a) Consider approval of the minutes from the October 7, 2020, TCEDC Meeting.

Motion by Director Randy Dietel, Seconded by Mayor / Director Matthew T. Doyle

Vote: 4 - 0 CARRIED

- (b) Consider and take action on Resolution No. 20-41, approving the removal of asbestos and demolition of 714 9th Street North.

Mark Ciavaglia, Chairperson, make a board decision to discuss and approve items b, c, d, e, and f, at once.

Nicholas Finan, Executive Director of Management Services, and George Fuller, City Staff, explained the condition and demo prices of each location.

Motioned by Matthew Doyle, seconded by Randy Dietel to approve items b, c, d, e, and f.

Vote: 4 - 0 CARRIED

- (c) Consider and take action on Resolution No. 20-42, approving the removal of asbestos and demolition of 1117-1119 6th Street North.

Vote: 4 - 0 CARRIED

- (d) Consider and take action on Resolution No. 20-43, approving the removal of asbestos and demolition of 926 3rd Avenue North.

Vote: 4 - 0 CARRIED

- (e) Consider and take action on Resolution No. 20-44, approving the removal of asbestos and demolition of 1415 6th Street North.

Vote: 4 - 0 CARRIED

- (f) Consider and take action on Resolution No. 20-45, approving the removal of asbestos and demolition of 1211 9th Street North.

Vote: 4 - 0 CARRIED

(3) UPDATES

Nicholas Finan, Executive Director of Management Services, stated that soon Garrett McLeod will come to the board for approval or ratification of a few Mobile Food Unit leases.

(4) BOARD COMMENTS

(5) ADJOURNMENT

Having no further business, Mark Ciavaglia made a Motion to ADJOURN at 3:19 p.m. The meeting was adjourned.

Board Secretary
Texas City Economic Development Corporation

Date Approved: _____

TCEDC Agenda

2. b.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-46, approval of a Sign Agreement with 6th Street Vault LLC located at 701 6th Street North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Staff Report



Staff Report

December 16, 2020

Texas City Economic Development Corporation

Subject: Consideration of a Business Owner Sign Agreement between the Texas City Economic Development Corporation, and 6th Street Vault LLC at 701 6th Street North.

I. **Background**

- a. Eric Torres (Agent for 6th Street Vault) the owner of Pallet Bar will be bringing a new entertainment venue to 6th Street, located at 701 6th Street.
- b. Eric Torres had previously held discussions with city staff, to discuss the need for new signage located at the future Pallet Bar.

II. **Current Situation**

- a. The Economic Development Corporation is requested to consider approval of a Business Owner Sign Agreement for the Pallet Bar located at 701 6th Street.
- b. The agreement states that the Texas City Economic Development Corporation agrees to:
 - i. Pay TNT for two approved signs that are in line with the Signage Guidelines for 6th Street written by city staff.
 - ii. TCEDC will arrange with TNT to meet and finalize the signage.
- c. The agreement states that the owner (Eric Torres) will:
 - i. Maintain the business located at 701 6th Street North for a minimum of a five year period.
 - ii. Enter into a separate agreement with TNT for construction and placement of the sign.
 - iii. One sign will be placed on the south side of the east wall of the property. The second sign will be placed on the east side of the south wall of the property.
 - iv. Maintain attractive appearance on the exterior of the property of the minimum of a five year period.
 - v. Keep and maintain the signs on the property secured and in good repair for a minimum of a five year period.
 - vi. Use only approved signs provided by TNT.

III. **Recommendation**

- a. Approve the Business Owner Sign Agreement between the TCEDC and 6th Street Vault LLC.

IV. **Fiscal Impact Report**

- a. Staff: Garrett McLeod
- b. Funding Source: TCEDC
- c. Cost: Not to exceed \$2,000

V. **Economic Impact**

- a. Enhances property values, safety, and aesthetics on a significant community corridor along 6th Street.

Respectfully Submitted,

Garrett C. McLeod
Economic Development Director

TCEDC Agenda

2. c.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-47, approving a Property Improvement Agreement with 6th Street Vault LLC located at 701 6th Street North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

agreement

**BUSINESS OWNER REIMBURSEMENT AGREEMENT WITH TEXAS CITY
ECONOMIC DEVELOPMENT CORPORATION**

This Business Owner Reimbursement Agreement (“Agreement”) is entered into this 16th day of December 2020, between the Texas City Economic Development Corporation, (“TCEDC”) and 6th St Vault, LLC (“Owner”) 701 – 6th Street North, Texas City, Texas, 77590.

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to provide for consistent, attractive, and maintained parking and access for businesses within the 6th Street area of the City of Texas City.

II. OBLIGATIONS OF THE TCEDC

1. TCEDC agrees to pay the cost(s) associated with converting the on-street parking along 7th Ave. North between 6th Street and 7th Avenue from angled parking to parallel parking.

III. OBLIGATIONS OF THE OWNER

1. Owner covenants and agrees it will maintain a place of business at 701 – 6th Street North, Texas City, Texas 77590 (the “Property”) for a minimum five (5) year period from the date of this Agreement.
2. Owner covenants and agrees that it will maintain public access for pedestrians at a minimum of four feet between any structures on the Property and the public street.
3. Owner must be in compliance with all requirements for its TABC permit(s) and at all times acknowledge that the City of Texas City has granted Owner an easement consisting of 1,196 sq. ft. of sidewalk along 7th Ave. North between 6th Street and 7th Street in order to serve customers and be in compliance the requirements of the TABC.
4. The Owner must maintain the sidewalk in a walkable condition and further keep it free of debris, litter, trash, etc.
5. Additionally, the Owner agrees that it will maintain the Property for a minimum five (5) year period from the date of this Agreement and otherwise comply with all other applicable City of Texas City Ordinances.

IV. MISCELLANEOUS PROVISIONS

1. It is expressly understood and agreed that under this Agreement the TCEDC neither waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

2. Each party to this Agreement agrees that in any legal action brought hereunder, venue shall lie in Galveston County, Texas. The validity of this Agreement and of its terms and provision, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas.
3. In case any one or more of the provisions contained in the Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such fact shall not affect any other provision thereof and this Agreement shall be construed as if the stricken provision had never been contained herein.
4. This Agreement may be amended or modified by the mutual agreement of both parties hereto in writing, such writing to be attached hereto and incorporated unto this Agreement.
5. This Agreement contains all commitments and obligations of the parties and represents the entire agreement of said parties. Verbal or written conditions not contained herein shall not have any force or effect to alter any term of this Agreement.
6. This Agreement may be terminated at any time before its expiration with mutual consent of both parties. Neither party shall be responsible for damages or expected to fulfill its obligations under this Agreement should an act of God or other unforeseen catastrophe occur and cause such damage or prevent the performance of such obligation.
7. The captions, numbering sequences, titles, paragraph headings, punctuation, and organization used in this Agreement are for convenience only and shall in no way define, limit, or describe the scope or intent of this Agreement or any part of it.
8. By execution of this Agreement, the parties acknowledge that they have read and understand each provision, term, and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.
9. Any notices due under the provisions of this Agreement shall be made in writing and shall be addressed to the following:

Texas City Economic Development Corporation:

TCEDC Manager
City of Texas City
1801 - 9th Avenue North
Texas City, Texas 77590

Owner:

6th St Vault, LLC
701 – 6th Street North
Texas City, Texas, 77590
Attn: Eric A. Torres

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement on the date first above written.

Texas City Economic Development Corporation:

By: _____
Mark Ciavaglia, Chairman TCEDC

6th St Vault, LLC

By: _____
Eric A. Torres, Manager

TCEDC Agenda

2. d.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-48, approving an Exclusive License Agreement with 6th Street Vault LLC for 701 6th Street North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

agreement

Staff Report

EXCLUSIVE LICENSE AGREEMENT

This Exclusive License Agreement (the “Agreement”) is made and entered into as of this 16th day of December 2020 by and between **6 St. Vault, LLC** (“6th Street”) 701 6th Street North, Texas City, Texas 77590, the **Texas City Economic Development Corporation** (“TCEDC”) and the **City of Texas City** (“COTC”) 1801 9th Avenue North, Texas City, Texas 77590 collectively referred to as the “Parties.”

RECITALS

WHEREAS, 6th St. Vault, LLC owns the building at 701 6th Street North, Texas City, Texas 77590. (the “Premises”);

WHEREAS, the COTC owns and maintains the sidewalk in front of the Premises;

WHEREAS, 6th Street Vault LLC desires to utilize and license approximately 1,196 sq. ft. (the “Frontage”) of the sidewalk along the north side of 7th Avenue North between 6th Street and 7th Street so that 6th St. Vault LLC can serve customers alcohol and be in compliance with the Texas Alcohol and Beverage Commission (“TABC”) rules and regulations; and

WHEREAS, the COTC desires to grant an exclusive license solely and only to 6th St. Vault LLC for the Frontage on the terms provided herein.

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

1. COTC owns the Frontage and has the full authority and right to grant an exclusive license it to 6th Street. The Frontage is more specifically described and depicted on Exhibit “A” attached hereto and incorporated by reference.
2. The term of such exclusive license is for (1) year and shall automatically renew each year.
3. 6th Street has the right to incorporate any part of the Frontage as described on Exhibit “A” into its existing use of the Premises.
4. It is understood and agreed that this right to use the Frontage is granted only to 6th Street and may not be assigned for any reason whatsoever and shall be utilized exclusively by 6th Street for its business located at 701 6th Street North, Texas City, Texas 77590.
5. 6th Street covenants and agrees that it shall maintain the Frontage at all times in a condition acceptable to the COTC in its sole discretion.
6. 6th Street covenants and agrees to absolutely and strictly adhere to any and all State, county, and/or municipal laws, rule(s), regulations and ordinances, including but not limited to all TABC rules and regulations as it pertains to 6th Street’s business operation(s) of the leased Premises and the Frontage shown on Exhibit “A”.

7. 6th Street further acknowledges and understands that any violation(s) of the aforesaid, as determined in the sole and absolute discretion of the TCEDC and/or COTC, shall be a material default under the terms of this Agreement subjecting it to immediate termination without notice or opportunity to cure.

8. 6th Street agrees to indemnify, defend and hold harmless, the TCEDC and COTC, its officers, directors, officials, employees and agents from and against any and all loss, liability, claim, damage and other expense (including reasonable attorney's fees) arising out of any use of the Footage in accordance with the terms of this Agreement.

9. This Agreement may be terminated by either party, with or without cause by providing the non-terminating party thirty (30) days' written notice.

10. Any notices due under the provisions of this Agreement shall be made in writing and shall be addressed to the following:

Texas City Economic Development Corporation:

City of Texas City
1801 - 9th Avenue North
Texas City, Texas 77590
Attention: Manager

6th Street:

6 St. Vault, LLC
701 6th Street North
Texas City, Texas 77590
Attention: Eric A. Torres

City of Texas City, Texas:

City of Texas City
1801 - 9th Avenue North
Texas City, Texas 77590
Attention: City Attorney

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement on the date first above written.

Texas City Economic Development Corporation:

By: _____
Mark Ciavaglia, Chairman TCEDC

6th St Vault, LLC

By: _____
Eric A. Torres, Manager

City of Texas City, Texas

By: _____
Dedrick Johnson Sr., Mayor



Staff Report

December 16, 2020

Texas City Economic Development Corporation

Subject: Consideration of an Exclusive License Agreement between the Texas City Economic Development Corporation, 6th Street Vault LLC, and the City of Texas City, to utilize and license approximately 1,196 sq. ft. of sidewalk along 7th Avenue North.

I. **Background**

- a. Eric Torres (Agent for 6th Street Vault) the owner of the Pallet Bar will be bringing a new entertainment venue to 6th Street, located at 701 6th Street.
- b. Eric Torres had previously held discussions with city staff, to discuss the need for parking at the venue and 6th Street.

II. **Current Situation**

- a. The Economic Development Corporation is requested to consider approval of an Exclusive License Agreement for approximately 1,196 sq. ft. on the North Side of 7th Avenue North.
- b. The agreement states that the Texas City Economic Development Corporation and the City of Texas City agrees to allow:
 - i. 6th Street Vault LLC to utilize and license 1,196 sq. ft. of sidewalk so customers can be served alcohol and be in compliance with the Texas Alcohol and Beverage Commission rules and regulations.
 - ii. The term for the exclusive license is for one (1) year and shall automatically renew each year.
- c. The agreement states that the owner (Eric Torres) will:
 - i. Only utilize the frontage for the Pallet Bar, located at 701 6th Street North, Texas City, Texas.
 - ii. Maintain the frontage and keep it free of debris, litter, trash, high grass, etc.

III. **Recommendation**

- a. Approve the Exclusive License Agreement between the TCEDC and Eric Torres.

IV. **Fiscal Impact Report**

- a. Staff: Garrett McLeod
- b. Funding Source: TCEDC
- c. Cost: \$0

V. **Economic Impact**

- a. Enhances property values, safety, and aesthetics on a significant community corridor along 6th Street.

Respectfully Submitted,

Garrett C. McLeod
Economic Development Director

TCEDC Agenda

2. e.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-49, approving a Property Improvement Agreement with Jason Alcorn for 525 7th Avenue North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

agreement

Staff Report

**BUSINESS OWNER REIMBURSEMENT AGREEMENT WITH TEXAS CITY
ECONOMIC DEVELOPMENT CORPORATION**

This Business Owner Reimbursement Agreement (“Agreement”) is entered into this 16th day of December 2020, between the Texas City Economic Development Corporation, (“TCEDC”) and EverCorn Entertainment, LLC d/b/a Texas City Live Bar & Grill (“Owner”) 622 6th St. North, Texas City, Texas, 77590.

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to allow the Owner to utilize the property known as 525 7th Avenue North, Texas City, Texas (“the Property”) as shown on Exhibit A attached as parking public only.

II. OBLIGATIONS OF THE TCEDC

1. TCEDC agrees to grant to Owner the exclusive rights to utilize the Property for events/entertainment activities that take place at the Texas City Live Bar and Grill , 525 7th Avenue North, Texas City, Texas 77590 that are unique, and not regular acts, activities and/or entertainment at the Texas City Live Bar and Grill. The right to use the Property for parking will only be allowed with prior approval from the TCEDC manager.
2. Non-exclusive rights as general public parking for customers of the Texas City Live Bar and Grill when the TCEDC, City of Texas City, or other entities are not hosting a special event on 6th Street, or within the 6th Street Revitalization District where the TCEDC wishes to reserve the parking for such events.
3. TCEDC agrees to work directly with the City of Texas City’s Public Works Department for the purpose of designing and constructing curb cuts on the property.
4. TCEDC agrees to work directly with the City of Texas City’s Public Works and Building Inspections Departments for the purpose of waiving all permitting fees related to the paving and striping of the parking lot located at the property.

III. OBLIGATIONS OF THE OWNER

1. Owner covenants and agrees to make certain improvements to the Property acceptable to the City of Texas City’s Building Official(s) for parking, including entrance and exit driveways and will coordinate with the City of Texas City Public Works Department for the completion of all work.
2. The Owner must maintain the Property and keep it free of debris, litter, trash, high grass, and other unsightly conditions and maintain the Property in a condition suitable for parking, free of potholes, ruts, obstacles, etc.
3. The Owner may not use the Property for parking of vehicles that remain on the Property

for more than one (1) day, overnight, storage or for temporary living quarters.

4. The Owner may only utilize the Property for parking, outside seating, or other activities.
5. Additionally, the Owner agrees to otherwise comply with all other applicable City of Texas City Ordinances.

IV. MISCELLANEOUS PROVISIONS

1. It is expressly understood and agreed that under this Agreement the TCEDC neither waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.
2. Each party to this Agreement agrees that in any legal action brought hereunder, venue shall lie in Galveston County, Texas. The validity of this Agreement and of its terms and provision, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas.
3. In case any one or more of the provisions contained in the Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such fact shall not affect any other provision thereof and this Agreement shall be construed as if the stricken provision had never been contained herein.
4. This Agreement may be amended or modified by the mutual agreement of both parties hereto in writing, such writing to be attached hereto and incorporated unto this Agreement.
5. This Agreement contains all commitments and obligations of the parties and represents the entire agreement of said parties. Verbal or written conditions not contained herein shall not have any force or effect to alter any term of this Agreement.
6. This Agreement may be terminated at any time before its expiration with mutual consent of both parties. Neither party shall be responsible for damages or expected to fulfill its obligations under this Agreement should an act of God or other unforeseen catastrophe occur and cause such damage or prevent the performance of such obligation.
7. The captions, numbering sequences, titles, paragraph headings, punctuation, and organization used in this Agreement are for convenience only and shall in no way define, limit, or describe the scope or intent of this Agreement or any part of it.
8. By execution of this Agreement, the parties acknowledge that they have read and understand each provision, term, and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.

9. Any notices due under the provisions of this Agreement shall be made in writing and shall be addressed to the following:

Texas City Economic Development Corporation:

TCEDC Manager
City of Texas City
1801 - 9th Avenue North
Texas City, Texas 77590

Owner:

EverCorn Entertainment, LLC d/b/a Texas City Live Bar & Grill
622 6th Street North
Texas City, Texas 77590
Attn: Jason Allcorn

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement on the date first above written.

Texas City Economic Development Corporation:

By: _____
Mark Ciavaglia, Chairman TCEDC

**EverCorn Entertainment, LLC d/b/a Texas City
Live Bar & Grill**

By: _____
Jason Allcorn, Manager



Staff Report

December 16, 2020

Texas City Economic Development Corporation

Subject: Consideration of a Business Owner Agreement between the Texas City Economic Development Corporation, 6th Street Vault LLC, and the City of Texas City, to convert on-street parking along 7th Avenue from angled parking to parallel parking.

I. **Background**

- a. Eric Torres (Agent for 6th Street Vault) the owner of the Pallet Bar will be bringing a new entertainment venue to 6th Street, located at 701 6th Street.
- b. Eric Torres had previously held discussions with city staff, to discuss the need for parking at the venue and 6th Street.

II. **Current Situation**

- a. The Economic Development Corporation is requested to consider approval of a Business Owner Agreement with 6th Street Vault for the purpose of changing the parking along 7th Avenue.
- b. The agreement states that the Texas City Economic Development Corporation agrees to allow:
 - i. Pay the costs associated with converting the on-street parking along 7th Avenue North next to 701 6th Street, from angled parking to parallel parking.
- c. The agreement states that the owner (Eric Torres) will:
 - i. Maintain public access for pedestrians at a minimum of four feet between and structures on the property and the public street.
 - ii. Maintain the frontage and keep it in walkable condition.
 - iii. Maintain the property and business for a minimum of five (5) years.

III. **Recommendation**

- a. Approve the Business Owner Agreement between the TCEDC and Eric Torres.

IV. **Fiscal Impact Report**

- a. Staff: Garrett McLeod
- b. Funding Source: TCEDC
- c. Cost: \$0

V. **Economic Impact**

- a. Enhances property values, safety, and aesthetics on a significant community corridor along 6th Street.

Respectfully Submitted,

Garrett C. McLeod
Economic Development Director

TCEDC Agenda

2. f.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-50, approving a Ground Lease with E. Nicole Baxley for 718 6th Street North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Lease

Staff Report

GROUND LEASE

1. **Parties.** This GROUND LEASE (“Lease”) is entered into by the Texas City Economic Development Corporation (“Landlord”), and E. Nicole Baxley (“Tenant”).

2. **Premises.** Landlord is the owner of unimproved real property (“Property”) located at 718 - 6th Street North, Texas City, Texas 77590, and containing approximately 13,750 square feet as depicted on Exhibit “A” attached hereto. Landlord desires to lease to Tenant a portion of the Property as depicted on Exhibit “A” of approximately 250 square feet (herein “Premises”), for the term, at the rental rate, and on all the conditions in this Lease.

3. **Term.**

- (a) **Term.** The term of this Lease shall be on a month to month basis commencing on January 1, 2021 unless terminated earlier under any provision of this Lease. Otherwise, either Party may terminate this Lease with ninety (90) days prior written notice.
- (b) **Delay in Commencement.** [INTENTIONALLY DELETED]
- (c) **Early Possession.** If Landlord permits Tenant to occupy the Premises before the commencement date of the term, the occupancy will be subject to all the provisions of this Lease. The early possession will not advance the termination date of this Lease.
- (d) **Delivery of Possession.** Tenant will be deemed to have taken possession of the Premises when Landlord delivers possession of the Premises to Tenant.

4. **Rent.**

- (a) **Monthly Rent.** Tenant will pay to Landlord as monthly rental for the use and occupancy of the Premises during the Term, beginning on the Commencement Date, without deduction, setoff, prior notice, or demand, the sum of TWO HUNDRED AND 00/100 DOLLARS (\$200.00) per month. The Rent will be payable in advance on the first (1st) day of each month in equal monthly amounts (“Monthly Rent”). If this Ground Lease begins on a date other than the first or last day of the month, the rent will be prorated. Any amount of Rent not paid when due will bear interest at the annual rate of five percent (5%) (“Default Rate”), payable from the date the cure period expires until paid. If Tenant does not timely pay the Monthly Rent by the first (1st) day of any month under this Ground Lease, then, in addition to all other rights and remedies available to Landlord, a late charge equal to five percent (5%) will be assessed and will be immediately due and payable by Tenant to Landlord for each late payment.

- (b) For purposes of this Lease, the obligations of Tenant in ¶ 4(a) shall be defined at "Rent."
- (c) **Additional Charges.** This Lease is what is commonly called a "net lease," which means that Landlord will receive the rent stated in Subsection 4(a) free and clear of any and all impositions, taxes, liens, charges, or expenses in connection with the ownership and operation of the Premises. In addition to the rent under Subsection 4(a), Tenant will pay to the appropriate parties all impositions, operating charges, maintenance charges, construction costs, and any other charges, costs, and expenses that arise or may be contemplated under any provisions of this Lease during the term. All of these charges, costs, and expenses will constitute additional charges, and if Tenant fails to pay any of the additional charges, Landlord will have the same rights and remedies as otherwise provided in this Lease for the failure to pay rent. It is the intention of the parties that this Lease will not be terminable for any reason by Tenant and that Tenant will not be entitled to any abatement of or reduction in rent, except as expressly provided. Any present or future law to the contrary will not alter this agreement of the parties.
- (d) Landlord will continue to provide two (2) electrical services and one (1) water meter to the Property. Tenant expressly agrees that Landlord is not, nor will be, required to furnish to Tenant any water, sewer, gas, heat, electricity, light, power, or any other facilities, equipment, labor, materials, or services of any kind, that are not available to the Property other than those aforementioned. Tenant shall pay or cause to be paid promptly when due all charges for water, electricity, sanitary sewer, dumpster or any other utility services furnished to the Property.

5. Security Deposit.

Tenant will pay or has paid to Landlord a Security Deposit ("Security Deposit") in the amount of Four Hundred Dollars (\$400.00) as security for the performance of Tenant's obligations under this Ground Lease. Landlord may apply any or all of the Security Deposit toward the payment of any sum or the performance of any obligations that Tenant fails to timely pay or perform. The Security Deposit will not be considered an advance payment of Rent or a measure of Landlord's damages on Tenant's default under this Ground Lease.

6. Use.

- (a) **Use.** During the Term, Tenant may use the Premises and any Improvements constructed on the Property for temporary parking and the operation of a mobile food unit. ("Permitted Use").

- (b) Compliance with Law. Tenant will, at its expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term regulating the use by Tenant of the Premises. Tenant shall not violate any health, building, sign, parking law, ordinance, or regulation of any governmental authority applicable to Tenant's use of and business operations on the Premises, including but not limited to any and all permits or licenses as required by the Galveston County Health District and the City of Texas City. If required by a governmental authority solely by reason of Tenant's use of the Property, Tenant will make repairs, improvements, and alterations as long as they are completed in conformity. Tenant will not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or tend to unreasonably disturb any other tenants.
- (c) Condition of Premises. Tenant accepts the Premises in its current condition as of the date of possession under this Lease, subject to all applicable zoning, municipal, county, and state laws, ordinances, and regulations governing and regulating the use of the Premises and accepts this Lease subject to the same terms. Tenant acknowledges that neither Landlord nor Tenant's agent has made any representation or warranty about the suitability of the Premises for the conduct of Tenant's business.
- (d) Insurance Cancellation. Despite the provisions of Subsection 6(a), no use will be made or permitted to be made of the Premises that will cause the cancellation of any insurance policy covering the Premises or any building on the Premises, and if Tenant's use of the Premises causes an increase in insurance rates, Tenant will pay the increase.
- (e) Landlord's Rules and Regulations. Tenant will faithfully observe and comply with the rules and regulations that Landlord makes. A copy of the rules and regulations is attached to this Lease. Landlord reserves the right to make all reasonable modifications to the rules and regulations, which will be binding once a copy of them is delivered to Tenant. Landlord will not be responsible to Tenant for the nonperformance of any of the rules and regulations by any other tenants or occupants.

7. Maintenance Repairs and Alterations.

- (a) Tenant's Obligations. Tenant will keep in good order, condition, and repair the Premises and every part of them, structural or nonstructural, and all adjacent sidewalks, landscaping, driveways, parking lots, fences, and signs located in the areas adjacent to and included with the Premises. Landlord will incur no expense and have no obligation of any kind in connection with the maintenance of the Premises and Tenant expressly waives the benefits of any statute now or later in effect that would

otherwise give Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition, and repair.

- (b) Surrender. On the last day of the term or on any earlier termination, Tenant will surrender the Premises to Landlord in good condition, broom clean, except for ordinary wear and tear. Tenant will repair any damage to the Premises occasioned by its use or by the removal of Tenant's trade fixtures, furnishings, and equipment under Subsection 7(d)(3), which will induce the patching and filling of holes and repair of structural damage.
- (c) Landlord's Rights. If Tenant fails to perform its obligations under this Article, Landlord may at its option enter the Premises, after ten (10) days' written notice to Tenant, and put the Premises in good order, condition, and repair. The cost of doing so plus interest at the rate of ten percent (10%) per year will become due and payable as additional rent to Landlord together with Tenant's next rent installment.
- (d) Alterations and Additions.
 - (1) Tenant will not, without Landlord's written consent, make any alterations, additions, or improvements in, on, or about the Premises. As a condition of giving its consent, Landlord may require that Tenant remove any alterations, additions, improvements, or utility installations at the expiration of the term and to restore the Premises to their previous condition.
 - (2) Before commencing any work relating to alterations, additions, and improvements affecting the Premises, Tenant will notify Landlord in writing of the expected date of commencement. Landlord will then have the right to post and maintain on the Premises any notices to protect the Premises and Landlord from mechanics' liens, materialmen's liens, or any other liens. Tenant will pay, when due, all claims for labor or materials furnished to or for Tenant at or for use on the Premises. Tenant will not permit any mechanics' or materialmen's liens to be levied against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents or contractors in connection with any work performed or claimed to have been performed on the Premises by or at the direction of Tenant.
 - (3) Unless Landlord requires their removal under Subsection 7(d)(1), all alterations, improvements, additions, machinery, equipment, and trade fixtures made on the Premises will become the property of Landlord and remain on and be surrendered with the Premises

at the expiration of the term.

8. Insurance and Indemnity.

- (a) Insuring Party. As used in this Article, the term “insuring party” means the party who has the obligation to obtain the insurance required under this Lease. The insuring party will be Melinda Medellin Quiroga, d/b/a *Bronco Burritos*. Whether the insuring party is Landlord or Tenant, Tenant will, as additional rent for the Premises, pay the cost of all required insurance. If Landlord is the insuring party, Tenant will, within ten (10) days after demand by Landlord, reimburse Landlord for the cost of the insurance.
- (b) Liability Insurance. Tenant will obtain and maintain during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all-areas insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all appurtenant areas. The insurance will be in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence. The limits of the insurance will have a Landlord’s Protective Liability endorsement attached. If Tenant fails to obtain and maintain the insurance, Landlord may, but is not required to, obtain and maintain it at Tenant's expense.
- (c) Property Insurance. [INTENTIONALLY DELETED]
- (d) Insurance Policies. Insurance required under this Lease will be in companies rated A+ AAA or better in “Best’s Insurance Guide.” The insuring party will deliver before possession to the other party copies of insurance policies or certificates evidencing the existence and amounts of the insurance with loss-payable clauses satisfactory to Landlord. No policy will be cancelable or subject to reduction of coverage or other modification except after thirty (30) days’ written notice to Landlord. If Tenant is the insuring party, Tenant will, at least thirty (30) days before any policies expire, provide Landlord with renewals or “binders,” or Landlord may order the insurance and charge the cost to Tenant, which will be payable by Tenant on demand..
- (e) Hold Harmless. Tenant will indemnify, defend, and hold Landlord harmless from any and all claims arising from Tenant’s use of the Premises or from the conduct of its business or from any activity, work, or things that may be permitted or suffered by Tenant on or about the Premises. Tenant assumes all risk of damage to property or injury to

persons on or about the Premises from any cause, and Tenant waives all claims for such damage or injury against Landlord, except where it arises from the negligence of Landlord.

- (g) Exemption of Landlord from Liability. Tenant agrees that Landlord will not be liable for injury to Tenant's business or any loss of income or for damage to the goods, wares, merchandise, or other property of tenant, Tenant's employees, invitees, customers, or any other person on or about the Premises..

9. [INTENTIONALLY DELETED]

10. **Real Property Taxes.** [INTENTIONALLY DELETED]

11. **Common Areas.** [INTENTIONALLY DELETED]

12. **Utilities.** Rent is inclusive of electricity, water and refuse. Tenant will be responsible for the proper disposal of all wastewater.

13. **Assignment and Subleasing.**

- (a) **Landlord's Consent Required.** Tenant will not voluntarily or by operation of law assign, transfer, mortgage, sublease, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises without Landlord's written consent, which Landlord may withhold for any reason. Any attempted assignment, transfer, mortgage, encumbrance, or subleasing without consent will be void and will constitute a breach of the Lease. Any transfer of Tenant's interest in this Lease or in the Premises from Tenant or change in the ownership will be deemed a prohibited assignment within the meaning of this Section.
- (b) **No Release of Tenant.** Regardless of Landlord's consent, no assignment or subleasing will release Tenant of its obligation to pay the rent and to perform all of its other obligations for the term of this Lease. The acceptance of rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease. Consent to one assignment or subleasing will not be deemed consent to any later assignment or subleasing.

14. **Defaults and Remedies.**

- (a) **Defaults.** The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant:
 - (1) The vacating or abandonment of the Premises by Tenant.

- (2) The failure by Tenant to make any payment of rent or any other required payment when due, if such failure continues for three (3) days after written notice from Landlord.
 - (3) The failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, other than described in Subsection 14(a)(2) above, if such failure continues for thirty (30) days after written notice from Landlord to Tenant; however, if the nature of Tenant's default is such that more than thirty (30) days are required for performance, Tenant will not be in default if Tenant commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
- (b) Remedies in Default. If there is any default or breach by Tenant, Landlord may at any time, with or without notice or demand and without limiting Landlord in the exercise of any other right or remedy that Landlord may have, do any of the following:
- (1) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease will terminate, and Tenant will immediately surrender possession of the Premises to Landlord.
 - (2) Maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Premises. Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due.
 - (3) Pursue any other remedy now or later available to Landlord under the laws or judicial decisions of the State in which the Premises are located.
- (c) Default by Landlord. Landlord will not be in default unless Landlord fails to perform its obligations within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address will have been furnished to Tenant in writing, specifying how Landlord has failed to perform its obligation; however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, Landlord will not be in default if Landlord commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
- (d) Late Charges. Tenant acknowledges that late payment of rent and other

amounts will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. These costs include but are not limited to processing and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other amount due from Tenant is not received by Landlord or Landlord's designee within ten (10) days after written notice that the amount is past due, Tenant will pay to Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that the late charge will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of its other rights and remedies.

15. **Condemnation.** [INTENTIONALLY DELETED]

16. **General Provisions.**

- (a) Offset Statement. [INTENTIONALLY DELETED]
- (b) Landlord's Interests. [INTENTIONALLY DELETED]
- (c) Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, will in no way affect the validity of any other provision.
- (d) Interest on Past-Due Obligations. Except as expressly provided in this Lease, any amount not paid to Landlord when due will bear interest at ten percent (10%) per year from the due date. Payment of interest will not excuse or cure any default by Tenant under this Lease.
- (e) Time of Essence. Time is of the essence in this Lease.
- (f) Headings. Article and paragraph headings are not a part of this Lease's terms.
- (g) Entire Agreement; Amendment. This Lease contains the entire agreement between the parties. All understandings, discussions, and agreements previously made between the parties, written or oral, are superseded by this Lease, and neither party is relying on any warranty, statement, or representation not contained in this Lease. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.
- (h) Waivers. No waiver by Landlord of any provision of this Lease will be deemed a waiver of any other provision or of any later breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act will not be deemed to make unnecessary the obtaining of

Landlord's consent to or approval of any later act by Tenant. The acceptance of rent by Landlord will not be a waiver of any preceding breach by Tenant, other than Tenant's failure to pay the particular rent accepted, regardless of Landlord's knowledge of the preceding breach when the rent was accepted.

- (i) Recording. Tenant will not record this Lease in any public records. Any such recordation will be a breach of this Lease.
- (j) Holding Over. If Tenant remains in possession of the Premises or any part of them after the term expires with Landlord's express written consent, the occupancy will be a tenancy from month to month at a rental rate in the amount of the last monthly rent plus all other charges payable, and on the terms applicable to month-to-month tenancy.
- (k) Cumulative Remedies. No remedy or election under this Lease will be deemed exclusive, but instead will, wherever possible, be cumulative with all other remedies at law or in equity.
- (l) Covenants and Conditions. Each provision of this Lease performable by Tenant will be deemed both a covenant and a condition.
- (m) Binding Agreement; Governing Law. Subject to any provisions restricting assignment or subleasing by Tenant and subject to the provisions of Subsection 16(b), this Lease and all of its terms, provisions, and covenants will apply to, be binding on, and inure to the benefit of the parties and their respective successors and assigns. This Lease will be governed by and interpreted under the laws of the state where the Premises are located, regardless of any conflict-of-law rules.
- (n) Subordination. [INTENTIONALLY DELETED]
- (o) Attorney Fees. If either party brings an action to enforce the terms of this Lease or declare rights under it, the prevailing party in the action, at trial or on appeal, will be entitled to reasonable attorney fees to be paid by the losing party as fixed by the court. The term "prevailing party" means the party that has succeeded on a significant issue in the litigation and achieved a benefit with respect to the claims at issue, taken as a whole, whether or not damages are actually awarded to that party.
- (p) Landlord's Access. Landlord and its agents will have the right to enter the Premises at reasonable times for the purpose of inspecting and making alterations, repairs, improvements, or additions to the Premises as Landlord may deem necessary or desirable.
- (q) [INTENTIONALLY DELETED]

(r) [INTENTIONALLY DELETED]

(s) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the corporation in accordance with a duly adopted resolution of its board of directors or in accordance with its bylaws, and that this Lease is binding on the corporation.

17. **Performance Bond.** [INTENTIONALLY DELETED]

18. [INTENTIONALLY DELETED]

19. **Notices.** Any notice or demand under this Lease will be in writing and either served personally or sent by U.S. mail, postage prepaid, to the following addresses:

Landlord:

Texas City Economic Development Corporation
Attn: Garrett C. McLeod
1809 9th Ave. N.
Texas City, Texas 77590
Tel: (409) 948-3111

Tenant:

E. Nicole Baxley
617 8th Avenue North
Texas City, Texas 77590

The parties have executed this Lease at the place and on the dates specified below.

LANDLORD:

Texas City Economic Development
Corporation

By: _____

Name: Mark Ciavaglia

Title: Chairman

Effective Date: January 1, 2021

Executed at: _____

TENANT:

E. Nicole Baxley,

d/b/a *Dike Dogs*

E. Nicole Baxley, individually



Staff Report

December 16, 2020

Texas City Economic Development Corporation

Subject: Consideration of a Ground Lease between the Texas City Economic Development Corporation and E. Nicole Baxley (Dike Dogs) for “Spot A” at 718 6th Street North.

I. **Background**

- a. The food truck park located at 718 6th Street was not previously managed by the TCEDC or city staff.
- b. It was determined by city staff that it was beneficial to manage the site and the lease agreements with all tenants.

II. **Current Situation**

- a. The Economic Development Corporation is requested to consider approval of a Ground Lease with E. Nicole Baxley for “Spot A” at 718 6th Street.
- b. The agreement states that the Texas City Economic Development Corporation agrees to:
 - i. Lease approximately 250 square feet within the food truck park located at 718 6th Street.
 - ii. Pay for electricity, water, and the port-o-can on site.
- c. The agreement states that the owner (E. Nicole Baxley) will:
 - i. Pay the TCEDC \$200 monthly for rent.
 - ii. Pay the TCEDC \$400 as a security deposit for performance of tenant’s obligations.
 - iii. Tenant will need to seek prior approval from the TCEDC to sublease the space.
 - iv. The tenant agrees to comply with city ordinances and all zoning standards.

III. **Recommendation**

- a. Approve the Ground Lease between the TCEDC and E. Nicole Baxley (Dike Dogs).

IV. **Fiscal Impact Report**

- a. Staff: Garrett McLeod
- b. Funding Source: TCEDC
- c. Cost: Estimated Annual Cost (electricity, water, portable restroom): \$6,600
- d. Income: \$2,400 annually per truck = \$7,200

V. **Economic Impact**

- a. The food truck park has been an asset on 6th Street, and provides multiple dining options for patrons of 6th Street.

Respectfully Submitted,

Garrett C. McLeod
Economic Development Director

TCEDC Agenda

2. g.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-51, approving a Ground Lease with Joey Quiroga for 718 6th Street North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Lease

Staff Report

GROUND LEASE

1. **Parties.** This GROUND LEASE (“Lease”) is entered into by the Texas City Economic Development Corporation (“Landlord”), and Joey Quiroga (“Tenant”).

2. **Premises.** Landlord is the owner of unimproved real property (“Property”) located at 718 - 6th Street North, Texas City, Texas 77590, and containing approximately 13,750 square feet as depicted on Exhibit “A” attached hereto. Landlord desires to lease to Tenant a portion of the Property as depicted on Exhibit “A” of approximately 250 square feet (herein “Premises”), for the term, at the rental rate, and on all the conditions in this Lease.

3. **Term.**

- (a) **Term.** The term of this Lease shall be on a month to month basis commencing on January 1, 2021 unless terminated earlier under any provision of this Lease. Otherwise, either Party may terminate this Lease with ninety (90) days prior written notice.
- (b) **Delay in Commencement.** [INTENTIONALLY DELETED]
- (c) **Early Possession.** If Landlord permits Tenant to occupy the Premises before the commencement date of the term, the occupancy will be subject to all the provisions of this Lease. The early possession will not advance the termination date of this Lease.
- (d) **Delivery of Possession.** Tenant will be deemed to have taken possession of the Premises when Landlord delivers possession of the Premises to Tenant.

4. **Rent.**

- (a) **Monthly Rent.** Tenant will pay to Landlord as monthly rental for the use and occupancy of the Premises during the Term, beginning on the Commencement Date, without deduction, setoff, prior notice, or demand, the sum of TWO HUNDRED AND 00/100 DOLLARS (\$200.00) per month. The Rent will be payable in advance on the first (1st) day of each month in equal monthly amounts (“Monthly Rent”). If this Ground Lease begins on a date other than the first or last day of the month, the rent will be prorated. Any amount of Rent not paid when due will bear interest at the annual rate of five percent (5%) (“Default Rate”), payable from the date the cure period expires until paid. If Tenant does not timely pay the Monthly Rent by the first (1st) day of any month under this Ground Lease, then, in addition to all other rights and remedies available to Landlord, a late charge equal to five percent (5%) will be assessed and will be immediately due and payable by Tenant to Landlord for each late payment.

- (b) For purposes of this Lease, the obligations of Tenant in ¶ 4(a) shall be defined at “Rent.”
- (c) **Additional Charges.** This Lease is what is commonly called a “net lease,” which means that Landlord will receive the rent stated in Subsection 4(a) free and clear of any and all impositions, taxes, liens, charges, or expenses in connection with the ownership and operation of the Premises. In addition to the rent under Subsection 4(a), Tenant will pay to the appropriate parties all impositions, operating charges, maintenance charges, construction costs, and any other charges, costs, and expenses that arise or may be contemplated under any provisions of this Lease during the term. All of these charges, costs, and expenses will constitute additional charges, and if Tenant fails to pay any of the additional charges, Landlord will have the same rights and remedies as otherwise provided in this Lease for the failure to pay rent. It is the intention of the parties that this Lease will not be terminable for any reason by Tenant and that Tenant will not be entitled to any abatement of or reduction in rent, except as expressly provided. Any present or future law to the contrary will not alter this agreement of the parties.
- (d) Landlord will continue to provide two (2) electrical services and one (1) water meter to the Property. Tenant expressly agrees that Landlord is not, nor will be, required to furnish to Tenant any water, sewer, gas, heat, electricity, light, power, or any other facilities, equipment, labor, materials, or services of any kind, that are not available to the Property other than those aforementioned. Tenant shall pay or cause to be paid promptly when due all charges for water, electricity, sanitary sewer, dumpster or any other utility services furnished to the Property.

5. Security Deposit.

Tenant will pay or has paid to Landlord a Security Deposit (“Security Deposit”) in the amount of Four Hundred Dollars (\$400.00) as security for the performance of Tenant's obligations under this Ground Lease. Landlord may apply any or all of the Security Deposit toward the payment of any sum or the performance of any obligations that Tenant fails to timely pay or perform. The Security Deposit will not be considered an advance payment of Rent or a measure of Landlord's damages on Tenant's default under this Ground Lease.

6. Use.

- (a) **Use.** During the Term, Tenant may use the Premises and any Improvements constructed on the Property for temporary parking and the operation of a mobile food unit. (“Permitted Use”).

- (b) Compliance with Law. Tenant will, at its expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term regulating the use by Tenant of the Premises. Tenant shall not violate any health, building, sign, parking law, ordinance, or regulation of any governmental authority applicable to Tenant's use of and business operations on the Premises, including but not limited to any and all permits or licenses as required by the Galveston County Health District and the City of Texas City. If required by a governmental authority solely by reason of Tenant's use of the Property, Tenant will make repairs, improvements, and alterations as long as they are completed in conformity. Tenant will not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or tend to unreasonably disturb any other tenants.
- (c) Condition of Premises. Tenant accepts the Premises in its current condition as of the date of possession under this Lease, subject to all applicable zoning, municipal, county, and state laws, ordinances, and regulations governing and regulating the use of the Premises and accepts this Lease subject to the same terms. Tenant acknowledges that neither Landlord nor Tenant's agent has made any representation or warranty about the suitability of the Premises for the conduct of Tenant's business.
- (d) Insurance Cancellation. Despite the provisions of Subsection 6(a), no use will be made or permitted to be made of the Premises that will cause the cancellation of any insurance policy covering the Premises or any building on the Premises, and if Tenant's use of the Premises causes an increase in insurance rates, Tenant will pay the increase.
- (e) Landlord's Rules and Regulations. Tenant will faithfully observe and comply with the rules and regulations that Landlord makes. A copy of the rules and regulations is attached to this Lease. Landlord reserves the right to make all reasonable modifications to the rules and regulations, which will be binding once a copy of them is delivered to Tenant. Landlord will not be responsible to Tenant for the nonperformance of any of the rules and regulations by any other tenants or occupants.

7. Maintenance Repairs and Alterations.

- (a) Tenant's Obligations. Tenant will keep in good order, condition, and repair the Premises and every part of them, structural or nonstructural, and all adjacent sidewalks, landscaping, driveways, parking lots, fences, and signs located in the areas adjacent to and included with the Premises. Landlord will incur no expense and have no obligation of any kind in connection with the maintenance of the Premises and Tenant expressly waives the benefits of any statute now or later in effect that would

otherwise give Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition, and repair.

- (b) Surrender. On the last day of the term or on any earlier termination, Tenant will surrender the Premises to Landlord in good condition, broom clean, except for ordinary wear and tear. Tenant will repair any damage to the Premises occasioned by its use or by the removal of Tenant's trade fixtures, furnishings, and equipment under Subsection 7(d)(3), which will induce the patching and filling of holes and repair of structural damage.
- (c) Landlord's Rights. If Tenant fails to perform its obligations under this Article, Landlord may at its option enter the Premises, after ten (10) days' written notice to Tenant, and put the Premises in good order, condition, and repair. The cost of doing so plus interest at the rate of ten percent (10%) per year will become due and payable as additional rent to Landlord together with Tenant's next rent installment.
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 - (1) Tenant will not, without Landlord's written consent, make any alterations, additions, or improvements in, on, or about the Premises. As a condition of giving its consent, Landlord may require that Tenant remove any alterations, additions, improvements, or utility installations at the expiration of the term and to restore the Premises to their previous condition.
 - (2) Before commencing any work relating to alterations, additions, and improvements affecting the Premises, Tenant will notify Landlord in writing of the expected date of commencement. Landlord will then have the right to post and maintain on the Premises any notices to protect the Premises and Landlord from mechanics' liens, materialmen's liens, or any other liens. Tenant will pay, when due, all claims for labor or materials furnished to or for Tenant at or for use on the Premises. Tenant will not permit any mechanics' or materialmen's liens to be levied against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents or contractors in connection with any work performed or claimed to have been performed on the Premises by or at the direction of Tenant.
 - (3) Unless Landlord requires their removal under Subsection 7(d)(1), all alterations, improvements, additions, machinery, equipment, and trade fixtures made on the Premises will become the property of Landlord and remain on and be surrendered with the Premises

at the expiration of the term.

8. Insurance and Indemnity.

- (a) Insuring Party. As used in this Article, the term “insuring party” means the party who has the obligation to obtain the insurance required under this Lease. The insuring party will be Melinda Medellin Quiroga, d/b/a *Bronco Burritos*. Whether the insuring party is Landlord or Tenant, Tenant will, as additional rent for the Premises, pay the cost of all required insurance. If Landlord is the insuring party, Tenant will, within ten (10) days after demand by Landlord, reimburse Landlord for the cost of the insurance.
- (b) Liability Insurance. Tenant will obtain and maintain during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all-areas insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all appurtenant areas. The insurance will be in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence. The limits of the insurance will have a Landlord’s Protective Liability endorsement attached. If Tenant fails to obtain and maintain the insurance, Landlord may, but is not required to, obtain and maintain it at Tenant's expense.
- (c) Property Insurance. [INTENTIONALLY DELETED]
- (d) Insurance Policies. Insurance required under this Lease will be in companies rated A+ AAA or better in “Best’s Insurance Guide.” The insuring party will deliver before possession to the other party copies of insurance policies or certificates evidencing the existence and amounts of the insurance with loss-payable clauses satisfactory to Landlord. No policy will be cancelable or subject to reduction of coverage or other modification except after thirty (30) days’ written notice to Landlord. If Tenant is the insuring party, Tenant will, at least thirty (30) days before any policies expire, provide Landlord with renewals or “binders,” or Landlord may order the insurance and charge the cost to Tenant, which will be payable by Tenant on demand..
- (e) Hold Harmless. Tenant will indemnify, defend, and hold Landlord harmless from any and all claims arising from Tenant’s use of the Premises or from the conduct of its business or from any activity, work, or things that may be permitted or suffered by Tenant on or about the Premises. Tenant assumes all risk of damage to property or injury to

persons on or about the Premises from any cause, and Tenant waives all claims for such damage or injury against Landlord, except where it arises from the negligence of Landlord.

- (g) Exemption of Landlord from Liability. Tenant agrees that Landlord will not be liable for injury to Tenant's business or any loss of income or for damage to the goods, wares, merchandise, or other property of tenant, Tenant's employees, invitees, customers, or any other person on or about the Premises..

9. [INTENTIONALLY DELETED]

10. **Real Property Taxes.** [INTENTIONALLY DELETED]

11. **Common Areas.** [INTENTIONALLY DELETED]

12. **Utilities.** Rent is inclusive of electricity, water and refuse. Tenant will be responsible for the proper disposal of all wastewater.

13. **Assignment and Subleasing.**

- (a) **Landlord's Consent Required.** Tenant will not voluntarily or by operation of law assign, transfer, mortgage, sublease, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises without Landlord's written consent, which Landlord may withhold for any reason. Any attempted assignment, transfer, mortgage, encumbrance, or subleasing without consent will be void and will constitute a breach of the Lease. Any transfer of Tenant's interest in this Lease or in the Premises from Tenant or change in the ownership will be deemed a prohibited assignment within the meaning of this Section.
- (b) **No Release of Tenant.** Regardless of Landlord's consent, no assignment or subleasing will release Tenant of its obligation to pay the rent and to perform all of its other obligations for the term of this Lease. The acceptance of rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease. Consent to one assignment or subleasing will not be deemed consent to any later assignment or subleasing.

14. **Defaults and Remedies.**

- (a) **Defaults.** The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant:
 - (1) The vacating or abandonment of the Premises by Tenant.

- (2) The failure by Tenant to make any payment of rent or any other required payment when due, if such failure continues for three (3) days after written notice from Landlord.
 - (3) The failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, other than described in Subsection 14(a)(2) above, if such failure continues for thirty (30) days after written notice from Landlord to Tenant; however, if the nature of Tenant's default is such that more than thirty (30) days are required for performance, Tenant will not be in default if Tenant commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
- (b) Remedies in Default. If there is any default or breach by Tenant, Landlord may at any time, with or without notice or demand and without limiting Landlord in the exercise of any other right or remedy that Landlord may have, do any of the following:
- (1) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease will terminate, and Tenant will immediately surrender possession of the Premises to Landlord.
 - (2) Maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Premises. Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due.
 - (3) Pursue any other remedy now or later available to Landlord under the laws or judicial decisions of the State in which the Premises are located.
- (c) Default by Landlord. Landlord will not be in default unless Landlord fails to perform its obligations within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address will have been furnished to Tenant in writing, specifying how Landlord has failed to perform its obligation; however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, Landlord will not be in default if Landlord commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
- (d) Late Charges. Tenant acknowledges that late payment of rent and other

amounts will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. These costs include but are not limited to processing and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other amount due from Tenant is not received by Landlord or Landlord's designee within ten (10) days after written notice that the amount is past due, Tenant will pay to Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that the late charge will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of its other rights and remedies.

15. **Condemnation.** [INTENTIONALLY DELETED]

16. **General Provisions.**

- (a) Offset Statement. [INTENTIONALLY DELETED]
- (b) Landlord's Interests. [INTENTIONALLY DELETED]
- (c) Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, will in no way affect the validity of any other provision.
- (d) Interest on Past-Due Obligations. Except as expressly provided in this Lease, any amount not paid to Landlord when due will bear interest at ten percent (10%) per year from the due date. Payment of interest will not excuse or cure any default by Tenant under this Lease.
- (e) Time of Essence. Time is of the essence in this Lease.
- (f) Headings. Article and paragraph headings are not a part of this Lease's terms.
- (g) Entire Agreement; Amendment. This Lease contains the entire agreement between the parties. All understandings, discussions, and agreements previously made between the parties, written or oral, are superseded by this Lease, and neither party is relying on any warranty, statement, or representation not contained in this Lease. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.
- (h) Waivers. No waiver by Landlord of any provision of this Lease will be deemed a waiver of any other provision or of any later breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act will not be deemed to make unnecessary the obtaining of

Landlord's consent to or approval of any later act by Tenant. The acceptance of rent by Landlord will not be a waiver of any preceding breach by Tenant, other than Tenant's failure to pay the particular rent accepted, regardless of Landlord's knowledge of the preceding breach when the rent was accepted.

- (i) Recording. Tenant will not record this Lease in any public records. Any such recordation will be a breach of this Lease.
- (j) Holding Over. If Tenant remains in possession of the Premises or any part of them after the term expires with Landlord's express written consent, the occupancy will be a tenancy from month to month at a rental rate in the amount of the last monthly rent plus all other charges payable, and on the terms applicable to month-to-month tenancy.
- (k) Cumulative Remedies. No remedy or election under this Lease will be deemed exclusive, but instead will, wherever possible, be cumulative with all other remedies at law or in equity.
- (l) Covenants and Conditions. Each provision of this Lease performable by Tenant will be deemed both a covenant and a condition.
- (m) Binding Agreement; Governing Law. Subject to any provisions restricting assignment or subleasing by Tenant and subject to the provisions of Subsection 16(b), this Lease and all of its terms, provisions, and covenants will apply to, be binding on, and inure to the benefit of the parties and their respective successors and assigns. This Lease will be governed by and interpreted under the laws of the state where the Premises are located, regardless of any conflict-of-law rules.
- (n) Subordination. [INTENTIONALLY DELETED]
- (o) Attorney Fees. If either party brings an action to enforce the terms of this Lease or declare rights under it, the prevailing party in the action, at trial or on appeal, will be entitled to reasonable attorney fees to be paid by the losing party as fixed by the court. The term "prevailing party" means the party that has succeeded on a significant issue in the litigation and achieved a benefit with respect to the claims at issue, taken as a whole, whether or not damages are actually awarded to that party.
- (p) Landlord's Access. Landlord and its agents will have the right to enter the Premises at reasonable times for the purpose of inspecting and making alterations, repairs, improvements, or additions to the Premises as Landlord may deem necessary or desirable.
- (q) [INTENTIONALLY DELETED]

(r) [INTENTIONALLY DELETED]

(s) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the corporation in accordance with a duly adopted resolution of its board of directors or in accordance with its bylaws, and that this Lease is binding on the corporation.

17. **Performance Bond.** [INTENTIONALLY DELETED]

18. [INTENTIONALLY DELETED]

19. **Notices.** Any notice or demand under this Lease will be in writing and either served personally or sent by U.S. mail, postage prepaid, to the following addresses:

Landlord:

Texas City Economic Development Corporation
Attn: Garrett C. McLeod
1809 9th Ave. N.
Texas City, Texas 77590
Tel: (409) 948-3111

Tenant:

Joey Quiroga
4917 Ave J
Galveston, Texas 77551

The parties have executed this Lease at the place and on the dates specified below.

LANDLORD:

Texas City Economic Development
Corporation

By: _____

Name: Mark Ciavaglia

Title: Chairman

Effective Date: January 1, 2021

Executed at: _____

TENANT:

Joey Quiroga,
d/b/a *Bronco Burritos*

Joey Quiroga, individually



Staff Report

December 16, 2020

Texas City Economic Development Corporation

Subject: Consideration of a Ground Lease between the Texas City Economic Development Corporation and Joey Quiroga (Bronco Burritos) for “Spot C” at 718 6th Street North.

I. **Background**

- a. The food truck park located at 718 6th Street was not previously managed by the TCEDC or city staff.
- b. It was determined by city staff that it was beneficial to manage the site and the lease agreements with all tenants.

II. **Current Situation**

- a. The Economic Development Corporation is requested to consider approval of a Ground Lease with Joey Quiroga for “Spot C” at 718 6th Street.
- b. The agreement states that the Texas City Economic Development Corporation agrees to:
 - i. Lease approximately 250 square feet within the food truck park located at 718 6th Street.
 - ii. Pay for electricity, water, and the port-o-can on site.
- c. The agreement states that the owner (Joey Quiroga) will:
 - i. Pay the TCEDC \$200 monthly for rent.
 - ii. Pay the TCEDC \$400 as a security deposit for performance of tenant’s obligations.
 - iii. Tenant will need to seek prior approval from the TCEDC to sublease the space.
 - iv. The tenant agrees to comply with city ordinances and all zoning standards.

III. **Recommendation**

- a. Approve the Ground Lease between the TCEDC and Joey Quiroga (Bronco Burritos).

IV. **Fiscal Impact Report**

- a. Staff: Garrett McLeod
- b. Funding Source: TCEDC
- c. Cost: Estimated Annual Cost (electricity, water, portable restroom): \$6,600
- d. Income: \$2,400 annually per truck = \$7,200

V. **Economic Impact**

- a. The food truck park has been an asset on 6th Street, and provides multiple dining options for patrons of 6th Street.

Respectfully Submitted,

Garrett C. McLeod
Economic Development Director

TCEDC Agenda

2. h.

Meeting Date: 12/16/2020

Submitted By: Rhomari Jackson, City Secretary

Department: City Secretary

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 20-52, approving a Ground Lease with Patricia Ramirez for 718 6th Street North.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Lease

Staff Report

GROUND LEASE

1. **Parties.** This GROUND LEASE (“Lease”) is entered into by the Texas City Economic Development Corporation (“Landlord”), and Patricia Ramirez (“Tenant”).

2. **Premises.** Landlord is the owner of unimproved real property (“Property”) located at 718 - 6th Street North, Texas City, Texas 77590, and containing approximately 13,750 square feet as depicted on Exhibit “A” attached hereto. Landlord desires to lease to Tenant a portion of the Property as depicted on Exhibit “A” of approximately 250 square feet (herein “Premises”), for the term, at the rental rate, and on all the conditions in this Lease.

3. **Term.**

- (a) **Term.** The term of this Lease shall be on a month to month basis commencing on January 1, 2021 unless terminated earlier under any provision of this Lease. Otherwise, either Party may terminate this Lease with ninety (90) days prior written notice.
- (b) **Delay in Commencement.** [INTENTIONALLY DELETED]
- (c) **Early Possession.** If Landlord permits Tenant to occupy the Premises before the commencement date of the term, the occupancy will be subject to all the provisions of this Lease. The early possession will not advance the termination date of this Lease.
- (d) **Delivery of Possession.** Tenant will be deemed to have taken possession of the Premises when Landlord delivers possession of the Premises to Tenant.

4. **Rent.**

- (a) **Monthly Rent.** Tenant will pay to Landlord as monthly rental for the use and occupancy of the Premises during the Term, beginning on the Commencement Date, without deduction, setoff, prior notice, or demand, the sum of TWO HUNDRED AND 00/100 DOLLARS (\$200.00) per month. The Rent will be payable in advance on the first (1st) day of each month in equal monthly amounts (“Monthly Rent”). If this Ground Lease begins on a date other than the first or last day of the month, the rent will be prorated. Any amount of Rent not paid when due will bear interest at the annual rate of five percent (5%) (“Default Rate”), payable from the date the cure period expires until paid. If Tenant does not timely pay the Monthly Rent by the first (1st) day of any month under this Ground Lease, then, in addition to all other rights and remedies available to Landlord, a late charge equal to five percent (5%) will be assessed and will be immediately due and payable by Tenant to Landlord for each late payment.

- (b) For purposes of this Lease, the obligations of Tenant in ¶ 4(a) shall be defined at "Rent."
- (c) **Additional Charges.** This Lease is what is commonly called a "net lease," which means that Landlord will receive the rent stated in Subsection 4(a) free and clear of any and all impositions, taxes, liens, charges, or expenses in connection with the ownership and operation of the Premises. In addition to the rent under Subsection 4(a), Tenant will pay to the appropriate parties all impositions, operating charges, maintenance charges, construction costs, and any other charges, costs, and expenses that arise or may be contemplated under any provisions of this Lease during the term. All of these charges, costs, and expenses will constitute additional charges, and if Tenant fails to pay any of the additional charges, Landlord will have the same rights and remedies as otherwise provided in this Lease for the failure to pay rent. It is the intention of the parties that this Lease will not be terminable for any reason by Tenant and that Tenant will not be entitled to any abatement of or reduction in rent, except as expressly provided. Any present or future law to the contrary will not alter this agreement of the parties.
- (d) Landlord will continue to provide two (2) electrical services and one (1) water meter to the Property. Tenant expressly agrees that Landlord is not, nor will be, required to furnish to Tenant any water, sewer, gas, heat, electricity, light, power, or any other facilities, equipment, labor, materials, or services of any kind, that are not available to the Property other than those aforementioned. Tenant shall pay or cause to be paid promptly when due all charges for water, electricity, sanitary sewer, dumpster or any other utility services furnished to the Property.

5. Security Deposit.

Tenant will pay or has paid to Landlord a Security Deposit ("Security Deposit") in the amount of Four Hundred Dollars (\$400.00) as security for the performance of Tenant's obligations under this Ground Lease. Landlord may apply any or all of the Security Deposit toward the payment of any sum or the performance of any obligations that Tenant fails to timely pay or perform. The Security Deposit will not be considered an advance payment of Rent or a measure of Landlord's damages on Tenant's default under this Ground Lease.

6. Use.

- (a) **Use.** During the Term, Tenant may use the Premises and any Improvements constructed on the Property for temporary parking and the operation of a mobile food unit. ("Permitted Use").

- (b) Compliance with Law. Tenant will, at its expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term regulating the use by Tenant of the Premises. Tenant shall not violate any health, building, sign, parking law, ordinance, or regulation of any governmental authority applicable to Tenant's use of and business operations on the Premises, including but not limited to any and all permits or licenses as required by the Galveston County Health District and the City of Texas City. If required by a governmental authority solely by reason of Tenant's use of the Property, Tenant will make repairs, improvements, and alterations as long as they are completed in conformity. Tenant will not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or tend to unreasonably disturb any other tenants.
- (c) Condition of Premises. Tenant accepts the Premises in its current condition as of the date of possession under this Lease, subject to all applicable zoning, municipal, county, and state laws, ordinances, and regulations governing and regulating the use of the Premises and accepts this Lease subject to the same terms. Tenant acknowledges that neither Landlord nor Tenant's agent has made any representation or warranty about the suitability of the Premises for the conduct of Tenant's business.
- (d) Insurance Cancellation. Despite the provisions of Subsection 6(a), no use will be made or permitted to be made of the Premises that will cause the cancellation of any insurance policy covering the Premises or any building on the Premises, and if Tenant's use of the Premises causes an increase in insurance rates, Tenant will pay the increase.
- (e) Landlord's Rules and Regulations. Tenant will faithfully observe and comply with the rules and regulations that Landlord makes. A copy of the rules and regulations is attached to this Lease. Landlord reserves the right to make all reasonable modifications to the rules and regulations, which will be binding once a copy of them is delivered to Tenant. Landlord will not be responsible to Tenant for the nonperformance of any of the rules and regulations by any other tenants or occupants.

7. Maintenance Repairs and Alterations.

- (a) Tenant's Obligations. Tenant will keep in good order, condition, and repair the Premises and every part of them, structural or nonstructural, and all adjacent sidewalks, landscaping, driveways, parking lots, fences, and signs located in the areas adjacent to and included with the Premises. Landlord will incur no expense and have no obligation of any kind in connection with the maintenance of the Premises and Tenant expressly waives the benefits of any statute now or later in effect that would

otherwise give Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition, and repair.

- (b) Surrender. On the last day of the term or on any earlier termination, Tenant will surrender the Premises to Landlord in good condition, broom clean, except for ordinary wear and tear. Tenant will repair any damage to the Premises occasioned by its use or by the removal of Tenant's trade fixtures, furnishings, and equipment under Subsection 7(d)(3), which will induce the patching and filling of holes and repair of structural damage.
- (c) Landlord's Rights. If Tenant fails to perform its obligations under this Article, Landlord may at its option enter the Premises, after ten (10) days' written notice to Tenant, and put the Premises in good order, condition, and repair. The cost of doing so plus interest at the rate of ten percent (10%) per year will become due and payable as additional rent to Landlord together with Tenant's next rent installment.
- (d) Alterations and Additions.
 - (1) Tenant will not, without Landlord's written consent, make any alterations, additions, or improvements in, on, or about the Premises. As a condition of giving its consent, Landlord may require that Tenant remove any alterations, additions, improvements, or utility installations at the expiration of the term and to restore the Premises to their previous condition.
 - (2) Before commencing any work relating to alterations, additions, and improvements affecting the Premises, Tenant will notify Landlord in writing of the expected date of commencement. Landlord will then have the right to post and maintain on the Premises any notices to protect the Premises and Landlord from mechanics' liens, materialmen's liens, or any other liens. Tenant will pay, when due, all claims for labor or materials furnished to or for Tenant at or for use on the Premises. Tenant will not permit any mechanics' or materialmen's liens to be levied against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents or contractors in connection with any work performed or claimed to have been performed on the Premises by or at the direction of Tenant.
 - (3) Unless Landlord requires their removal under Subsection 7(d)(1), all alterations, improvements, additions, machinery, equipment, and trade fixtures made on the Premises will become the property of Landlord and remain on and be surrendered with the Premises

at the expiration of the term.

8. Insurance and Indemnity.

- (a) Insuring Party. As used in this Article, the term “insuring party” means the party who has the obligation to obtain the insurance required under this Lease. The insuring party will be Melinda Medellin Quiroga, d/b/a *Bronco Burritos*. Whether the insuring party is Landlord or Tenant, Tenant will, as additional rent for the Premises, pay the cost of all required insurance. If Landlord is the insuring party, Tenant will, within ten (10) days after demand by Landlord, reimburse Landlord for the cost of the insurance.
- (b) Liability Insurance. Tenant will obtain and maintain during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all-areas insurance insuring Landlord and Tenant against any liability arising from the ownership, use, occupancy, or maintenance of the Premises and all appurtenant areas. The insurance will be in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence. The limits of the insurance will have a Landlord’s Protective Liability endorsement attached. If Tenant fails to obtain and maintain the insurance, Landlord may, but is not required to, obtain and maintain it at Tenant's expense.
- (c) Property Insurance. [INTENTIONALLY DELETED]
- (d) Insurance Policies. Insurance required under this Lease will be in companies rated A+ AAA or better in “Best’s Insurance Guide.” The insuring party will deliver before possession to the other party copies of insurance policies or certificates evidencing the existence and amounts of the insurance with loss-payable clauses satisfactory to Landlord. No policy will be cancelable or subject to reduction of coverage or other modification except after thirty (30) days’ written notice to Landlord. If Tenant is the insuring party, Tenant will, at least thirty (30) days before any policies expire, provide Landlord with renewals or “binders,” or Landlord may order the insurance and charge the cost to Tenant, which will be payable by Tenant on demand..
- (e) Hold Harmless. Tenant will indemnify, defend, and hold Landlord harmless from any and all claims arising from Tenant’s use of the Premises or from the conduct of its business or from any activity, work, or things that may be permitted or suffered by Tenant on or about the Premises. Tenant assumes all risk of damage to property or injury to

persons on or about the Premises from any cause, and Tenant waives all claims for such damage or injury against Landlord, except where it arises from the negligence of Landlord.

- (g) Exemption of Landlord from Liability. Tenant agrees that Landlord will not be liable for injury to Tenant's business or any loss of income or for damage to the goods, wares, merchandise, or other property of tenant, Tenant's employees, invitees, customers, or any other person on or about the Premises..

9. [INTENTIONALLY DELETED]

10. **Real Property Taxes.** [INTENTIONALLY DELETED]

11. **Common Areas.** [INTENTIONALLY DELETED]

12. **Utilities.** Rent is inclusive of electricity, water and refuse. Tenant will be responsible for the proper disposal of all wastewater.

13. **Assignment and Subleasing.**

- (a) **Landlord's Consent Required.** Tenant will not voluntarily or by operation of law assign, transfer, mortgage, sublease, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises without Landlord's written consent, which Landlord may withhold for any reason. Any attempted assignment, transfer, mortgage, encumbrance, or subleasing without consent will be void and will constitute a breach of the Lease. Any transfer of Tenant's interest in this Lease or in the Premises from Tenant or change in the ownership will be deemed a prohibited assignment within the meaning of this Section.
- (b) **No Release of Tenant.** Regardless of Landlord's consent, no assignment or subleasing will release Tenant of its obligation to pay the rent and to perform all of its other obligations for the term of this Lease. The acceptance of rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease. Consent to one assignment or subleasing will not be deemed consent to any later assignment or subleasing.

14. **Defaults and Remedies.**

- (a) **Defaults.** The occurrence of any one or more of the following events will constitute a default and breach of this Lease by Tenant:
 - (1) The vacating or abandonment of the Premises by Tenant.

- (2) The failure by Tenant to make any payment of rent or any other required payment when due, if such failure continues for three (3) days after written notice from Landlord.
 - (3) The failure by Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, other than described in Subsection 14(a)(2) above, if such failure continues for thirty (30) days after written notice from Landlord to Tenant; however, if the nature of Tenant's default is such that more than thirty (30) days are required for performance, Tenant will not be in default if Tenant commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
- (b) Remedies in Default. If there is any default or breach by Tenant, Landlord may at any time, with or without notice or demand and without limiting Landlord in the exercise of any other right or remedy that Landlord may have, do any of the following:
- (1) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease will terminate, and Tenant will immediately surrender possession of the Premises to Landlord.
 - (2) Maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Premises. Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due.
 - (3) Pursue any other remedy now or later available to Landlord under the laws or judicial decisions of the State in which the Premises are located.
- (c) Default by Landlord. Landlord will not be in default unless Landlord fails to perform its obligations within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address will have been furnished to Tenant in writing, specifying how Landlord has failed to perform its obligation; however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, Landlord will not be in default if Landlord commences performance within the thirty-day (30-day) period and diligently prosecutes the cure to completion.
- (d) Late Charges. Tenant acknowledges that late payment of rent and other

amounts will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. These costs include but are not limited to processing and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other amount due from Tenant is not received by Landlord or Landlord's designee within ten (10) days after written notice that the amount is past due, Tenant will pay to Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that the late charge will not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of its other rights and remedies.

15. **Condemnation.** [INTENTIONALLY DELETED]

16. **General Provisions.**

- (a) Offset Statement. [INTENTIONALLY DELETED]
- (b) Landlord's Interests. [INTENTIONALLY DELETED]
- (c) Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, will in no way affect the validity of any other provision.
- (d) Interest on Past-Due Obligations. Except as expressly provided in this Lease, any amount not paid to Landlord when due will bear interest at ten percent (10%) per year from the due date. Payment of interest will not excuse or cure any default by Tenant under this Lease.
- (e) Time of Essence. Time is of the essence in this Lease.
- (f) Headings. Article and paragraph headings are not a part of this Lease's terms.
- (g) Entire Agreement; Amendment. This Lease contains the entire agreement between the parties. All understandings, discussions, and agreements previously made between the parties, written or oral, are superseded by this Lease, and neither party is relying on any warranty, statement, or representation not contained in this Lease. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.
- (h) Waivers. No waiver by Landlord of any provision of this Lease will be deemed a waiver of any other provision or of any later breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act will not be deemed to make unnecessary the obtaining of

Landlord's consent to or approval of any later act by Tenant. The acceptance of rent by Landlord will not be a waiver of any preceding breach by Tenant, other than Tenant's failure to pay the particular rent accepted, regardless of Landlord's knowledge of the preceding breach when the rent was accepted.

- (i) Recording. Tenant will not record this Lease in any public records. Any such recordation will be a breach of this Lease.
- (j) Holding Over. If Tenant remains in possession of the Premises or any part of them after the term expires with Landlord's express written consent, the occupancy will be a tenancy from month to month at a rental rate in the amount of the last monthly rent plus all other charges payable, and on the terms applicable to month-to-month tenancy.
- (k) Cumulative Remedies. No remedy or election under this Lease will be deemed exclusive, but instead will, wherever possible, be cumulative with all other remedies at law or in equity.
- (l) Covenants and Conditions. Each provision of this Lease performable by Tenant will be deemed both a covenant and a condition.
- (m) Binding Agreement; Governing Law. Subject to any provisions restricting assignment or subleasing by Tenant and subject to the provisions of Subsection 16(b), this Lease and all of its terms, provisions, and covenants will apply to, be binding on, and inure to the benefit of the parties and their respective successors and assigns. This Lease will be governed by and interpreted under the laws of the state where the Premises are located, regardless of any conflict-of-law rules.
- (n) Subordination. [INTENTIONALLY DELETED]
- (o) Attorney Fees. If either party brings an action to enforce the terms of this Lease or declare rights under it, the prevailing party in the action, at trial or on appeal, will be entitled to reasonable attorney fees to be paid by the losing party as fixed by the court. The term "prevailing party" means the party that has succeeded on a significant issue in the litigation and achieved a benefit with respect to the claims at issue, taken as a whole, whether or not damages are actually awarded to that party.
- (p) Landlord's Access. Landlord and its agents will have the right to enter the Premises at reasonable times for the purpose of inspecting and making alterations, repairs, improvements, or additions to the Premises as Landlord may deem necessary or desirable.
- (q) [INTENTIONALLY DELETED]

(r) [INTENTIONALLY DELETED]

(s) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of the corporation in accordance with a duly adopted resolution of its board of directors or in accordance with its bylaws, and that this Lease is binding on the corporation.

17. **Performance Bond.** [INTENTIONALLY DELETED]

18. [INTENTIONALLY DELETED]

19. **Notices.** Any notice or demand under this Lease will be in writing and either served personally or sent by U.S. mail, postage prepaid, to the following addresses:

Landlord:

Texas City Economic Development Corporation
Attn: Garrett C. McLeod
1809 9th Ave. N.
Texas City, Texas 77590
Tel: (409) 948-3111

Tenant:

Patricia Ramirez
618 16th Avenue N.
Texas City, Texas 77590

The parties have executed this Lease at the place and on the dates specified below.

LANDLORD:

Texas City Economic Development
Corporation

By: _____

Name: Mark Ciavaglia

Title: Chairman

Effective Date: January 1, 2021

Executed at: _____

TENANT:

Patricia Ramirez,
d/b/a *Tacos El Trivi*

Patricia Ramirez, individually



Staff Report

December 16, 2020

Texas City Economic Development Corporation

Subject: Consideration of a Ground Lease between the Texas City Economic Development Corporation and Patricia Ramirez (Tacos El Trivi) for “Spot D” at 718 6th Street North.

I. **Background**

- a. The food truck park located at 718 6th Street was not previously managed by the TCEDC or city staff.
- b. It was determined by city staff that it was beneficial to manage the site and the lease agreements with all tenants.

II. **Current Situation**

- a. The Economic Development Corporation is requested to consider approval of a Ground Lease with Patricia Ramirez for “Spot D” at 718 6th Street.
- b. The agreement states that the Texas City Economic Development Corporation agrees to:
 - i. Lease approximately 250 square feet within the food truck park located at 718 6th Street.
 - ii. Pay for electricity, water, and the port-o-can on site.
- c. The agreement states that the owner (Patricia Ramirez) will:
 - i. Pay the TCEDC \$200 monthly for rent.
 - ii. Pay the TCEDC \$400 as a security deposit for performance of tenant’s obligations.
 - iii. Tenant will need to seek prior approval from the TCEDC to sublease the space.
 - iv. The tenant agrees to comply with city ordinances and all zoning standards.

III. **Recommendation**

- a. Approve the Ground Lease between the TCEDC and Patricia Ramirez (Tacos El Trivi).

IV. **Fiscal Impact Report**

- a. Staff: Garrett McLeod
- b. Funding Source: TCEDC
- c. Cost: Estimated Annual Cost (electricity, water, portable restroom): \$6,600
- d. Income: \$2,400 annually per truck = \$7,200

V. **Economic Impact**

- a. The food truck park has been an asset on 6th Street, and provides multiple dining options for patrons of 6th Street.

Respectfully Submitted,

Garrett C. McLeod
Economic Development Director