



ELLISON STREET BUILDING ROW USE AGREEMENT

PRESENTED TO THE OLD TOWN DESIGN STANDARDS REVIEW COMMITTEE – 9.17.25

EMILIO SANCHEZ, DEVELOPMENT SERVICES DEPUTY DIRECTOR

ELLISON ST BUILDING ROW USE AGREEMENT

Location:

- 135 and 139 Ellison Street

Applicant:

- Justin Bond (Applicant)
- BTX Old Town LLC and BTX Condominium Association Inc. (Owners)

Item for approval:

Right-of-Way use agreement with BTX Old Town LLC and BTX Condominium Association Inc., for building balconies, signs, outdoor dining patios with attached canopies, fencing, building lighting, downspouts, and awnings that were constructed in the right-of-way, for buildings addressed as 135 & 139 W. Ellison Street



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Chapter 70 Streets, Sidewalks and Other Public Places:

■70-196 Findings and determination:

(a)(1) Municipal streets in old town.

- Applications for a right-of-way use agreement for a municipal street located in the old town district shall be considered by the city council at a duly called meeting after receiving comments from the old town development standards review committee.

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- Applicant is made aware of and agrees that this easement and right-of-way use agreement is non-exclusive and is granted contingent upon superior pre-existing rights of other parties, including the City and Utilities. The rights of those parties shall not be infringed upon by any act or omission of Applicant. Applicant may not in any way impede or impair the ability of City or Utilities to access, install, repair, maintain, construct, or otherwise utilize in any capacity any area covered by this agreement, including any rights authorized by law. Applicant shall be responsible for any additional costs incurred by City or Utilities due to Applicant's failure to abide by this agreement.
- Applicant acknowledges and understands that Oncor maintains overhead and/or underground electrical facilities within the right of way. State law requires contacting **Dig Tess** by calling **811** for underground equipment to be located at least two (2) days before you dig. Dig Tess does not mark a precise location but is usually within four (4) feet of the actual location. Applicant agrees to exercise extreme caution with respect to such electrical facilities.
- Applicant shall bear all costs of tables, plants, and any other materials required including the cost of repair or replacement.
- All exit pathways, sidewalks and any public access routes shall remain unobstructed at all times.
- Additional measures for public safety for patrons, pedestrians and drivers in the area may be required by the City at any time.
- Applicant shall be responsible for addressing any issues of compliance with the TABC.
- Applicant shall clear the area of all debris and trash throughout the day and at the end of the day.

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- Applicant shall be responsive to concerns expressed by business owners or property owners in the Old Town District.
- Applicant acknowledges that users of the public space are not required to be patrons of its restaurant.
- Applicant shall be responsible for removing and replacing the improvements, including the metal canopy, balconies, signs, lights, down spouts, awnings and decorative fencing, at its own expense in the event the City or any Franchise Utility needs perform replacement or maintenance on any existing infrastructure within the designated area.
- Applicant shall be responsible for any expense incurred by the City or any Franchise Utility for removal of any improvements, including the metal canopy, balconies, signs, lights, down spouts, awnings and decorative fencing, in the event of an emergency repair of the existing water line or any other existing public infrastructure within the designated area. Applicant agrees the City will not be responsible for any damage to the tables, chairs, and any other materials belonging to Applicant.

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- Applicant agrees to obtain and maintain insurance in the following amounts at all times during the term of this Agreement: (i) Commercial General Liability \$1,000,000; (ii) Damage to Premises \$100,000; (iii) Medical \$1,000; (iv) Personal Injury \$1,000,000, (v) General Aggregate \$3,000,000; (vi) Excess Accident \$100,000 with a maximum \$50.00 deductible. Applicant is not required to obtain Automobile Liability insurance. Applicant shall provide certificates of insurance to City evidencing that Applicant has obtained all required insurance thirty (30) days prior to the start of each year of the agreement. Insurers for all policies must be authorized to do business in the state of Texas or be otherwise approved by City; and, such insurers shall be acceptable to City in terms of their financial strength and solvency. All policies shall be endorsed to name City as an additional insured. The insurance policies required by this Agreement shall cover all public risks related to Applicant's use of the easement/right- of-way. The Commercial General Liability insurance policy shall have no exclusions by endorsements unless City approves such exclusions. All policies required above shall be written on an occurrence basis. All policies shall be endorsed with a waiver of subrogation in favor of City. A minimum of thirty (30) days notice of cancellation or material change in coverage shall be provided to City. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Such terms shall be endorsed onto Applicant's insurance policies. Notice shall be sent to City of Burleson, Attn: City Manager, 141 West Renfro, Burleson, Texas 76028-4261. City shall be entitled, upon its request and without incurring expense, to review Applicant's insurance policies including endorsements thereto and at City's discretion. Applicant may be required to provide proof of insurance premium payments. City shall not be responsible for the direct payment of any insurance premiums required by this Agreement. Any failure on part of City to request required insurance documentation shall not constitute a waiver of the insurance requirements.

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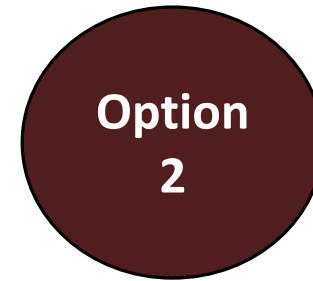
Staff Recommendation:

- Staff supports an approval for the Right-Of-Way Use Agreement for the Ellison Street Building Project.





Approve



Deny



Questions / Comments

Emilio Sanchez
Development Services Deputy Director
esanchez@burlesontx.com
817.426.9686