

# RIGHT-OF-WAY USE AGREEMENT

Old Texas Brewing Company  
112 W. Ellison Street

City Council

September 5, 2023



# HISTORY

## July 21, 2015 - City Council approved a right-of-way use agreement

- Allowed table top seating within four parking spaces (approximately 850 sf)
- Included potted plants and other material as physical barrier between patrons and drivers
- Considered as a means to evaluate potential for similar uses in the Old Town District

### Right-of-way Use Agreements:

- Used to officially permit certain private uses of rights-of-way
  - Document that the City is not responsible for private improvements in the request area
- Confirm that the applicant must remove the improvements at the request of the City

Concept Sketch by OTB



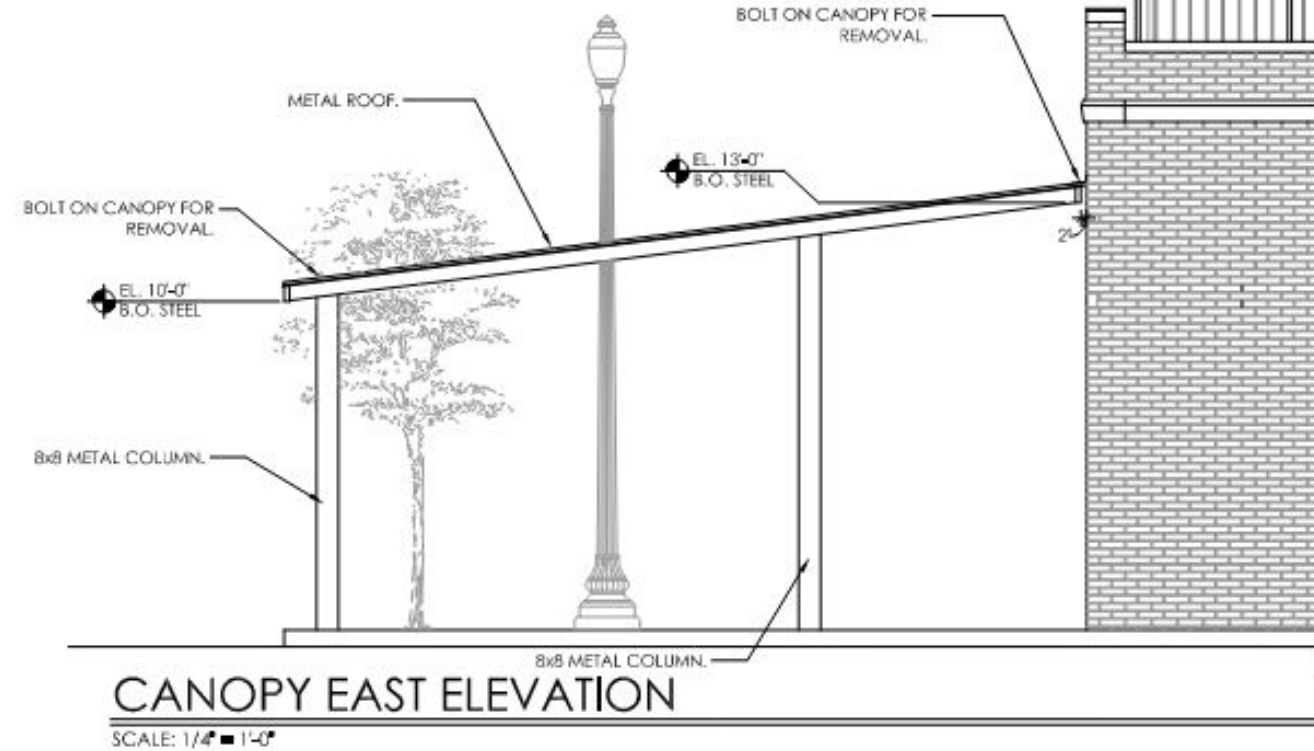
Initial Concept Plan

# REQUESTED ROW USE AGREEMENT

- Same 850sf area
- Removable metal awning to be added within right-of-way over existing tabletop patio seating
- Tabletop patio seating, plants, and barriers to separate patrons from vehicular traffic
- Existing water line within request area



Owner will be responsible for removal of the awning for the purpose of replacing or maintaining the existing City of Burleson public water line. The city will not be responsible for any damage to any private improvements located within the public right-of-way. The owner will be given adequate notice and a reasonable time frame to have the canopy removed.



- Monument sign to be relocated by applicant
- City's ability to maintain existing water line addressed by conditions

# CONDITIONS

- Applicant shall bear all costs of tables, plants, and any other materials required including the cost of repair or replacement.
- Applicant shall maintain a physical barrier between patrons of the public space and drivers on Ellison Street.
- All exit pathways, sidewalks and any public access routes shall remain unobstructed at all times.
- City may require additional measures for public safety for patrons, pedestrians and vehicular traffic 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.
- 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 metal awning 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 the awning 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 awning, tables, chairs, and any other materials belonging to Applicant.
- Applicant agrees to obtain and maintain insurance per the requirements of the ROW Use Agreement.

# REQUESTED ACTION

## RECOMMENDED



**APPROVE A  
RIGHT-OF-WAY USE  
AGREEMENT FOR  
OUTDOOR PATIO  
SEATING AND METAL  
AWNING AT 112 E.  
ELLISON STREET, OLD  
TEXAS BREWING  
COMPANY**



**DENY THE  
RIGHT-OF-WAY USE  
AGREEMENT**



## QUESTIONS / DISCUSSION