

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LIVE OAK
WILL BE HELD AT THE LIVE OAK COUNCIL CHAMBERS
8001 SHIN OAK DRIVE
TUESDAY, SEPTEMBER 24, 2024, AT 7:00 P.M.

The public may watch the meeting live at www.liveoaktx.net by clicking "Live Meetings" button

1. CALL TO ORDER
2. INVOCATION/PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CITIZENS TO BE HEARD

Per City of Live Oak Code of Ordinances

Section 2-21.5 (1) Live Oak Municipal Code: The rules of courtesy are adopted for persons in attendance at all meetings of Council include: "Those signed up to speak under Citizens To Be Heard shall be called upon in the order that they have registered. No personal attacks shall be allowed by any speaker."

Section 2-21.1 – Preservation of order includes: "The mayor shall preserve order and decorum, prevent personal references to Council Members or impugning of other members' motives."

5. CONSENT AGENDA

A. Approval of Minutes

1. September 10, 2024

B. Discussion and possible action regarding surplus and disposal of fixed assets with an initial net worth of \$5,000 and over—Mr. Kowalik

6. SPECIAL CONSIDERATION

A. Proclamation for National Community Planning Month—Mr. Ruthven

B. Proclamation for the 2024 World's Teacher's Day—Mayor Dennis

C. Presentation for Proclamation for National Breast Cancer Awareness Month—Mayor Dennis

D. Proclamation for National Night Out and National Crime Prevention Month, October 2024 – Chief Hopper

E. Proclamation for National Domestic Violence Awareness Month, October 2024 –Mr. Scales

F. Proclamation for 2024 Fire Prevention Week – Chief Surber

G. Proclamation for National Hispanic Heritage month—Mayor Dennis

7. NEW BUSINESS

A. Discussion and possible action regarding an Ordinance of the City of Live Oak amending Chapter 22 Taxation, Article II-Hotel Occupancy Tax by adding provisions establishing the Visit Live Oak Advisory Board—Mrs. Lowder

B. Discussion and possible action regarding a Resolution appointing and reappointing members and alternates and providing the current list for various City of Live Oak Boards and Commissions—Mr. Ruthven

- C. Discussion and possible action regarding a Resolution appointing and reappointing members to the Live Oak Economic Development Corporation—Mrs. Lowder
 - D. Discussion and possible action regarding a first reading of a Resolution authorizing an expenditure of \$300,000 from the Economic Development funds to purchase water rights for future business development—Mrs. Lowder
 - E. Discussion and possible action regarding a Resolution regarding the Business Improvement Grant (BIG) program and associated expenditures for FY 2024-2025 to promote the development and expansion of businesses and existing businesses in the City of Live Oak to include BIG Guidelines and Performance Agreement for applicants—Mrs. Lowder
 - F. Discussion and possible action regarding a first reading of a Resolution authorizing expenditures of \$150,000 from the Economic Development fund for the Business Improvement grant for the promotion of new or expanded business and Economic Development—Mrs. Lowder
 - G. Discussion and possible action regarding a first reading of a Resolution authorizing expenditures of \$100,000 from the Economic Development fund for the Visual Improvement program for the promotion of new or expanded business and Economic Development—Mrs. Lowder
 - H. Discussion and possible action regarding an Ordinance prohibiting parking on Gunn Road—Mr. Wagster
8. CITY COUNCIL REPORT
- A. City Council Members report regarding discussion of City issues with citizens.
9. GENERAL ANNOUNCEMENTS FOR CITY COUNCIL AND STAFF
- A. City Council
 - B. Staff

10. ADJOURNMENT

I certify that the above notice of meeting was posted on the bulletin board of the City Hall, 8001 Shin Oak Drive, City of Live Oak, Texas, on September 19, 2024, by 5:00 p.m.



Isa Gaytan, TRMC
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office, for concerns or requests, at (210) 653-9140, Ext. 2213.

The City Council for the City of Live Oak reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act, Texas Governmental Code §§ 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberation about Security Devices), and 551.086 (Economic Development), and any other provision under Texas law that permits a governmental body to discuss a matter in a closed executive session.

REQUEST ALL PAGERS AND PHONES BE TURNED OFF, WITH THE EXCEPTION OF EMERGENCY ON-CALL PERSONNEL

It is possible that a quorum of the Live Oak Economic Development Corporation, Parks and Recreation Commission, Planning and Zoning Commission and Board of Adjustment Commission could attend this meeting. The individual member's will not engage in any discussion or deliberation on any matters presented by the agenda.

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LIVE OAK
WILL BE HELD AT THE LIVE OAK COUNCIL CHAMBERS
8001 SHIN OAK DRIVE
TUESDAY, SEPTEMBER 10, 2024, AT 7:00 P.M.

1. CALL TO ORDER

Mayor Dennis called the meeting to order at 7:00 p.m.

2. INVOCATION/PLEDGE OF ALLEGIANCE

Completed

3. ROLL CALL

Mayor Mary M. Dennis
Councilmember Mendell Morgan
Councilmember/ Mayor Pro-Tem Bob Tullgren
Councilmember Dr. Erin Perez
Councilmember Ed Cimics
Councilmember Aaron Dahl

Staff

Anas Garfaoui, City Manager
Ron Ruthven, Assistant City Manager
Leroy Kowalik, Finance Director
Chief Gary Hopper, Police Department
Assistant Chief Michael Fratus, Police Department
Chief Linc Surber, Fire Department
Mark Wagster, Director of PW
Ed McNew, Assistant Director of PW
Lloyd Newton, City Attorney
Donna Lowder, Manager of EDC
Isa Gaytan, City Secretary

4. CITIZENS TO BE HEARD

No citizens to be heard.

5. CONSENT AGENDA

A. Approval of Minutes

1. August 27, 2024

B. Discussion and possible action regarding a Resolution supporting Mayor Mary M. Dennis as a candidate for the National League of Cities to serve as Vice Chair of the Finance, Administration and Intergovernmental Relations Committee—Mrs. Gaytan

Councilmember Perez made a motion to approve Consent Agenda; seconded by Councilmember Tullgren

Vote FOR: Councilmember Tullgren, Perez, Cimics, and Dahl; Passed 5/0

6. NEW BUSINESS

A. Discussion and possible action regarding the Monthly Financial Report ending on July 31, 2024—Mr. Kowalik

Mr. Kowalik presented the monthly financial report ending on July 31, 2024.

Councilmember Tullgren made a motion to approve the monthly Financial Report ending July 31, 2024; seconded by Councilmember Morgan

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

B. Discussion and possible action regarding an Ordinance adopting the Live Oak Fee Schedule; adding and amending certain fees and other matters in connection therewith—Mr. Ruthven

Mr. Ruthven presented Council with an Ordinance regarding the Live Oak Fee Schedule.

Councilmember Tullgren made a motion to approve an Ordinance adopting the Live Oak Fee schedule; seconded by Councilmember Perez

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

C. Discussion and possible action regarding a Resolution authorizing the adoption of updates to the City of Live Oak Personnel Policy Manual and Associated Administrative Procedures for Flexible Schedules, Section 6.3 and Additional Holidays, Section 9.1—Mr. Kowalik

Mr. Kowalik presented a Resolution to adopt updates to the City of Live Oak Personnel Policy Manual and Associated Administrative Procedures for flexible hours.

Councilmember Dahl made a motion to approve a Resolution authorizing the adoption of updates to the City of Live Oak Personnel Policy Manual and Associated Administrative

Procedures for Flexible Schedules, Section 6.3 and Additional Holidays, Section 9.1 ; seconded by Councilmember Cimics

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

- D. Discussion and possible action regarding an Ordinance making appropriations for the support of the City of Live Oak for the fiscal year beginning October 1, 2024, and ending September 30, 2025; appropriating money to a Sinking Fund to pay interest and principal on the City's indebtedness; and adopting the Annual Budget of the City of Live Oak for the 2024/2025 fiscal year—Mr. Kowalik

Mr. Kowalik presented an Ordinance making appropriations for the support of the City of Live Oak for the fiscal year beginning October 1, 2024, and ending September 30, 2025.

Councilmember Cimics made a motion to approve and Ordinance making appropriations for the support of the City of Live Oak for the fiscal year beginning October 1, 2024, and ending September 30, 2025; seconded by Councilmember Perez

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

- E. Discussion and possible action to ratify the property tax revenue increase reflected in the Annual Budget—Mr. Kowalik

Mr. Kowalik came before Council for approval of the property tax revenue increase reflected in the annual budget.

Councilmember Dahl made a motion to approve the property tax revenue increase reflected in the annual budget; seconded by Councilmember Cimics.

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

- F. Discussion and possible action regarding an Ordinance of the City of Live Oak, Texas levying Ad Valorem taxes for use and support of the municipal government of the City for fiscal year beginning October 1, 2024, and ending September 30, 2025; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid; and providing for an effective date—Mr. Kowalik

Mr. Kowalik presented an Ordinance levying Ad Valorem taxes for use and support of the municipal government of the City for fiscal year beginning October 1, 2024, and ending September 30, 2025.

Councilmember Dahl made a motion to approve an Ordinance of the City of Live Oak, Texas levying Ad Valorem taxes for use and support of the municipal government of the City for fiscal year beginning October 1, 2024, and ending September 30, 2025; seconded by Councilmember Cimics

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

- G. Discussion and possible action regarding a Resolution to award a bid to Abelar Incorporated in the amount of \$149,994; authorizing the City Manager to enter into an agreement to construct the 2024 City of Live Oak and Randolph Brooks Federal Credit Union (RBFCU) Monument and Signage Project; and further authorizing the City Manager to execute a change order for additional work not to exceed 10% or \$14,999.40—Mr. McNew and Mrs. Lowder

Mr. McNew and Mrs. Lowder presented a Resolution to award a bid to Abelar Incorporated for the construction of the 2024 City of Live Oak and Randolph Brooks Federal Credit Union monument and signage project.

Councilmember Dahl made a motion to approve Resolution to award a bid to Abelar Incorporated in the amount of \$149,994; authorizing the City Manager to enter into an agreement to construct the 2024 City of Live Oak and Randolph Brooks Federal Credit Union (RBFCU) Monument and Signage Project; and further authorizing the City Manager to execute a change order for additional work not to exceed 10% or \$14,999.40; seconded by Councilmember Morgan.

Vote FOR: Councilmember Tullgren, Morgan, Perez, Cimics, and Dahl; Passed 5/0

7. CITY COUNCIL REPORT

- A. City Council Members report regarding discussion of City issues with citizens.

Councilmember Morgan reported a resident was very pleased with everything that Mayor Dennis does for the City of Live Oak.

8. GENERAL ANNOUNCEMENTS FOR CITY COUNCIL AND STAFF

- A. City Council

Councilmember Morgan announced the Humane Society will be having their Pet Pawlooza on October 26

Councilmember Tullgren announced he along with Mayor Dennis attended a celebration of the Joint Base Airforce birthday which was a great honor

Councilmember Perez announced it is the season for flu shots and COVID shots also thanked the City of Live Oak for the Honor Flight event which was this past Saturday.

Councilmember Cimics concurred with Councilmember Perez and announced it is time for COVID and flu shots.

Mayor Dennis announced that Councilmember Cimics was elected as President for TML Region 7, also announced the 911 ceremony today at Lakeview College was a beautiful event and thankful for the partnership with the college.

B. Staff

Mr. Garfaoui thanked everyone involved in the budget process and thanked City Council for their support and approving the budget.

Mayor Dennis recognized Lloyd Newton sitting in for City Attorney Clarissa Rodriguez.

Mr. Kowalik thanked everyone involved in the budget process.

Chief Surber announced the City will be having a 9-11 Ceremony tomorrow at 8:46 a.m. at the Fire Department.

Assistant Chief Fratus thanked everyone who participated and supported the MADD Walk event on September 7, 2024.

9. ADJOURNMENT

As there was no further business, Councilmember Cimics made a motion to adjourn; seconded by Councilmember Dahl. The City Council meeting adjourned at 7:42 p.m.

APPROVED:

Mary M. Dennis, Mayor

ATTEST:

Isa Gaytan, City Secretary



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 5B

Prepared by: L. Kowalik, Finance Director

Reviewed by: Anas Garfaoui, City Manager

Department: Finance

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding disposal of fixed assets with an initial net worth of \$5,000 and over.

Staff Briefing:

While there is no specific statutory requirement that governs the process for disposing of the City’s personal property, it is good policy to bring before Council, a list of fixed assets that staff is recommending for disposal to ensure proper disposition of the fixed or other assets and to ensure they are disposed of without violating the Constitution to prevent the gratuitous application of public funds. It is also good policy to bring before Council any surplus item, whether a fixed asset or not, if the intent is to sale or convey to another governmental entity or not-for-profit entity.

The list below contains the items that rises to the level of a City fixed asset:

Asset ID#	Description	Year Acquired	Fund	Location
472	Chevrolet Tahoe – 1GNLC2EC8FR717535	2015	GF	Police
476	Chevrolet Silverado – 1GCRCPEH9FZ150232	2015	GF	Police

These items will be disposed of in the appropriate manner. This is an on-going program and more items may be coming before council as staff identifies such items as disposable. Other items, in addition to the items listed above, may be considered obsoleted, damaged or surplus that do not rise to the level of a fixed asset or not recorded as a City fixed asset mat be requested for disposal.

CITY COUNCIL AGENDA ITEM FORM

ACTION:

- Ordinance Resolution
 Proclamations Special Presentation
 Finance Report Public Hearing
 Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	3, 4

Strategic Goals: 1 - Stable, 2 - Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

Under consent agenda.

**City of Live Oak
Auction Items
September 24, 2024**

Capital Items

Tag #	Item	Purchase Date	Original Cost	Location
472	Chevrolet Tahoe – 1GNLC2EC8FR717535	9/30/2015	\$ 51,604	Police
476	Chevrolet Silverado – 1GCRCPEH9FZ150232	9/30/2015	\$ 29,345	Police

Surplus				
	Crown Weed Sprayer			
	(2) Stihl BR420 Blower			
	Stihl FS70RCE Weed Eater			
	Wacker Vibroplate WP1550AW			
	Miscellaneous office furniture			



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6A

Prepared by: Ron Ruthven, ACM

Reviewed by: Anas Garfaoui, City Manager

Department: Administration

AGENDA ITEM DESCRIPTION:

Proclamation for 2024 National Community Planning Month.

Staff Briefing:

Since 2006, National Community Planning Month is observed each October in the United States with the intent to recognize and celebrate the work of urban planners and the role of community planning in improving the quality of life for residents. The month is promoted by the American Planning Association (APA) to highlight the importance of planning in creating sustainable, vibrant, and healthy communities.



ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	3

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

None.



PROCLAMATION FOR NATIONAL COMMUNITY PLANNING MONTH

WHEREAS; Change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and

WHEREAS; Community planning and plans can help manage this change in a way that provides better choices for how people work and live; and

WHEREAS; Community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

WHEREAS; The full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

WHEREAS; The month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

WHEREAS; American Planning Association endorses National Community Planning Month as an opportunity to highlight how planning is essential to recovery and how planners can lead communities to equitable, resilient and long-lasting recovery; and

WHEREAS; The celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the City of Live Oak; and

WHEREAS; We recognize the many valuable contributions made by professional community planners of the City of Live Oak and extend our heartfelt thanks for the continued commitment to public service by these professionals;

NOW THEREFORE, I, Mary M. Dennis, Mayor of the City of Live Oak, do hereby proclaim the month of October 2024, as “National Community Planning Month” in the City of Live Oak in conjunction with the nationwide celebration of National Community Planning Month.

IN WITNESS WHEREOF, I have set my hand, this 24th day of September 2024, and have caused this seal to be affixed hereto:

Mary M. Dennis, Mayor



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6B

Prepared by: Isa Gaytan City Secretary

Reviewed by: Anas Garfaoui, City Manager

Department: Administration

AGENDA ITEM DESCRIPTION:

Presentation for Proclamation for the 2024 World’s Teacher’s Day.

Staff Briefing:

World’s Teacher’s Day is celebrated annually on October 5 to celebrate all teachers around the globe.

ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	3

Strategic Goals: 1- Stability, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

None.



PROCLAMATION FOR
2024 WORLD'S TEACHER'S DAY

WHEREAS: Judson Independent School District's future strength depends on providing a high-quality education to all students; and

WHEREAS: Teacher quality matters more to student achievement than any other school-related factor and whereas teachers spend countless hours preparing lesson plans supporting students; and

WHEREAS: Our Judson Independent School District teachers have demonstrated great resilience, adaptability, and creativity, and our community recognizes and supports its teachers in educating the children of this community; and

WHEREAS: #TeachersCan is a statewide movement supported by more than 150 partnering businesses and organizations committed to elevating the teaching profession and honoring the critical role teachers play in the success of Texas.

NOW, THEREFORE, I, Mary M. Dennis, Mayor of the City of Live Oak, for and on behalf of the residents of Live Oak, do hereby proclaim October 5, 2024, as National World Teacher's Day in Live Oak, Texas.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the City of Live Oak to be affixed this 24th day of September 2024.

Mary M. Dennis, Mayor



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6C

Prepared by: Isa Gaytan City Secretary

Reviewed by: Anas Garfaoui, City Manager

Department: Administration

AGENDA ITEM DESCRIPTION:

Presentation for Proclamation for National Breast Cancer Awareness Month

Staff Briefing:

Breast cancer accounts for 12.5% of all new annual cancer cases worldwide. About 1 in 8 women born today in the United States will get breast cancer at some point. The good news is that many women can survive breast cancer if it's found and treated early. A mammogram – the screening test for breast cancer – can help find breast cancer early when it's easier to treat.

October is Breast Cancer Awareness Month, which is an annual campaign to increase awareness of the disease. While most people are aware of breast cancer, many forget to take the steps to have a plan to detect the disease in its early stages and encourage others to do the same. We have made a lot of progress but still have a long way to go and need your help!

ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	3

Strategic Goals: 1- Stability, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

None.



PROCLAMATION FOR NATIONAL BREAST CANCER AWARENESS MONTH

WHEREAS: October 2024 marks more than 30 years that National Breast Cancer Awareness Month has educated women about early breast cancer detection, diagnosis and treatment; and

WHEREAS: The National Breast Cancer Foundation's mission is to provide help and inspire hope to those affected by breast cancer through early detection, education, and support services; and

WHEREAS: National Breast Cancer Awareness Month empowers women to take control of their health by educating them about their body and providing important breast cancer resources; and

WHEREAS: National Breast Cancer Awareness Month is a chance to raise awareness about the importance of early detection of breast cancer. Make a difference! Spread the word about mammograms and encourage communities, organizations, families, and individuals to get involved.

NOW, THEREFORE, I, Mary M. Dennis, Mayor of the City of Live Oak, for and on behalf of the residents of Live Oak, do hereby proclaim October 2024 as National Breast Cancer awareness month in Live Oak, Texas.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the City of Live Oak to be affixed this 24th day of September 2024.

Mary M. Dennis, Mayor



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6D

Prepared by: Gary Hopper, Chief of Police

Reviewed by: Anas Garfaoui, City Manager

Department: Police Department

AGENDA ITEM DESCRIPTION:

Proclamation for National Night Out and National Crime Prevention Month.

Staff Briefing:

October is the month set aside to bring awareness to crime prevention to make our communities a safer place to live, learn, work, play and shop. One of the most important events to bring about crime prevention awareness is National Night Out. We call upon all members of our community to participate on National Night Out, Tuesday, October 1st for Live Oak's National Night Out.

ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	2

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

None.



PROCLAMATION FOR NATIONAL CRIME PREVENTION MONTH

WHEREAS: The National Association of Town Watch is sponsoring a nationwide crime, drug, violence, and prevention program on Tuesday, October 1, 2024, entitled “National Night Out;” as well as October being National Crime Prevention Month. The 41st annual National Night Out provides a unique opportunity for the City of Live Oak to join forces with thousands of other communities in Texas and across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS: The cornerstone of the Live Oak Police Department is built on a crime prevention philosophy, and the City of Live Oak plays a vital role in assisting the police department through its support of crime prevention initiatives and programs, and it is essential that all citizens be aware of the importance of crime prevention programs and the impact that their partnership can have on reducing crime and enhancing the quality of life in our community; and

WHEREAS: Effective crime prevention programs succeed because of these partnerships between law enforcement, communities, and individuals as they help nurture civic responsibility and instill community pride.

NOW, THEREFORE, I, Mary M. Dennis, Mayor of the City of Live Oak, for and on behalf of the residents of Live Oak, do hereby proclaim October 2024 as Crime Prevention Month and Tuesday, October 1, 2024, as National Night Out in Live Oak, Texas and call upon all residents to invest in the power of prevention and work together to make Live Oak one of the safest cities in Texas.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the City of Live Oak to be affixed this 24th day of September 2024.

Mary M. Dennis, Mayor



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024 Agenda item: 6E

Prepared by: Gary Hopper, Chief of Police Reviewed by: Anas Garfaoui, City Manager

Department: Police Department

AGENDA ITEM DESCRIPTION:

Proclamation for National Domestic Awareness Month October 2024.

Staff Briefing:

October is the month set aside to bring awareness to the single most unreported crime in the nation, Domestic Violence. Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior perpetrated by an intimate partner against another. It is an epidemic affecting individuals in every community regardless of age, economic status, race, religion, nationality or educational background. Violence against women is often accompanied by emotionally abusive and controlling behavior, and thus is part of a systematic pattern of dominance and control. Domestic violence can cross generations and last lifetimes.

ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	2

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

None.



PROCLAMATION FOR NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

WHEREAS: Domestic violence is a serious crime that impacts countless Texans, without regard to age, race, religion, or economic status; as victims suffer at the hands of a spouse or partner, it affects their children, families, and entire communities; and

WHEREAS: Domestic violence can have life-long consequences emotionally, mentally, socially, spiritually and physically; violence harms the core of the human spirit and jeopardizes the future well-being of our communities; and

WHEREAS: Domestic Violence Awareness Month provides an excellent opportunity for residents to learn more about preventing domestic violence and to show support for the organizations and individuals who provide critical advocacy, services, and assistance to victims; and

WHEREAS: The Live Oak Police Department cooperates with Bexar County community advocates to enhance services for domestic violence victims through our Crime Victim's Liaison.

NOW, THEREFORE, I, Mary M. Dennis, Mayor of the City of Live Oak, for and on behalf of the residents of Live Oak, do hereby proclaim October 2024 as National Domestic Violence Awareness month in Live Oak, Texas, and call on all residents to join me to do our part to stop domestic violence by advocating for victim rights and holding abusers accountable for their actions.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the City of Live Oak to be affixed this 24th day of September 2024.

Mary M. Dennis, Mayor



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6F

Prepared by: Rafael Luna, Deputy Fire Marshal

Reviewed by: Anas Garfaoui, City Manager

Department: Fire Department

AGENDA ITEM DESCRIPTION:

Proclamation for Fire Prevention Week, October 6 through October 12, 2024.

Staff Briefing: History of Fire Prevention Week. A Mayoral Proclamation will continue the dedication of the City of Live Oak’s participation in the Fire Prevention Week activities for 2024. The Mayor and City Council can be proud to participate in a nationwide effort to urge all citizens to protect their homes and families by heeding the important safety messages that will be issued during Fire Prevention Week 2024.

The National Fire Protection Association (NFPA) has announced “**SMOKE ALARMS, Make Them WORK For You**” as the theme for Fire Prevention Week, October 6-12, 2024.

This year’s campaign strives to educate everyone about the importance of having working smoke alarms in the home.

Live Oak Fire Department will be educating over 1500 students and over 150 parents/teachers during the week of Fire Prevention. We have elementary schools visit the fire department as well as make presentations to 3 elementary schools and several daycares in Live Oak.

ACTION:

- Ordinance Resolution
- Proclamation Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 – Beautiful

Staff Recommended Motion:

None.



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6F

Prepared by: Rafael Luna, Deputy Fire Marshal

Reviewed by: Anas Garfaoui, City Manager

Department: Fire Department

AGENDA ITEM DESCRIPTION:

Proclamation for 2024 Fire Prevention Week.

Staff Briefing: History of Fire Prevention Week. A Mayoral Proclamation will continue the dedication of the City of Live Oak’s participation in the Fire Prevention Week activities for 2024. The Mayor and City Council can be proud to participate in a nationwide effort to urge all citizens to protect their homes and families by heeding the important safety messages that will be issued during Fire Prevention Week 2024.

The National Fire Protection Association (NFPA) has announced “**SMOKE ALARMS, Make Them WORK For You**” as the theme for Fire Prevention Week, October 6-12, 2024.

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ACTION:

- Ordinance Resolution
- Proclamation Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 – Beautiful

Staff Recommended Motion:

None.



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 6G

Prepared by: Isa Gaytan City Secretary

Reviewed by: Anas Garfaoui, City Manager

Department: Administration

AGENDA ITEM DESCRIPTION:

Proclamation for National Hispanic Heritage Month.

Staff Briefing:

Hispanic Heritage Month began September 15, 2024, and runs through October 15, 2024, giving the United States an opportunity to recognize and celebrate members of our communities.

ACTION:

- Ordinance Resolution
 Proclamations Special Presentation
 Finance Report Public Hearing
 Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	3

Strategic Goals: 1- Stability, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

None.



PROCLAMATION FOR NATIONAL HISPANIC HERITAGE MONTH

WHEREAS: Each year, Americans observe National Hispanic Heritage Month from September 15 to October 15, by celebrating the histories, cultures and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean and Central and South America; and

WHEREAS: The observation started in 1968 as Hispanic Heritage Week under President Lyndon Johnson and was expanded by President Ronald Reagan in 1988 to cover a 30-day period starting on September 15 and ending on October 15. It was enacted into law on August 17, 1988, on the approval of Public Law 100-402; and

NOW, THEREFORE, I, Mary M. Dennis, Mayor of the City of Live Oak, for and on behalf of the residents of Live Oak, do hereby proclaim September 15 through October 15, 2024, as National Hispanic Heritage month in Live Oak, Texas.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the City of Live Oak to be affixed this 24th day of September 2024.

Mary M. Dennis, Mayor



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 7A

Prepared by: Donna Lowder, EDC Manager

Reviewed by: Anas Garfaoui, City Manager

Department: Economic Development Corporation

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding an Ordinance of the City of Live Oak amending Chapter 22 Taxation, Article II-Hotel Occupancy Tax by adding provisions establishing the Visit Live Oak Advisory Board.

Staff Briefing:

In this item, staff are asking the Mayor and City Council to establish an advisory committee for the purpose and responsibility of making recommendations to the City Council in effectively dispersing the hotel-motel tax revenues collected.

In your packet, you will find the draft ordinance and Exhibit A which outlines the creation, purpose, membership terms, member appointments, duties, and meetings of the advisory committee.

ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	3

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

Motion to approve an Ordinance of the City of Live Oak, Texas, amending Chapter 22-Taxation, Article II-Hotel Occupancy Tax by adding provisions establishing the Visit Live Oak Advisory Board for the City of Live Oak, including rules, procedures, purposes, duties, and authority of the board; and providing an effective date.

AN ORDINANCE OF THE CITY OF LIVE OAK, TEXAS, AMENDING CHAPTER 22 -TAXATION, ARTICLE II – HOTEL OCCUPANCY TAX BY ADDING PROVISIONS ESTABLISHING THE VISIT LIVE OAK ADVISORY BOARD FOR THE CITY OF LIVE OAK, INCLUDING RULES, PROCEDURES, PURPOSES, DUTIES, AND AUTHORITY OF THE BOARD; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is authorized by Chapter 351 of the Texas Tax Code to impose a hotel occupancy tax for the purpose of promoting tourism and the convention and hotel industry, and for further purposes as set forth in Texas Tax Code, Section 351.101, as amended; and

WHEREAS, Chapter 22 – Taxation, Article II. – Hotel Occupancy Tax of the City’s Code of Ordinances lays out the City’s collection of hotel occupancy tax; and

WHEREAS, the City Council desires to create a board to assist with the collection and disbursement of hotel occupancy tax; and

WHEREAS, per Section 4.09 of the City Charter, the City Council has the power to create, by ordinance, boards to assist with carrying out the business and welfare of the City; and

WHEREAS, the City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City and in the best interest of the health, safety, and welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS:

Section 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. The City Council does hereby establish an advisory board for the purpose and with the responsibility to make recommendations to the City Council as to adopted procedures, rules and regulations reasonably necessary to effectively collect the tax levied herein and the disbursement of the hotel-motel tax revenues collected in accord with the purposes more specifically laid out in Exhibit A.

Section 3. The City Council hereby amends Chapter 22 – Taxation, Article II. – Hotel Occupancy Tax, to add a new section as set forth in the attached Exhibit A.

Section 4. If for any reason any section, paragraph, subdivision, clause, phrase, word, or other provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this Council that every section, paragraph, subdivision, clause phrase, word, or provision hereof shall be given full force and effect for its purpose.

Section 5. This ordinance shall be cumulative of all other ordinances of the City of Live Oak, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Live Oak except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section 6. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This ordinance shall take effect immediately from and after its passage and any publication requirements as required by law.

PASSED AND APPROVED this _____ day of _____ 2024.

CITY OF LIVE OAK, TEXAS

By: _____
Mary M. Dennis, Mayor

ATTEST:

Isaura Gaytan, City Secretary

APPROVED AS TO FORM:

City Attorney
DENTON NAVARRO RODRIGUEZ BERNAL SANTEE& ZECH, PC

EXHIBIT A

Section 22-28. – Visit Live Oak Advisory Board

(a) Creation

The City Council does hereby establish an advisory board for the purpose and with the responsibility to make recommendations to the City Council as to adopted procedures, rules and regulations reasonably necessary to effectively collect the tax levied herein and the disbursement of the hotel-motel tax revenues collected in accord with the purposes stated herein.

(b) Membership

The board shall be composed of a total of nine (9) members. All members shall be appointed by simple majority vote of the city council. All members appointed to the board shall not be in arrears in the payment of any taxes or other liabilities due to the city. The members of the board shall be appointed by the City Council for a term of two (2) years or until their successors are appointed and qualified.

The membership of the board shall be composed of the following:

- Two residents
- Two restaurant operators
- Two business operators
- One business entertainment operator
- One hotel operator
- One Tri-County Chamber of Commerce representative

(c) Duties

The board shall act only as an advisory body and provide recommendations to the city council, and shall perform the following functions:

- Receive and review applications from businesses and individuals requesting funds for projects that are eligible for hotel motel tax funds;
- Prioritize the requests for such funds and projects and advise the city council regarding the board's recommendations;
- Assist city with oversight of projects and agencies that receive funds and verify that such funds are being used in accordance with state law requirements;
- Report to city council on an as needed basis regarding the activities of the board and the agencies and the projects that have received funds;
- Develop a planning calendar, procedure for evaluation and evaluation criteria to be used when recommending and prioritizing agencies and projects for hotel motel tax funds;

- Recommend advertising and marketing strategies for the city council to consider and assist the city with oversight of any contracts for advertising and marketing approved by the city council;
- Any other function or duty directed by the city council in regards to the hotel motel advisory board.

(d) Meetings

The board shall meet no less than twice a year, or as needed or as requested by the city manager or city council.

(e) Rules and bylaws

The board may adopt rules and regulations for the government of their own proceedings, and to carry out the purposes for which the board is created, not inconsistent with state law, the Charter, this chapter and ordinances of the city.



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 7B

Prepared by: Ron Ruthven, ACM

Reviewed by: Anas Garfaoui, City Manager

Department: Administration

Agenda Item Description:

Discussion and possible action regarding a Resolution appointing members and alternates and providing the current list for various City of Live Oak Boards and Commissions.

Staff Briefing:

Consistent with last year’s appointments, staff is recommending a Resolution listing all the Boards and Commissions along with their respective Members and Commissioners as detailed in the attached resolution. This item includes appointments to the newly created Visit Live Oak Advisory Board. The approving resolution includes all current board and commission members, including members with expiring terms and those whose terms expire next year.

Action:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	1, 3

Strategic Goals: 1- Stable, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

Staff is recommending approval of this Resolution.

A RESOLUTION OF THE CITY OF LIVE OAK, TEXAS, APPOINTING MEMBERS AND ALTERNATES AND PROVIDING A CURRENT LIST FOR VARIOUS BOARDS AND COMMISSIONS OF THE CITY OF LIVE OAK INCLUDING THE ZONING BOARD OF ADJUSTMENT; DANGEROUS STRUCTURE DETERMINATION BOARD; ETHICS REVIEW BOARD; PARKS AND RECREATION COMMISSION & TREE CARE BOARD; PLANNING & ZONING COMMISSION; AND VISIT LIVE OAK ADVISORY BOARD

WHEREAS, the City of Live Oak, Texas has multiple Boards & Commissions and desires to appoint and reappoint specific persons and alternates to respective Boards & Commissions as authorized by law, specifically for the Zoning Board of Adjustment, Dangerous Structure Determination Board, Ethics Review Board, Parks & Recreation Commission & Tree Care Board, Planning and Zoning Commission and Visit Live Oak Advisory Board, and includes a current list of Board/Commission members; and

WHEREAS, the City Council hereby confirms and ratifies the duly qualified persons listed below for appointment to the respective positions and for the respective terms described below and associated code provisions as to the terms of the appointment(s).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS THAT:

SECTION 1: That, all matters stated in the Recitals hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2: The City Council of the City of Live Oak hereby appoints the persons listed below as members and alternates of the Zoning Board of Adjustment. Such appointments shall be subject to and governed by the current term limits of the Board as outlined in the Live Oak Code of Ordinances:

ZONING BOARD OF ADJUSTMENT

Members	Term Ending
Marie Atkinson, Board Member	09/30/2025
Steve Green, Board Member	09/30/2025
Sandra Vogel, Board Member	09/30/2025
Terence Jenkins, Board Member	09/30/2025
Christopher Hockman, Board Member	09/30/2025
Sandra Donnelly, Alternate Board Member	09/30/2025
Bonnie Tullgren, Alternate Board Member	09/30/2026

SECTION 3: The City Council of the City of Live Oak hereby appoints the

persons listed below as members of the Dangerous Structure Determination Board. Such appointments shall be subject to and governed by the current term limits of the Board as outlined in the Live Oak Code of Ordinances:

DANGEROUS STRUCTURE DETERMINATION BOARD

Members	Term Ending
Suzanne Hildebrand, Board Member	09/30/2025
Cynthia Audelo, Board Member	09/30/2025
Marie Atkinson, Board Member	09/30/2025

SECTION 4: The City Council of the City of Live Oak hereby appoints the persons listed below as members of the Ethics Review Board. Such appointments shall be subject to and governed by the current term limits of the Board as outlined in the Live Oak Code of Ordinances:

ETHICS REVIEW BOARD

Members	Term Ending
Brian Read, Board Member	10/30/2025
Terence Jenkins, Board Member	10/30/2025
Sandra Vogel, Board Member	10/30/2025
Paul Lukich, Board Member	10/30/2026
Mark Cymbalist, Board Member	10/30/2026

SECTION 5: The City Council of the City of Live Oak hereby appoints the persons listed below as members and alternates of the Parks and Recreation Commission and Tree Care Board. Such appointments shall be subject to and governed by the current term limits of the Commission/Board as outlined in the Live Oak Code of Ordinances:

PARKS & RECREATION COMMISSION & TREE CARE BOARD

Members	Term Ending
Mario Ward, Chairman	09/30/2026
Cherece Smith, Vice Chairman	09/30/2026
Elizabeth Ramirez, Commissioner	09/30/2025
Angela Green, Commissioner	09/30/2026
Daniel Buntjer, Commissioner	09/30/2025
Crystal Smith, Commissioner	09/30/2025
Brian Read, Commissioner	09/30/2026
Dorothy Scott, Alternate Commissioner	09/30/2026
Chris Hockman, Alternate Commissioner	09/30/2025

SECTION 6: The City Council of the City of Live Oak hereby appoints the persons listed below as members and alternates of the Planning and Zoning Commission. Such appointments shall be subject to and governed by the current term

limits of the Commission as outlined in the Live Oak Code of Ordinances:

PLANNING AND ZONING COMMISSION

Members	Term Ending
Rebecca Kochan, Commissioner	09/30/2025
Michael Llamas, Commissioner	09/30/2025
Tom Kusek, Commissioner	09/30/2026
Gary Woppert, Commissioner	09/30/2025
Angela Green, Alternate Commissioner	09/30/2026
Janita Woodall, Alternate Commissioner	09/30/2025

SECTION 7: The City Council of the City of Live Oak hereby appoints the persons listed below as members and alternates of the Visit Live Oak Advisory Board. Such appointments shall be subject to and governed by the current term limits of the Board as outlined in the Live Oak Code of Ordinances:

VISIT LIVE OAK ADVISORY BOARD

Members	Term Ending
Dawn Dear, <i>Dear Agency</i> , Business Operator Board Member	09/30/2026
Amanda Thomas, <i>The Break Room</i> , Business Operator Board Member	09/30/2026
David Komet, <i>Texas Pickle Hall</i> , Business Entertainment Operator Board Member	09/30/2026
Chancen Elloit, <i>Longhorn Steakhouse</i> , Restaurant Operator Board Member	09/30/2026
Armando Trevino, <i>Raising Canes</i> , Restaurant Operator Board Member	09/30/2026
Brandon Rumfield, <i>Hampton Inn</i> , Hotel Operator Board Member	09/30/2026
Daniel Buntjer, Resident Board Member	09/30/2026
Steve Green, Resident Board Member	09/30/2026
Melissa Cox, Tri-County Chamber Representative Board Member	09/30/2026

SECTION 8: If any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determines that it would have adopted this Resolution without the invalid provision.

SECTION 9: That this Resolution shall become effective from and after its date of passage.

PASSED, APPROVED and ADOPTED this ____ day of _____ 2024.

Mary M. Dennis, Mayor

ATTEST:

Isaura Gaytan, City Secretary

APPROVED AS TO FORM:

City Attorney



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 7C

Prepared by: Donna Lowder, EDC Manager

Reviewed by: Anas Garfaoui, City Manager

Department: Economic Development Corporation

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding a Resolution appointing and reappointing members to the Live Oak Economic Development Corporation.

Staff Briefing:

In the past, appointments and reappointments were placed as individual items on the City Council agenda. While action was taken by the City Council, it made the tracking of each somewhat cumbersome. To resolve this, Staff is recommending a Resolution listing all the along with their respective Members.

As part of this Resolution, Staff is also recommending for the following actions for each Board and Commission:

Economic Development Corporation Board:

Appoint Cynthia Audelo, Ed Cimics, Rod Streets, and Paras Arora as a Board Member with a term expiration of September 30, 2026.

ACTION:

- Ordinance Resolution
 Proclamations Special Presentation
 Finance Report Public Hearing
 Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal #	1 & 3

Strategic Goals: 1- Stability, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

Staff is recommending approval of this Resolution.

A RESOLUTION OF THE CITY OF LIVE OAK, TEXAS, APPOINTING MEMBERS AND PROVIDING A CURRENT LIST TO THE ECONOMIC DEVELOPMENT CORPORATION.

WHEREAS, the City of Live Oak, Texas has an Economic Development Corporation (EDC) and shall appoint respective Board Members under the Articles of Incorporation and Bylaws and desires to appoint and reappoint specific persons and alternates to the EDC Board and identify a current list of Board Members; and

WHEREAS, the City Council hereby confirms and ratifies the duly qualified persons listed below for appointment to the respective positions and for the respective terms described below and associated coded Bylaws provisions as to the terms of the appointment(s):

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS THAT:

I.

The City Council of the City of Live Oak hereby appoints the persons listed below as members of the Economic Development Corporation as indicated in the following paragraph. Such appointments shall be subject to and governed by the current term limits of each board/commission as governed by the EDC bylaws and articles of incorporation.

II.

ECONOMIC DEVELOPMENT CORPORATION

Members	Term Ending
Mary M. Dennis, Board President	09/30/2025
Cynthia Audelo, Board Vice President	09/30/2026
Bob Tullgren, Council Director	09/30/2025
Ed Cimics, Council Director	09/30/2026
Rod Streets, Business Director	09/30/2026
Paras Arora, Board Secretary	09/30/2026
Angela Green, Citizen Director	09/30/2025

PASSED, APPROVED and ADOPTED this ____ day of _____ 2024.



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 27, 2024

Agenda item: 7D

Prepared by: Donna Lowder EDC Manager

Reviewed by: Anas Garfaoui, City Manager

Department: Economic Development

Public Hearing Item –

Discussion and possible action regarding a first reading of a Resolution authorizing an expenditure of \$300,000 from the Economic Development Corporation Funds on the purchase of water rights for future business development.

Staff Briefing:

The Live Oak Economic Development Corporation, during the 2024/25 budget process, identified \$300,000 for the purchase of water rights. As part of the procedure for the expenditure of funds, the following process is outlined:

- October 1, 2024 – \$300,000 budgeted for the purchase of Water Rights in the Economic Development Fund in FY 2022/2023
- September 11, 2024 – first publication of notice of funds for the purchase of water rights, public hearing date and beginning of 60-day review period
- September 18, 2024 – second publication of notice of funds for the purchase of water rights and public hearing date
- September 24, 2024 - First reading of Resolution for expenditure of funds for purchase of water rights by the City Council
- October 29, 2024 – Second reading of Resolution for expenditure of funds for purchase of water rights by the City Council
- December 2, 2024 – End of 60-day public comment period.

The attached Resolution will be read twice by the City Council for the expenditure of funds for the purchase of water rights during the September 24th and October 29th regular meetings.

ACTION:

- Ordinance Resolution
- Proclamation Special Presentation
- Finance Report Public Hearing
- Other

Cost: \$300,000	
Budgeted	\$300,000
Actual	\$300,000
Acct. Name	Purchase of Water Rights
Acct. Fund	50-500.581
Other Funding	1, 2, &3

Strategic Goals: 1-Stable, 2-Secure, 3-Supportive, and 4-Beautiful

Staff Recommended Motion:

CITY COUNCIL AGENDA ITEM FORM

A motion to approve the first reading of a Resolution authorizing an expenditure of \$300,000 of Economic Development Corporation Funds on the purchase of water rights with an effective date.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS, AUTHORIZING EXPENDITURES OF \$300,000 FROM THE ECONOMIC DEVELOPMENT FUND TO PURCHASE WATER RIGHTS FOR FUTURE BUSINESS DEVELOPMENT WITH AN EFFECTIVE DATE

WHEREAS, the City of Live Oak relies on the Edwards Aquifer and other providers as sources of water, which is becoming a scarce commodity; and

WHEREAS, the City of Live Oak and Live Oak Economic Development Corporation recognizes that opportunities for procurement of water rights are often sporadic and it is important for the expansion of new and existing businesses to have available water at the time it is needed; and

WHEREAS, the City of Live Oak public was notified of this project on September 11th and 18th, 2024, and shall have a 60-day review period for comments, as required by state law; and

WHEREAS, the City of Live Oak Economic Development Corporation held a public hearing for this project on September 24, 2024, as required by state law, and

WHEREAS, the City of Live Oak Economic Development Corporation finds the purchase of water rights meets criteria for a permissible project based on initial ballot language from the 4B sales and use tax election as well as, a legal opinion from the City Attorney; and

WHEREAS, the Economic Development Fund has funds budgeted for the purchase of water rights for the FY 2024-2025 budget year and has approved this Resolution to be sent to City Council for consideration; and

WHEREAS, City Council must hold two (2) readings of this Resolution before final approval, as required by state law.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF LIVE OAK, BEXAR COUNTY, TEXAS, THAT”

The City of Live Oak hereby authorizes as an appropriate project for the City of Live Oak Economic Development Corporation the purchase of water rights to be used for the promotion of new and expanded business enterprises and the expenditure of up to \$300,000 from the Economic Development Fund, after December 2, 2024, for the procurement of water rights as they become available.

PASSED AND APPROVED this _____ day of _____, 2024

Mary M. Dennis, Mayor

ATTEST:

Isa Gaytan, City Secretary

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda item: 7E

Prepared by: Donna Lowder, EDC Manager

Reviewed by: Anas Garfaoui, City Manager

Department: Economic Development

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding a Resolution regarding the Business Improvement Grant (BIG) program and associated expenditures for FY 2024-2025 to promote the development and expansion of businesses and existing businesses in the City of Live Oak to include BIG Guidelines and Performance Agreement for applicants.

Staff Briefing:

Tonight, staff is seeking the EDC's approval to move forward with the BIG program and the supporting documents and resolutions to be approved by the City Council. As a recap, the funding has been previously approved as a total of \$150,000.00 for a maximum of three participants a year with requests not exceeding \$50,000.00 per applicant or per the Board's recommendation.

ACTION:

- Ordinance Resolution
- Proclamation Special Presentation
- Finance Report Public Hearing
- Other

Cost:	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	
Strategic Goal	3 & 4

Strategic Goals: 1 – Stable, 2 - Secure, 3 - Supportive, and 4 - Beautiful

Staff Recommended Motion:

A motion to accept the recommendation of the EDC Board to approve a Resolution of the City Council for the creation and funding of the Business Improvement Grant (BIG) program to promote the development and expansion of new and existing businesses within the City of Live Oak, Texas.

**A RESOLUTION OF THE CITY COUNCIL OF LIVE OAK, TEXAS
APPROVING THE BUSINESS IMPROVEMENT GRANT (BIG)
PROGRAM AND PERFORMANCE AGREEMENT FOR APPLICANTS TO
PROMOTE THE DEVELOPMENT AND EXPANSION OF BUSINESSES
AND EXISTING BUSINESSES IN THE CITY OF LIVE OAK; AND
DECLARING AN EFFECTIVE DATE**

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq, Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, in addition to “project” as defined 501.101 of the Act, for the Live Oak Economic Development Corporation (Corporation), “project” also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements found by the Corporation’s board of directors to promote new or expanded business development; and

WHEREAS, the Corporation has found that incentivizing local businesses will contribute to the economic development of the City by creating new jobs and increased employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City and Corporation, and will have both a direct and indirect positive overall impact on the local economy; and

WHEREAS, the Corporation desires to offer incentives to local businesses to enable them to expand and improve their location within the City of Live Oak pursuant to the City of Live Oak BIG Program Guidelines and Incentive Policy (Exhibit A), and the Act; and

WHEREAS, the City Council hereby finds that all conditions precedent for the approval of the City of Live Oak BIG Program Guidelines and Incentive Policy have occurred and been complied with including the Texas Open Meetings Act and all public notices and hearings have been conducted in accordance with Texas law, and further finds the expenditures for FY 2024/2025 are reasonable to implement the City of Live Oak BIG Program.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LIVE OAK ,
TEXAS:**

SECTION 1. That the above recitals and legislative findings are true and correct and are incorporated herein as if restated in full.

SECTION 2. The City Council hereby finds that the BIG Program as defined in the Attached Exhibit A is a qualifying project under Texas Local Government Code, Chapters 501 and 505 *et seq.*, as amended, and hereby approves the program and expenditure for FY 2024-2025 in accordance with Exhibit A and

approves the use of the Program Incentive Agreement to be negotiated between the Corporation and applicants, in substantially the same form as set forth in the example attached hereto as Exhibit B.

SECTION 3. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the CEIDC Board hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

SECTION 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

SIGNED this ____ day of _____, 2024.

Mary M. Dennis, Mayor
City of Live Oak , Texas

ATTEST:

Isa Gaytan, City Secretary

Clarissa M. Rodriguez, City Attorney

BIG PROGRAM PERFORMANCE AGREEMENT

This Economic Development Incentive Agreement (“Agreement”) is entered into to be effective as of _____, by and between the Live Oak Economic Development Corporation, located in Bexar County, Texas (hereinafter called “Corporation”), a Texas non-profit industrial development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act and _____, a [Texas Corporation] authorized to do business in Texas (hereinafter called “Company”), otherwise known as the “Parties” to this Agreement.

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq, Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act; and

WHEREAS, Section 501.158 of the Act requires an incentive agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, in addition to “project” as defined 501.101 of the Act, for the Corporation, “project” also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements found by the Corporation’s board of directors to promote new or expanded business development; and

WHEREAS, Company has an existing Live Oak business operation at _____, Live Oak, Bexar County, Texas; and

WHEREAS, over the term of the Agreement, Company intends to create and maintain _____ full time equivalent [Primary/Non-primary Jobs] with a minimum annual payroll of \$ _____; and

WHEREAS, over the term of the Agreement, Company intends to make capital expenditures totaling a minimum of \$ _____ as reflected in tangible real and personal property at the location; and

WHEREAS, the location of the Company, as proposed, will contribute to the economic development of the City by creating new jobs and increased employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City and Corporation, and will have both a direct and indirect positive overall impact on the local economy; and

WHEREAS, the Corporation desires to offer incentives to Company to enable Company to expand and improve its location within the City of Live Oak pursuant to this Agreement and in substantial conformity with the City of Live Oak BIG Program Guidelines and Incentive Policy, and the Act; and

WHEREAS, the Parties are executing and entering into this Agreement to set forth certain terms and obligations of the Parties with respect to such matters; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any

agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all BIG Guideline eligibility requirements and requirements pursuant to the Act and the Texas Open Meetings Act, and all public notices and hearings; if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The Corporation's execution of this Agreement is authorized by the Act and constitutes a valid and binding obligation of the Corporation. The Corporation acknowledges that Company is acting in reliance upon the Corporation's performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Project, hereinafter established.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date, hereinafter established, unless terminated sooner or extended by mutual agreement of the Parties in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between the Company and the Corporation for the granting of funds in the form of a sales tax rebate to cover certain costs associated with Company's Project and specifically state the covenants, representations of the Parties, and the incentives associated with Company's commitment to abide by the provisions of the Act and to abide by the terms of this Agreement which has been approved by the Corporation and the Company as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by the Company may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the Corporation unless an alternative penalty or remedy is provided for herein.

4. Administration of Agreement. Upon the Effective Date, the Corporation delegates the administration and oversight of this Agreement to the Executive Director of the Corporation. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the Corporation.

ARTICLE III
DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

“Annual Payroll” shall mean the total wages paid, exclusive of employee benefits, to Full-time Employees at the Live Oak Location.

“Bankruptcy” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any party of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Certificate of Occupancy” shall mean the signed certificate issued by the City of Live Oak Inspections Division granting the Company the right to occupy the Facility and confirming that the entire work covered by the permit and plans are in place.

“Default” shall mean failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant if uncured within sixty (60) days of receiving written notice from any other Party.

“Effective Date” shall be the date of execution by the Corporation after approval by the required governing bodies.

“Eligible Expenditures” shall mean structural improvements to building facades including, but not limited to, structural rehabilitation, awnings, painting, reconstruction, and/or remodeling. Removal/replacement of inappropriate or incompatible exterior finishes or materials; doors, windows/trim replacement, or repair; brick/stone/masonry repair; foundation stabilization, fire sprinkler or fire alarm system, exterior lighting detached or attached to the façade; building permits fees, sign permit fees, and inspection fees, and architect, engineering, and survey fees; and large sign/site improvements including new pylon sign structure, and renovation or removal of existing signs. Items such as, but not limited to parking lot resurfacing, striping, driveway improvements, parking lot lighting, new curb and pavement and sidewalks, fencing, exterior or patio seating creation, landscaping to include dumpster screening structures, and waterline or gas extension

“Expiration Date” shall mean the earlier of:

1. _____; or
2. The date of termination, provided for under Article VI of this Agreement.

“Facility” shall mean the property and improvements that house the Project and being located at _____, Live Oak, Bexar County, Texas.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions or floods, pandemics, strikes, slowdowns or work stoppages.

“Full-time Employee” shall mean: (1) an employee with a regular work schedule of at least 36 hours per week as reported on the Texas Employers Quarterly Wage Report from the Texas Workforce Commission and (2) are entitled to at least the customary employer-sponsored employee benefits package afforded by the Company to its similarly situated employees at other locations.

“Primary job” when applicable, shall mean a job that is available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy and is included in one of the sectors of the North American Industry Classification System defined in Section 501.002(12) of the Act.

“Rebate” shall mean up to five payments via check from Corporation to Company in the form of a [100%] rebate based upon the sales tax collected by the State based upon sales at the Live Oak Facility in calendar years 2026, 2027, 2028, 2029 and 2030.

“Project” shall mean the construction project and operation of the Facility.

“State of Texas” shall mean the Office of the Texas Comptroller, or its successor.

**ARTICLE IV
ECONOMIC DEVELOPMENT INCENTIVE TERMS AND CONDITIONS**

1. Construction Requirements

- a. The Company shall obtain all applicable City building permits, sign permits, and approvals required in connection with the “work” described in the approved application prior to the commencement of any work.
- b. The Company shall commence the “work” described in the approved application within thirty (30) days from the effective date of this Agreement and complete the “work” described in the approved application within one hundred and eighty (180) days from the effective date of this Agreement. If Company is unable for good cause to commence the “work” within thirty (30) days from the effective date of this Agreement or complete the “work” within one hundred and eighty (180) days from the effective date of this Agreement, the Company may submit a written request for an extension to the Corporation.
- c. All “work” proposed by the approved application must comply with all City building permit requirements, sign requirements and all applicable City building codes, ordinances and regulations when completed.

2. Funding

- a. Company shall provide Corporation with written notification of project completion to Live Oak’s Economic Development Corporation. Such notification shall include a letter signed by the Corporation’s Designee stating that all improvements have been completed in accordance with the application and/or approved modifications, and that full payment has been made for all labor and materials associated with the project. Such notification shall include documentation, not limited to, paid receipts for materials and labor, permits, inspection reports, project photographs, or any other items the Corporation may deem necessary for determining the successful completion of the project.

- b. Upon receipt of a notification from the Applicant that the project has been completed, an on-site inspection may be made by a representative(s) of the Corporation, and if City permits were required, an inspection by the City Building Inspector, to confirm completion in accordance with the approved application and/or approved modifications and any building code requirements; such inspection shall not be considered in any way as a reflection of Corporation's approval on the quality, safety, or reliability of the improvements, such being the sole responsibility of the Applicant.
- c. The Company shall sign and submit a Reimbursement Request to the Corporation within thirty (30) days after the City's building inspectors have confirmed in writing that the "work" is completed. requesting reimbursement of the approved amount of the grant.
- d. The approved grant will be paid by the Corporation as a single payment reimbursement in the amount of \$ _____ (_____ DOLLARS and _____ CENTS) within thirty (30) days after the *later* of the following dates: (i) all inspections have been completed and all work complies with all plans, approvals, building permits, and sign permits issued in connection with the work by the City's Development Services; and (ii) the Applicant timely submits a Reimbursement Request; and (iii) the Applicant has provided all receipts, inspection reports, and Reimbursement Requests.
- e. The funds distributed hereunder shall be paid solely from lawfully available funds to the Corporation. Under no circumstances shall the obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

3. Continuing Obligations

- a. The Corporation agrees to the extent allowed by law, to keep all tax information and documentation received, pursuant to this Agreement hereof, confidential. In the event a request is made for such information pursuant to the Texas Public Information Act, Corporation will not disclose the information unless required to do so by the Attorney General of Texas under the provisions of the applicable statutes.
- b. The obligation of the Corporation to pay funds in the form of a Grant shall be conditioned upon Company's continued compliance with and satisfaction of each of the conditions set forth in this Agreement and the BIG Program Guidelines.
- c. Company agrees during the Term of this Agreement to maintain and keep open the Company's business located on the Property.
- d. Company agrees during the Term of this Agreement, it shall employ and maintain a minimum of _____ Full Time employment positions on the Property
- e. Company covenants and agrees within three (3) months of the Effective Date of this Agreement, and during the Term of this Agreement, Company shall deliver to Corporation a quarterly compliance verification signed by a duly authorized representative of Company that shall certify the number of Full-Time Equivalent Employment Positions, and shall

disclose and certify the average wage for all Full-Time Equivalent Employment Positions (the "Quarterly Compliance Verification"). The Company covenants and agrees beginning within three (3) months of the Effective Date of this Agreement, and quarterly thereafter during the Term of this Agreement, Company shall submit such Quarterly Compliance Verification. All Quarterly Compliance Verification shall include quarterly IRS 941 returns or Texas Workforce Commission Employer Quarterly Reports.

- f. Company shall make a minimum capital investment in the Project of at least \$ _____

ARTICLE V COVENANTS AND DUTIES

1. Company's Covenants and Duties. Company makes the covenants and warranties to the Corporation and agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by the Company.

- a. Company is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas and the United States of America during any term of this Agreement and shall timely and fully comply with all of the terms and conditions of this Agreement to commence and complete the Project in accordance with the Agreement.
- b. The execution of this Agreement has been duly authorized by Company's authorized agent, and the individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of Company's by-laws, or of any agreement or instrument to which Company is a party to or by which it may be bound.
- c. Company is not a party to any Bankruptcy proceedings currently pending or contemplated, and Company has not been informed of any potential involuntary Bankruptcy proceedings.
- d. To its current, actual knowledge, and subject to the Certificate of Occupancy (or other approvals and permits to be obtained under subpart (f) immediately below), Company has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City of Live Oak and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.
- e. Company agrees to obtain or cause to be obtained, all necessary permits and approvals from City of Live Oak and/or all other governmental agencies having jurisdiction over the construction of any improvements to the Facility and shall be responsible for paying, or causing to be paid, to City of Live Oak and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the Project.
- f. Company shall cooperate with the Corporation in providing all necessary information to assist them in complying with this Agreement.
- g. During the term of this Agreement, Company agrees to not knowingly employ any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), Company shall be in Default (subject to the remedies in Article V above). Company is not liable for an unknown violation of this Section by a subsidiary, affiliate, or franchisee of Company or by a person with whom Company contracts provided however that identical federal law requirements provided for herein shall be included as

part of any agreement or contract which Company enters into with any subsidiary, assignee, affiliate, or franchisee for which Grant provided herein will be used.

- h. Maintain and prepare financial statements in accordance with generally accepted accounting principles in the United States of America as established by the Financial Accounting Standards Board and permit Corporation to visit, examine, audit, inspect, and make and take away copies or reproductions of Company's book of accounts and other records at mutually agreed upon times (provided, Corporation shall pay the reasonable fees and disbursements of any accountants or other agents of Corporation, selected by Corporation, for the foregoing purposes). Unless written notice of another location is given to Corporation, Company's books and records will be located at

-
- i. Grant Corporation the right to periodically (and with reasonable advance notice) verify the terms and conditions of this Agreement including, but not limited to, the number of persons employed by Company as a result of the assistance provided hereunder, the addresses of those persons, the number of hours each employee worked during the previous 12 months, the total expenses attributable to training and employing those employees, and the cumulative payroll for Company's Live Oak operation.

2. Corporation's Covenants and Duties. The Corporation is obligated to pay Company a Grant. The Grant shall be paid within the timeline set forth in Article IV days after receipt of any required documentation reflecting that the applicable performance objectives have been met as set forth in this Agreement.

3. Substantial Compliance and Default. Failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant shall be considered an act of Default if uncured within sixty (60) days of receiving written notice from any other Party. Failure of Company to timely and substantially cure a default will give the Corporation the right to terminate this Agreement, as reasonably determined by the Board of Directors of the Corporation.

4. Recapture. In the event of Default by the Company, the Corporation shall as its sole and exclusive remedy for Default hereunder, after providing Company notice and an opportunity to cure, have the right to recapture any and all amounts previously paid under this Agreement. The Recaptured Amount shall be paid by the Company within one hundred twenty (120) days after the date Company is notified by the Corporation of such Default (the "Payment Date") provided said Default was not cured. In the event the Recaptured Amount is not repaid by the applicable Payment Date, the unpaid portion thereof shall accrue interest at the rate of six percent (6.00%) per annum from the Effective Date until paid in full.

ARTICLE VI TERMINATION

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The written agreement of the Parties;
- (b) The Agreement's Expiration Date;
- (c) Default by Company (at the option of the Corporation).

**ARTICLE VII
DISPUTE RESOLUTION**

1. **Mediation.** If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, San Antonio, Texas, before resorting to litigation; provided that a Party may not invoke mediation unless it has provided the other Party with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the Agreement, or otherwise. All costs of negotiation and mediation collectively known as alternate dispute resolution (“ADR”) shall be assessed equally between the Parties with each party bearing their own costs for attorneys’ fees, experts, and other costs of ADR and any ensuing litigation.

2. During the term of this Agreement, if Company files and/or pursues an adversarial proceeding against the Corporation regarding this Agreement without first engaging in good faith mediation of the dispute, then, at the Corporation’s option, all access to the funds provided for hereunder may be deposited with a mutually acceptable escrow agent that will deposit such funds in an interest bearing account until the resolution of such adversarial proceeding.

3. Under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding regarding this Agreement against either the Corporation or the City of Live Oak.

**ARTICLE VIII
MISCELLANEOUS**

1. **Binding Agreement.** The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Executive Director of the Corporation shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the Corporation, on behalf of the Parties related thereto. Notwithstanding any other provision of this Agreement to the contrary, performance of either Party under this Agreement is specifically contingent on Company obtaining a Certificate of Occupancy from the City of Live Oak and commencing operations at the Facility under the terms of this Agreement.

2. **Mutual Assistance.** The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. **Representations and Warranties.** The Corporation represents and warrants to Company that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Company represents and warrants to the Corporation that it has the requisite authority to enter into this Agreement.

4. **Assignment.** Company shall have the right to assign all of its rights, duties, and obligations under this Agreement to a duly qualified third party with prior written approval of the Corporation. Any assignment provided for herein shall not serve to enlarge or diminish the obligations and requirements of this Agreement, nor shall they relieve Company of any liability to the Corporation including any required indemnity in the event that any Assignee hereof shall at any time be in Default of the terms of this

Agreement. The Corporation may demand and receive adequate assurance of performance including the deposit or provision of financial security by any proposed Assignee prior to its approval of an assignment.

5. Independent Contractors.

(a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Company at no time will be acting as an agent of the Corporation and that all consultants or contractors engaged by Company respectively will be independent contractors of Company; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed the Parties hereto understand and agree that the Corporation will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by Company respectively under this Agreement, unless any such claims are due to the fault of the Corporation.

(b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the Corporation with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(c) No employee of the Corporation, or any board member, or agent of the Corporation, shall be personally responsible for any liability arising under or growing out of this Agreement.

6. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery, or on the first business day after depositing the same in the hands of a reputable overnight courier (such as United States Postal Service, FedEx or UPS) and addressed to the Party at the address set forth below:

If intended for EDC:

Live Oak Economic Development Corporation
Attention: Exec. Dir. of Economic Development

With a copy to:

[Denton Navarro Rodriguez Bernal Santee & Zech, P.C.](#)

Attention: T. Daniel Santee
2517 North Main Avenue
San Antonio, TX 78212

If to the Company:

Attention: _____

With a copy to:

Attention: _____

Any Party may designate a different address at any time upon written notice to the other Parties.

7. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10

8. Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement (subject to the dispute resolution mechanisms of Article VII above) shall be in the Courts of Bexar County. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

9. Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the Board of Directors of the Corporation.

10. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

11. Payment of Legal Fees. Company commits to reimburse the Corporation for the necessary legal fees in the preparation of any amendment to this Agreement requested by Company. Timely payment shall be made within 60 days of submittal of invoice to Company by the Corporation or its assigns. Each Party shall bear its own attorney's fees in connection with the negotiation of this Agreement.

12. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the Board of Directors of the Corporation.

14. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

15. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

16. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

17. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

18. Indemnification.

COMPANY AGREES TO DEFEND, INDEMNIFY AND HOLD THE CORPORATION AND CITY, AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, JUDGMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO ANY OF THE FOLLOWING: ANY CLAIMS OR DEMANDS BY THE STATE OF TEXAS THAT THE CORPORATION HAS BEEN ERRONEOUSLY OR OVER-PAID SALES AND USE TAX FOR ANY PERIOD DURING THE TERM OF THIS AGREEMENT AS A RESULT OF THE FAILURE OF COMPANY TO MAINTAIN A PLACE OF BUSINESS AT THE PROPERTY OR IN THE CITY OF LIVE OAK, OR AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY COMPANY UNDER THIS AGREEMENT EXCEPT THAT THE IMDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE CORPORATION OR CITY. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. IT BEING THE INTENTION OF THE PARTIES THAT COMPANY SHALL BE RESPONSIBLE FOR THE REPAYMENT OF ANY ANNUAL GRANTS PAID TO COMPANY HEREIN THAT INCLUDES CITY SALES TAX RECEIPTS THAT THE STATE OF TEXAS HAS DETERMINED WAS ERRONEOUSLY PAID, DISTRIBUTED OR ALLOCATED TO THE CORPORATION.

19. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

20. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by the Company, the Company shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

Executed on this _____ day of _____ 2024.

CORPORATION

By: _____

ATTEST:

By: _____

Executed on this _____ day of _____, 2024

COMPANY

By: _____

Name: _____

Title: _____

City of Live Oak Business Improvement Grant (BIG) Program Guidelines

1. **General Purpose & Objective** - Live Oak's Economic Development Corporation has developed the Business Improvement Grant program (BIG) to promote the development and expansion of new and existing business enterprises within the City of Live Oak, Texas (the "City"), and enhance the economic welfare of the citizens of the City by securing and retaining business enterprises and maintaining a higher level of employment, economic activity, and stability.

Objective: The rehabilitation, enhancement, restoration, and preservation of building or site improvements will be a catalyst to: (i) attract new customers and businesses; (ii) stimulate new, private investment, and economic development; (iii) positively impact the marketability and perception of Live Oak; and (iv) promote commercial revitalization of the City's economy and business sector.

The investment of public resources through the Business Improvement Grant (BIG) pursuant to the terms, conditions, and guidelines of this grant is for a public purpose and will promote local economic development in the program boundaries, stimulate business and commercial activity and benefit the City and its citizens.

2. **Program Boundaries** shall mean only those properties located within the boundaries outlined in red on the map and program guidelines attached hereto as **EXHIBIT "A"** and made part hereof for all purposes are eligible to participate in the BIG Program.

3. **Grant Terms, Conditions and Guidelines**

1. Eligible Requirements:

- **Eligible Properties:** Only properties located within the boundaries outlined in the attached map under EXHIBIT "A" and made a part hereof for all purposes are eligible to participate in the BIG Program.
- **Eligible Applicants:** To be eligible to apply for a grant under the Business Improvement Grant Program, an applicant must either be: (i) the owner of the building/property within the program boundaries where the work is to be performed; or (ii) the tenant of a building in the program boundaries where the work is to be performed AND the owner of such building/property must have consented in writing to the "work."

2. Eligible Improvements and Expenditures

Applicants may be eligible to receive up to a maximum grant of \$50,000 as reimbursement for verifiable and eligible expenditures under the program terms and conditions. All projects must be found by the board of directors to promote new or expanded business development. To be eligible, an applicant must be an established business within Live Oak for 5 or more years; and expenditures eligible under the **Live Oak BIG Program** include the following:

- a. Façade Improvements:

Structural improvements to building facades including, but not limited to, structural rehabilitation, awnings, painting, reconstruction, and/or remodeling. Removal/replacement of inappropriate or incompatible exterior finishes or materials; doors, windows/trim replacement, or repair; brick/stone/masonry repair; foundation stabilization, fire sprinkler or fire alarm system, exterior lighting detached or attached to the façade; building permits fees, sign permit fees, and inspection fees, and architect, engineering, and survey fees.

- b. Large Sign Improvements/Site Improvements:

New pylon sign structure, and renovation or removal of existing signs. Items such as, but not limited to parking lot resurfacing, striping, driveway improvements, parking lot lighting, new curb and pavement and sidewalks, fencing, exterior or patio seating creation, landscaping to include dumpster screening structures, and waterline or gas extension.

- c. Miscellaneous Eligibility Requirements:

In addition to the above requirements, the following general requirements must be met for a project to be eligible for a grant under the BIG Program.

1. The work or improvements must cost at least \$50,000.00.
 2. The building and applicant's occupancy and use of the building where the work is to be performed must follow all applicable City codes and ordinances for compliance.
 3. No code enforcement actions may be pending against the applicant or the property where the work is to be performed.
 4. All ad valorem taxes assessed against the property where the work is to be performed must be current and shall not be delinquent; and
 5. The applicant, and the owner of the building where the work is to be performed (if the applicant is not the property owner), must not owe any debts to the City that are past due including, without limitation, any past due property taxes, judgements or fines for code violations or liens, Live Oak municipal court fines, or utility payments.
 6. Non-conforming items on the applicant's property such as signage may be asked by the City to be included in the grant application.
- 3. Eligibility – Applicant seeking Grant funding must meet the following eligibility requirements:**
- a. Eligible Applicant includes any existing (5 years or more) for-profit business facility, commercial property owner, or business tenant physically located within the city limits of Live Oak, Texas. The State Comptroller's office and Certificate of Occupancy will verify and determine the applicant's tax status. Applicant will be required to provide proof of ownership of an existing facility, or if Applicant is a business tenant (lessee), they must attach a copy of the current lease agreement with the application.
 - b. Businesses operating on the same property as the business owners' residence are **NOT** eligible.
 - c. Applicants are **NOT** eligible to receive funding under the Live Oak BIG Program if the Applicant is receiving funding under the Live Oak Visual Improvement Program (VIP) grant within the same 12-month period.
 - d. Applicants who have an ongoing lawsuit or are in any way parties to litigation against the City of Live Oak or Live Oak's Economic Development Corporation are **NOT** eligible.
 - e. Applicants are limited to receiving grant funding for only one (1) project in a 12-month period.
 - f. No in-kind contributions or donations may be used as any part of the Applicant's match. The amount of any grant under this Business Improvement Grant (BIG) program will not exceed \$50,000 reimbursement.
 - g. Improvements shall be made in accordance with project drawings or build plans, specifications, applicable codes, and/or other pertinent information provided in the application, such having been previously approved by the City of Live Oak's Economic Development Corporation. Failure to do so will render the Applicant ineligible to received grant funding. Any modifications **MUST** first receive written approval of the City of Live Oak's Economic Development Corporation and the City's Building Official. Failure to do so will likewise render the Applicant ineligible for grant funding.
 - h. Applicant is obligated to obtain all applicable permits and inspections related to the improvement project. Failure to do so will render the Applicant ineligible for grant funding. **NOTE: if the Applicant's business is within the Forum Shopping Center or the Live Oak Town Center, a written consent from the management company MUST also be obtained before work can commence.**
 - i. Upon approval of a grant application, and during the implementation of the improvements, a representative of the City's Building Department shall have the right to access the property and to inspect the work in progress.
 - j. Improvements shall not commence prior to having received written approval for a grant from the City of Live Oak's Economic Development Corporation.
 - k. Any incurred labor or work fees/cost that were completed by the Applicant, or their employees may not be included in the cost estimate of the project and are **NOT** reimbursable through this program.
 - l. The Applicant must agree to remain in business and not sell or assign such business to another person or entity for a period of twelve (12) months from the date of grant funding of his/her application. Failure to adhere to this requirement will result in repayment of the grant.

4. **Non-Eligible Reimbursement**

Shall mean costs and expenses incurred in connection with the following: Routine maintenance; interior improvements; heating and air conditioning, interior improvements, plumbing, electrical wiring, equipment; legal and all other professional fees except for the professional fees specifically listed in this BIG Program as Eligible Reimbursements, Financing costs; and sums paid to any contractor, laborer or supplier owned directly or indirectly by the Grant Recipient, building owner, or family member of the Grant Recipient or building owner.

5. **Application & Approval**

- a. Applications must be made on a form provided by the City of Live Oak's Economic Development Corporation on the city's website www.liveoaktx.net.
- b. Applicants can submit their completed applications and corresponding documents to myedc@liveoaktx.net.
- c. Applications will be accepted between January 1st through March 30th, and April 1st through June 1st of each year (the Grant Application Period).
- d. Applications will be reviewed internally by the Economic Development Board and staff for the City of Live Oak at the first public meeting after March 30th and June 1st.
- e. Live Oak's Economic Development Corporation will use the Program's Scoring Criteria to rank applications. The scoring criteria is attached to these Guidelines as Exhibit "B."
- f. Only complete applications will be accepted. All applicable application fields must be completed, and all applicable attachments are required to be submitted with the application.
- g. In the event an application is submitted and deemed incomplete, the Applicant will be notified. The incomplete application will be rejected, and the Applicant will be required to resubmit.
- h. All Applicants must include a signed W-9 form as an attachment to their application. Live Oak BIG Program funding will be remitted to the entity named on the W-9.
- i. All Applicants must provide at least one (1) detailed estimate/quote of proposed improvements and or other eligible expenditures as an attachment to their application.
- j. If applicable, Applicant must include improvement project drawings and specifications as an attachment to their application.
- k. If applicable, Applicant must provide photos of the area to be improved as an attachment to their application.
- l. If Applicant is a business tenant (lessee), they must attach a copy of the lease agreement with the application.
- m. As an attachment to the application, Applicants are encouraged to provide any additional information about the project that would be beneficial in reviewing the application.
- n. Applicants will receive notification of their application status within 15-20 business days after completed Grant Application is received.
- o. Live Oak's Economic Development Corporation may award the Applicant a grant with certain provisions, conditions, or other requirements as it may from time to time deem appropriate.
- p. Live Oak's Economic Development Corporation reserves the right to accept or reject any application.
- q. Live Oak's Economic Development Corporation reserves the right to waive any requirement(s) contained herein, and/or add any requirement(s) it deems appropriate in making its determination of approval or disapproval of a grant(s) application.

6. Funding

- a. Applicant shall provide Live Oak's Economic Development Corporation with written notification of project completion to Live Oak's Economic Development Corporation. Such notification shall include a letter signed by the Applicant stating that all improvements have been completed in accordance with the application and/or approved modifications, and that full payment has been made for all labor and materials associated with the project. Such notification shall include documentation, not limited to, paid receipts for materials and labor, permits, inspection reports, project photographs, or any other items Live Oak's Economic Development Corporation may deem necessary for determining the successful completion of the project.
- b. Upon receipt of a notification from the Applicant that the project has been completed, an on-site inspection may be made by a representative(s) of Live Oak's Economic Development Corporation to confirm completion in accordance with the application and/or approved modifications; such inspection shall not be considered in any way as a reflection of Live Oak's Economic Development Corporation's approval on the quality, safety, or reliability of the improvements, such being the sole responsibility of the Applicant.
- c. Within thirty (30) days following the verification of completion of the project in accordance with the application, or any approved modifications thereto, Live Oak's Economic Development Corporation will issue written notice to the Applicant confirming that the project has been deemed successfully complete, and the total grant award will be paid to the Applicant.
- d. Available funding: Live Oak's Economic Development Corporation has approved \$150,000 to fund this grant program. Grant applications received after the available funding has been exhausted may be considered the following calendar year. Live Oak's Economic Development Corporation retains sole discretion to accept or reject applications received after the available funding has been exhausted.
- e. Grants approved through the BIG Program may be treated as income subject to federal income tax provisions. The City's Economic Development Corporation and the City of Live Oak, Texas are not liable for tax implications resulting from the grant award. Applicants should consult a tax advisor for tax liability information.

7. Construction Requirements for Approved Grants - If grant application is approved:

- a. The applicant shall obtain all applicable City building permits, sign permits, and approvals required in connection with the work described in the application prior to the commencement of any work.
- b. The applicant shall commence the work described in the application within ninety (90) days from the date the grant is approved and complete the work described in the application within one hundred and eighty (180) days from the date the grant is approved.

If the applicant is unable for good cause to commence the work within ninety (90) days from the date of approval or complete the work within one hundred and eighty (180) days from the date the grant is approved, the applicant may submit a written request for an extension of the commencement date or completion date to the EDC Board.

The extension request must be made prior to the ninety (90) days or one hundred and eighty (180)-day time limits. An extension of the completion date, if granted, shall be for no longer than thirty (30) days and shall be subject to the conditions determined exclusively by the EDC Board and Director. The denial by the EDC Board of a request for an extension cannot be appealed and shall be final.

- c. All work proposed by the application must comply with all City building permit requirements, sign requirements and all applicable City building codes, ordinances and regulations when completed.

8. Process for Reimbursement. The following shall be conditions precedent to the payment of any grant approved under the Business Improvement Grant Program.

- a. The applicant shall sign and submit a Reimbursement Request to the City's EDC Director requesting reimbursement of the approved amount of the grant and shall be submitted within thirty (30) days after the City's building inspectors have confirmed in writing that the work is completed.

- b. *Payment of Reimbursement Grant:* Grants approved under the BIG program will be paid as a single payment reimbursement within thirty (30) days after the later of the following dates: (i) all inspections have been completed and all work complies with all plans, approvals, building permits, and sign permits issued in connection with the work by the City's Development Services; and (ii) the Applicant timely submits a Reimbursement Request; and (iii) the Applicant has provided all receipts, inspection reports, and Reimbursement Requests.
- c. All covenants and conditions to be performed by the applicant under the terms of the Business Improvement Grant Program Agreement between the applicant and the Live Oak EDC must be satisfied before the applicant submits the Reimbursement Request. If grant application for the BIG Program is approved, Grant recipients will be required to enter into a Performance Agreement with the City of Live Oak Economic Development Corporation.
- d. The work described in the approved application shall have been completed in a good and skillful manner.
- e. Grants approved through the BIG Program may be treated as income subject to federal income tax provisions. The City's Economic Development Corporation nor the City of Live Oak, Texas **is not** liable for any tax implications resulting from any grant award. Applicants should consult a tax advisor for tax liability information.

9. Default

- a. If the subject business is closed, sold, transferred, or relocated within a twelve (12) month period after grant funding is received, the Applicant shall be required to reimburse Live Oak's Economic Development Corporation for 100% of the grant amount received. Thereafter, until the twenty-four (24) month's anniversary date of grant funding, the Applicant shall be required to reimburse Live Oak's Economic Development Corporation for 50% of the grant amount received if the subject business is closed, sold, transferred, or relocated.

10. Amendment

Live Oak's Economic Development Corporation reserves unto itself the right to amend these Guidelines and Criteria as it may from time to time find desirable.

Continued on next page

11. Notice

THE PROVISION OR DELIVERY OF THESE GUIDELINES AND CRITERIA TO AN INTERESTED PARTY DOES NOT CONSTITUTE AN OFFER OF AN IMPROVEMENT GRANT TO THAT PARTY.

THE ADOPTION OF THESE GUIDELINES AND CRITERIA DOES NOT LIMIT THE DISCRETION OF LIVE OAK'S ECONOMIC DEVELOPMENT CORPORATION TO DECIDE WHETHER TO PROVIDE OR NOT PROVIDE A GRANT TO AN APPLICANT, WHICH ABSOLUTE RIGHT OF DISCRETION LIVE OAK'S ECONOMIC DEVELOPMENT CORPORATION RESERVES UNTO ITSELF, WHETHER OR NOT SUCH DISCRETION MAY BE DEEMED ARBITRARY OR WITHOUT BASIS IN FACT.

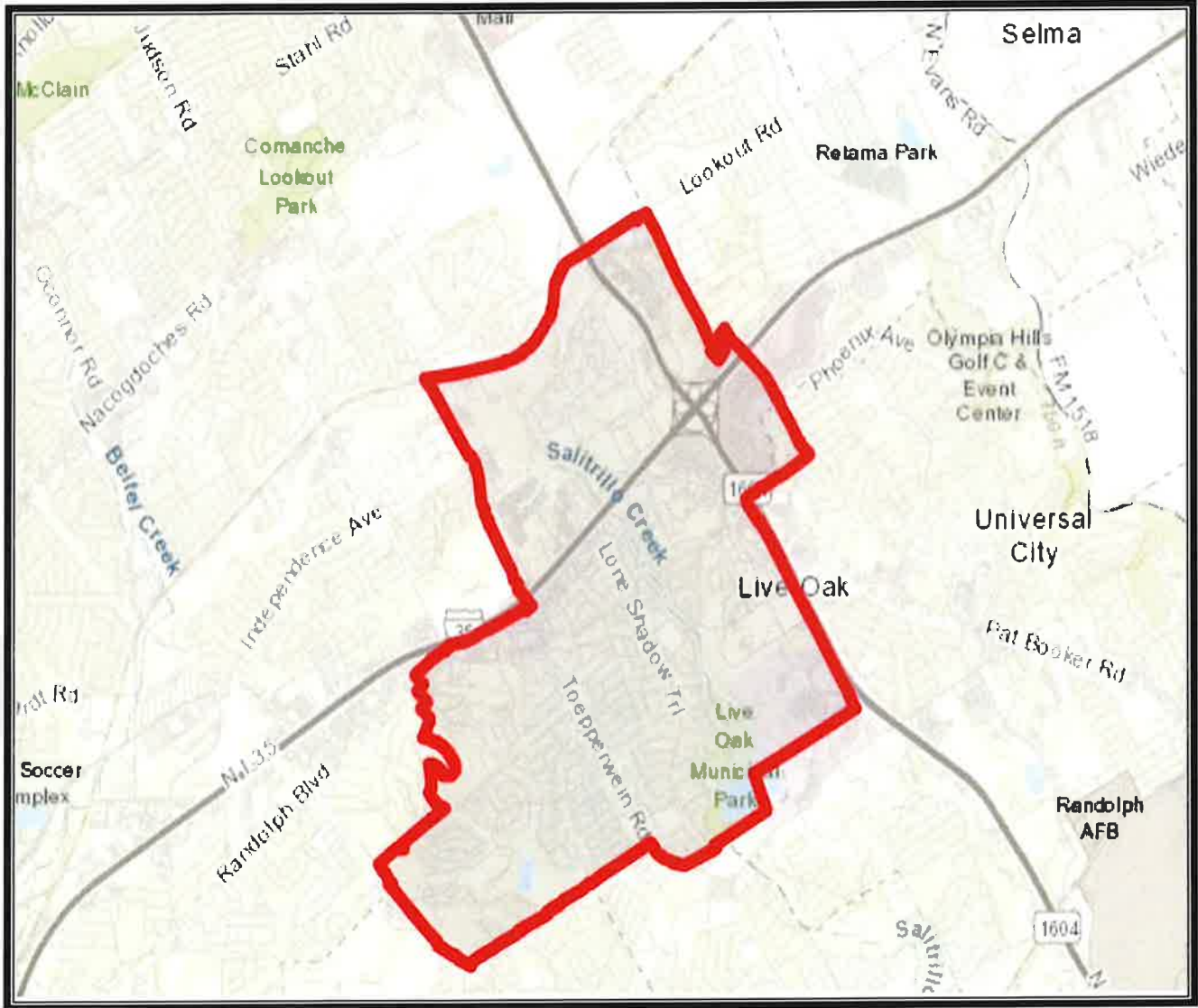
THE ADOPTION OF THESE GUIDELINES AND CRITERIA DOES NOT CREATE ANY PROPERTY, CONTRACT, OR OTHER LEGAL RIGHTS IN ANY PERSON TO HAVE THE CITY PROVIDE GRANT FUNDING.

THE LAWS OF THE STATE OF TEXAS SHALL GOVERN THE INTERPRETATION, VALIDITY, PERFORMANCE, AND ENFORCEMENT OF THIS BUSINESS ASSISTANCE GRANT PROGRAM. IF ANY PROVISION OF THIS PROGRAM SHALL BE HELD TO BE INVALID OR UNENFORCEABLE, THE VALIDITY AND ENFORCEABILITY OF THE REMAINING PROVISIONS OF THIS PROGRAM SHALL NOT BE AFFECTED THEREBY.

LIVE OAK'S ECONOMIC DEVELOPMENT CORPORATION, ITS EMPLOYEES, AND ITS AGENTS DO NOT ATTEST TO THE QUALITY, SAFETY, OR CONSTRUCTION OF A PROJECT ELIGIBLE FOR, OR RECEIVING GRANT FUNDING. THEREFORE, LIVE OAK'S ECONOMIC DEVELOPMENT CORPORATION, ITS EMPLOYEES, AND AGENTS SHALL BE HELD HARMLESS BY THE APPLICANT/APPLICANTS FOR ANY AND ALL DAMAGES ASSOCIATED WITH THE PLANNING, CONSTRUCTION, AND SUBSEQUENT EXISTENCE OF ANY PROJECT WHO'S APPLICATION HAS BEEN APPROVED OR HAS RECEIVED ACTUAL GRANT FUNDING.

Continued next page

EXHIBIT "A"
Live Oak City Limit Map



Continued next page

Exhibit "B"
Live Oak Business Improvement Grant Score Sheet
(For City Staff ONLY)

Business Name: _____

Scoring Criteria	Score
Grant History – Has the applicant been awarded a grant in the last 12 months? 10 points: Has not been awarded a BIG grant within the last 12 months 7 points: Awarded and successfully completed a grant on time within the last 12 months 4 points: Awarded and successfully completed a grant after requesting an extension 0 points: Awarded a grant in the last 12 months and did not complete the work	<input type="text"/>
Distressed Location – Located in a distressed/severe distressed census tract 10 points: Located in a severely distressed census tract 7 points: Located in a distressed census tract 4 points: Not in a distressed census tract	<input type="text"/>
NAICS Code – Targeted business types that fill a need in Live Oak such as retail and restaurants. If the applicant is a commercial property owner, the score will be based on intended use of property. 10 points: Retail, restaurants 8 points: Hotel, hair salon 6 points: Office Professional 4 points: Light Manufacturing 2 points: Other	<input type="text"/>
Improvement Type – Physical structural changes versus cosmetic changes 10 points: Structural project such as roofs, ADA compliance, walls, parking lots 8 points: Interior equipment improvements such as HVAC, plumbing, electric, kitchens 6 points: Signage 4 points: Painting	<input type="text"/>
Size of Business – Number of employees retained/ business 10 points: 10 or fewer 7 points: 11 to 25 4 points: 26 to 75 2 points: 76 to 150	<input type="text"/>
Business Ownership – locally owned versus corporate owned 10 points: Owned locally 7 points: Local franchisee owned 4 points: Corporate owned or out of town franchisee owned	<input type="text"/>
Project Valuation – total cost of project being completed 10 points: over \$100,000 7 points: \$50,000 to \$99,999 4 points: \$15,000 to \$49,999 3 points: Below \$14,999	<input type="text"/>
Utility Customer – Is a utility customer of City of Live Oak 10 points: All city utilities 7 points: Two city utilities 4 points: One city utility 0 points: No city utilities	<input type="text"/>
TOTAL POINTS	<input type="text"/>

Exhibit "C"
City of Live Oak Business Improvement Grant
APPLICATION

Please return complete with necessary attachments and signatures to the City of Live Oak at 8001 Shin Oak Drive, Live Oak, Texas 78233 or at myedc@liveoaktx.net. If you have any application questions, please contact the Director of Economic Development at 210.653.9140, extension 2219. If you have any building permit or sign permit questions, please contact the City's Development Services Department at permits@liveoaktx.net.

Date:
Applicant Name:
Applicant Mailing Address:
Applicant Phone:
Applicant Email:
Building Owner (if different from Applicant):
Building Owner Mailing Address (if different from Applicant):
Building Owner Phone (if different from Applicant)
Building Owner Email (if different from Applicant):
Current Building Name:
Project Building Address:
Type of Work:

Details of Planned Improvements for the Project:

List Contractor /Project Architect/Engineer Proposals and Total Amounts (attach bid proposals):

Total cost of proposed project:

\$

Total of grant requested:

\$

REQUIRED ATTACHMENTS:

- Drawing to scale by the project architect, engineer, or contractor of all the proposed work to be done including:
 - Signage/awnings/canopy renderings; and
 - Color samples of all final paint selections and/or final materials or sign material selections.
- A “before” photograph of the area or building where the work is to be performed taken no earlier than thirty (30) days prior to the date of the application.
- Original cost estimate(s) and construction bid(s) dated no earlier than ninety (90) days prior to the date of the application signed by the project architect, engineer and/or contractor containing the name, address, and telephone number of the project architect, engineer, and contractor and itemized in a manner that allows City staff to (i) review the components and authenticity of the estimate(s) and bid(s); and (ii) determine which costs and expenses are eligible for reimbursement under the Business Improvement Grant program;
- W-9 and all other forms required by the City’s Finance Department for disbursement of grant funds.
- Deed or other proof acceptable to the City of the applicant’s ownership of the building or property where the work is to be performed or, if the applicant is a tenant of the building, attach copy of the applicant’s lease of the building and a letter executed by the owner of the building addressed to the applicant and the City authorizing the work proposed in the application.

Continued next page

By signing below, the undersigned applicant acknowledges that the applicant has read and fully understands the terms, conditions, and guidelines of the Business Improvement Grant (BIG) Program hereby certifies that :

1. The applicant is the owner or tenant of a building located within the incorporated boundaries of Live Oak as defined in the BIG Program.
2. The applicant, the work described in this application (the work), and the building where the Work is to be performed, satisfy all the eligibility requirements and other terms, conditions, and guidelines of the BIG Program.
3. If the applicant is a tenant, the owner of the building where the Work is to be performed has consented in writing to the Work.
4. The building where the Work is to be performed faces a public street.
5. No Work has commenced.
6. The Work is not covered by insurance and the applicant has not and will not receive any insurance proceeds for any of the Work.
7. The applicant has not obtained a building permit or sign permit for the work.
8. The applicant has not been denied a grant by the City's Economic Development Corporation under the Business Improvement Grant or the Visual Improvement Program within the last 12 months.
9. If the applicant owns multiple properties, the applicant has not received more than \$50,000 in grants under the Business Improvement Grant for the property described in the application unless they have consulted with the Director of Economic Development and received permission to apply for funds.
10. The building where the Work is to be performed, and the applicant's occupancy and use of such building is following all applicable City codes and ordinances.
11. No code enforcement actions are pending against the applicant or the property where the Work is to be performed.
12. The applicant does not owe any debts to the City that are past due including, without limitation, any past due property taxes, past due water payments, judgements, liens, or fines for code violations. All ad valorem taxes assessed against the property where the Work is to be performed are current.

The undersigned applicant authorizes the City, its officers, agents, and employees, to inspect the building or property where the Work is to be performed to determine whether such building is in compliance with all City codes and ordinances.

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED UNTIL ALL THE REQUIRED INFORMATION AND DOCUMENTS ARE SUBMITTED. IF ALL THE REQUIRED INFORMATION AND DOCUMENTS ARE NOT SUBMITTED WITHIN THIRTY (30) DAYS AFTER THE APPLICATION IS RECEIVED, THE APPLICATION MAY BE AUTOMATICALLY DENIED. ALL APPLICATIONS MUST BE SUBMITTED BEFORE ANY BUILDING PERMITS OR SIGN PERMITS ARE ISSUED AND BEFORE COMMENCEMENT OF ANY WORK.

By signing below, the undersigned applicant represents that the information contained in this application and all attachments hereto are true and complete and accurately described the project proposed by the applicant and the Work to be performed in connection with such project.

(If applicant is an individual):

Signature

Printed Name

Date

(If applicant is a Corporation):

_____,
a _____ corporation.

By: _____
Signature

Printed Name

Title

Date

OR (If applicant is a Partnership and general Or managing partner is an Entity):

_____,
a _____ partnership.

By: _____
a _____,
its _____.

By: _____
Signature

Printed Name

Title

Date

Continued next page

(If applicant is a Partnership):

a _____ Partnership.

By: _____
Signature

Printed Name

Title



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda Item: 7F

Prepared by: Donna Lowder EDC Manager

Reviewed by: Anas Garfaoui, City Manager

Department: Economic Development

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding a first reading of a Resolution authorizing and expenditure of \$150,000 from the Economic Development Corporation funds on the Business Improvement Grant (BIG).

Staff Briefing:

The Live Oak Economic Development Corporation, during the 2024/25 budget process, identified \$150,000 for the Business Improvement Grant (BIG). As part of the procedure for the expenditure of funds, the following process is outlined:

- October 1, 2024 – \$150,000 budgeted for the Business Improvement Grant (BIG) in the Economic Development Fund in FY 2024/2025
- September 11, 2024 – First publication of notice of funds for the BIG, public hearing date and beginning of 60-day review period
- September 18, 2024 – Second publication of notice of funds for BIG and public hearing date
- September 24, 2024 - First reading of Resolution for expenditure of funds for the BIG by the City Council
- October 29, 2024 – Second reading of Resolution for expenditure of funds for the BIG by the City Council
- December 2, 2024 – End of 60-day public comment period.

The attached Resolution will be read twice by the City Council for the expenditure of funds for the Business Improvement Grant during the September 24th and October 29th regular meeting.

ACTION:

- Ordinance Resolution
- Proclamation Special Presentation
- Finance Report Public Hearing
- Other

Cost: \$150,000.00	
Budgeted - VIP	\$150,000.00
Actual	\$150,000.00
Acct. Name	Other ED Initiatives
Acct. Fund	50-400.486
Other Funding	

Strategic Goals: 1-Stable, 2-Secure, 3-Supportive, and 4-Beautiful

Staff Recommended Motion:

A motion to approve the first reading of a Resolution authorizing and expenditure of \$150,000 of Economic Development Corporation funds in FY 2024/2025 on the Business Improvement Grant (BIG) with an effective date.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS, AUTHORIZING EXPENDITURES OF \$150,000 FROM THE ECONOMIC DEVELOPMENT FUND FOR THE BUSINESS IMPROVEMENT GRANT FOR THE PROMOTION OF NEW OR EXPANDED BUSINESS AND ECONOMIC DEVELOPMENT WITH AN EFFECTIVE DATE

WHEREAS, the Business Improvement Grant supports the revitalization and redevelopment of economic development throughout the City through a grant program for businesses which has proven to be successful and continues to grow since its inception, which also led to additional funding for this project; and

WHEREAS, the City of Live Oak and Live Oak Economic Development Corporation have determined that the Business Improvement Grant projects that are recommended and ultimately approved by the Economic Development Corporation benefit the revitalization and redevelopment of the immediate neighborhood and promotes business development in which the project is locate; and

WHEREAS, the City of Live Oak public was notified of this project on September 11th and 18th, 2024, and shall have a 60-day review period for comments, as required by state law; and

WHEREAS, the City of Live Oak Economic Development Corporation held a public hearing for this project on September 24, 2024, as required by state law, and

WHEREAS, the City of Live Oak Economic Development Corporation finds the purchase of water rights meets criteria for a permissible project based on initial ballot language from the 4B sales and use tax election as well as, a legal opinion from the City Attorney; and

WHEREAS, the Economic Development Fund has funds budgeted for the Business Improvement Grant for the FY 2024-2025 budget year and has approved this Resolution to be sent to City Council for consideration; and

WHEREAS, City Council must hold two (2) readings of this Resolution before final approval, as required by state law.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF LIVE OAK, BEXAR COUNTY, TEXAS, THAT”

The City of Live Oak hereby authorizes as an appropriate project for the City of Live Oak Economic Development Corporation to be used for the promotion of new and expanded business enterprises and the expenditure of up to \$150,000 from the Economic Development Fund, after December 2, 2024. The City further resolves that the funds for each application shall be used in accordance with the Business Improvement Grant application, each award shall not exceed a total of \$50,000.00 and each application shall be approved by staff and approved by the Economic Development Corporation Board.

PASSED AND APPROVED this _____ day of _____, 2024

Mary M. Dennis, Mayor

ATTEST:

Isa Gaytan, City Secretary

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda Item: 7G

Prepared by: Donna Lowder EDC Manager

Reviewed by: Anas Garfaoui, City Manager

Department: Economic Development

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding a first reading of a Resolution authorizing and expenditure of \$100,000 from the Economic Development Corporation funds on the Visual Improvement Program.

Staff Briefing:

The Live Oak Economic Development Corporation, during the 2024/25 budget process, identified \$100,000 for the Visual Improvement Program. As part of the procedure for the expenditure of funds, the following process is outlined:

- October 1, 2024 – \$100,000 budgeted for the Visual Improvement Program (VIP) in the Economic Development Fund in FY 2024/2025
- September 11, 2024 – First publication of notice of funds for the VIP, public hearing date and beginning of 60-day review period
- September 18, 2024 – Second publication of notice of funds for VIP and public hearing date
- September 24, 2024 - First reading of Resolution for expenditure of funds for the VIP by the City Council
- October 29, 2024 – Second reading of Resolution for expenditure of funds for the VIP by the City Council
- December 2, 2024 – End of 60-day public comment period.

The attached Resolution will be read twice by the City Council for the expenditure of funds for the Visual Improvement Program during the September 24th and October 29th regular meeting.

ACTION:

- Ordinance Resolution
- Proclamation Special Presentation
- Finance Report Public Hearing
- Other

Cost: \$100,000.00	
Budgeted - VIP	\$100,000.00
Actual	\$100,000.00
Acct. Name	Other ED Initiatives
Acct. Fund	50-400.486
Other Funding	

Strategic Goals: 1-Stable, 2-Secure, 3-Supportive, and 4-Beautiful

Staff Recommended Motion:

A motion to approve the first reading of a Resolution authorizing and expenditure of \$100,000 of Economic Development Corporation funds in FY 2024/2025 on the Visual Improvement Program with an effective date.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS, AUTHORIZING EXPENDITURES OF \$100,000 FROM THE ECONOMIC DEVELOPMENT FUND FOR THE VISUAL IMPROVEMENT PROGRAM FOR THE PROMOTION OF NEW OR EXPANDED BUSINESS AND ECONOMIC DEVELOPMENT WITH AN EFFECTIVE DATE

WHEREAS, the Visual Improvement Program supports the revitalization and redevelopment of economic development throughout the City through a grant program for businesses which has proven to be successful and continues to grow since its inception, which also led to additional funding for this project; and

WHEREAS, the City of Live Oak and Live Oak Economic Development Corporation have determined that the Visual Improvement Program projects that are recommended and ultimately approved by the Economic Development Corporation benefit the revitalization and redevelopment of the immediate neighborhood and promotes business development in which the project is locate; and

WHEREAS, the City of Live Oak public was notified of this project on September 11th and 18th, 2024, and shall have a 60-day review period for comments, as required by state law; and

WHEREAS, the City of Live Oak Economic Development Corporation held a public hearing for this project on September 24, 2024, as required by state law, and

WHEREAS, the City of Live Oak Economic Development Corporation finds the purchase of water rights meets criteria for a permissible project based on initial ballot language from the 4B sales and use tax election as well as, a legal opinion from the City Attorney; and

WHEREAS, the Economic Development Fund has funds budgeted for the Visual Improvement Program for the FY 2024-2025 budget year and has approved this Resolution to be sent to City Council for consideration; and

WHEREAS, City Council must hold two (2) readings of this Resolution before final approval, as required by state law.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF LIVE OAK, BEXAR COUNTY, TEXAS, THAT”

The City of Live Oak hereby authorizes as an appropriate project for the City of Live Oak Economic Development Corporation to be used for the promotion of new and expanded business enterprises and the expenditure of up to \$100,000 from the Economic Development Fund, after December 2, 2024. The City further resolves that the funds for each application shall be used in accordance with the Visual Improvement Program application, each award shall not exceed a total of \$5,000.00 and each application shall be approved by staff and approved by the Economic Development Corporation Board.

PASSED AND APPROVED this _____ day of _____, 2024

Mary M. Dennis, Mayor

ATTEST:

Isa Gaytan, City Secretary

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney



CITY COUNCIL AGENDA ITEM FORM

Meeting Date: September 24, 2024

Agenda Item: 7H

Prepared by: Mark Wagster, PW Director

Reviewed by: Anas Garfaoui, City Manager

Department: Public Works

AGENDA ITEM DESCRIPTION:

Discussion and possible action regarding an Ordinance prohibiting parking on Gunn Road.

Staff Briefing:

Numerous commercial vehicles are being parked overnight for extended periods of time on Gunn Road. This presents a safety concern for motorists and pedestrians. The best solution for this issue is to create a no parking zone for the entirety of Gunn Road.

The city attorney has drafted the attached ordinance to create the no parking zone.

ACTION:

- Ordinance Resolution
- Proclamations Special Presentation
- Finance Report Public Hearing
- Other

Cost: Signage Est. \$500.00	
Budgeted	
Actual	
Acct. Name	
Acct. Fund	
Other Funding	

Strategic Goals: 1- Stability, 2- Secure, 3 - Supportive and 4 - Beautiful

Staff Recommended Motion:

Motion to approve an Ordinance of the City of Live Oak, Texas pursuant to the authority in Chapter 13, Motor Vehicles and Traffic, Article II, Stopping, Standing, and Parking, Section 13-37. Parking as to obstruct driveways prohibited, by establishing a No Parking Zone on Gunn Road; Providing for a violation of Section 13.37 as a misdemeanor and a fine amount not to exceed \$500; providing that this ordinance shall be cumulative; repealing all ordinances to the extent they are in conflict; providing for severability; and providing an effective date.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LIVE OAK, TEXAS, PURSUANT TO THE AUTHORITY IN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, ARTICLE III, STOPPING, STANDING, AND PARKING, SECTION 13-37. - PARKING AS TO OBSTRUCT DRIVEWAYS PROHIBITED, BY ESTABLISHING A NO PARKING ZONE ON GUNN ROAD; PROVIDING FOR A VIOLATION OF SECTION 13.37 AS A MISDEMEANOR AND A FINE AMOUNT NOT TO EXCEED \$500.00; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds the City of Live Oak is a Texas Home-Rule Municipality and that the City has the exclusive control over and under the public highways, streets, and alleys within the City, as established by Texas Transportation Code, Section 311.001; and

WHEREAS, the City has determined that parking along the 12500 Block of the public street of Gunn Road from the intersection with Judson Road to the intersection with Interstate Highway 35 Frontage Road North is unsafe under the conditions found to exist taking into consideration the width and condition of pavement and other circumstances, as well as the usual traffic thereon; and

WHEREAS, the City has determined that it would promote public safety to establish a no parking zone as set forth herein below, which shall be effective when appropriate signs giving notice thereof are erected.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Addition to Municipal Code of Ordinances. Pursuant to the authority in the City of Live Oak, Texas Code of Ordinances, Chapter 13, Motor Vehicles and Traffic, Article III, Stopping, Standing and Parking, Section 13-37. - Parking so as to obstruct driveways prohibited, is hereby amended by adding language that is underlined (underlined) as follows:

Gunn Road: 12500 Block of the public street of Gunn Road from the intersection with Judson Road to the intersection with Interstate Highway 35 Frontage Road North (approximately 835 linear feet); this includes the entire length of the public street of Gunn Road.

Section 3. Severability. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 4. Repealer. This ordinance shall be cumulative of all other ordinances of the City of Live Oak, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Live Oak except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section 5. Penalty. A violation of this Ordinance shall be a Class C Misdemeanor with a fine amount not to exceed \$500.00, as provided in Chapter 14-22. – Disposition of the case; fine schedule the City of Live Oak Code of Ordinances.

Section 6. Public Meeting. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. Effective Date. This ordinance shall take effect immediately from and after its passage and any publication requirements.

PASSED AND APPROVED this _____ day of _____ 2024.

CITY OF LIVE OAK, TEXAS

By: _____
Mary M. Dennis, Mayor

ATTEST:

Isaura Gaytan, City Secretary

APPROVED AS TO FORM:

City Attorney
DENTON NAVARRO RODRIGUEZ BERNAL SANTEE& ZECH, PC

EXHIBIT A
“AREA MAP”

