Date of Submittal: July 18, 2024

Project Title: Success Foods Management Group LLC

Project Address: 1822 S. Congress Avenue, Austin, TX

Legal Description of Property: LOTS 5 AND 6, BLOCK 30, SWISHER ADDITION, A SUBDIVISION AS

RECORDED IN VOLUME 1, PAGE 2 OF THE PLAT RECORDS OF TRAVIS

COUNTY, TEXAS

Tax Parcel Number: 303504

Ownership/Agent Information:

Property Owner: 1822 South Congress, LTD.

3839 BEE CAVE RD., SUITE 200

AUSTIN, TX 78746

Tenant (Applicant): Success Foods Management Group LLC

Dear Mayor Watson and Esteemed Council Members,

Pursuant to the waiver request process and applicable City of Austin ordinance provisions, Success Foods Management Group, LLC d/b/a Torchy's Tacos, submits the following information in support of its Application for Waiver of Minimum Distances.

EXECUTIVE SUMMARY

Torchy's Tacos, founded in 2006 in a food truck originally located on South Lamar, seeks a waiver to existing property restrictions for the referenced property in order to sell beer, wine and liquor in a manner consistent with existing City of Austin and TABC regulations as well as any additional restrictions deemed appropriate by Council to address community concerns such as restricting sales during school operation.

A waiver is necessary as Torchy's property line is within approximately 142 feet of the fully fenced athletic field of Lively Middle School¹. Notably, Torchy's property line is between 875-1200 feet from the school's primary entrance/exit (depending on the path taken). It is Torchy's position that the granting of the waiver (i) would not negatively impact the school generally or the safety of the students specifically, (ii) would allow for greater parity with nearby businesses that are permitted to sell or give away alcohol, and (iii) would increase revenue for the location, thereby increasing wages for existing workers as well as taxes collected by the City of Austin and State of Texas. Additionally, increased revenue allows Torchy's to

¹ Current City of Austin and Texas law restricts the issuance of a permit to sell beer, wine or liquor within 300 feet of a public school's property line, without consideration of building location or actual property use.

better absorb increasing costs of doing business that have led to the demise of many other home-grown brands.

More specifically, Torchy's seeks a waiver pursuant to City of Austin Code of Ordinances §4-9-5 (A)(1)-(6).

CONSENT OF WAIVER OF LIVELY MIDDLE SCHOOL

Jessica Kirker (Torchy's Vice President of Legal) met with the Principal of Lively Middle School as well as an Austin ISD Trustee in order to discuss the application included herein. <u>These conversations were informal and not intended to provide an official position of the individual(s)</u>, <u>Lively Middle School, the Board of Trustees or AISD. In fact, Torchy's anticipates AISD will formally oppose the application as a standard practice</u>. Notwithstanding the expected opposition and the absence of a consent to waiver, the conversations had with interested members of the Lively Middle School community resulted in a number of excellent discussion points and items for consideration by the City of Austin during its review of the submitted application.²

Waiver Restrictions

Both individuals expressed support for restricted hours of service that aligned with the AISD school schedule should the application be approved. By way of example, suggested restrictions would include no sales during school hours plus a small buffer for after school activities, but would allow for sales during days that school is not in session, i.e. Spring Break, Winter Break, miscellaneous days off, etc. Should it be determined that restricted hours are appropriate in the granting of a waiver, Torchy's has determined that existing restaurant systems would allow for such sales restrictions at a Corporate level. Torchy's would also be committed to ensuring that all signage reflects the restrictions and that all Team Members are properly trained to enforce such restrictions.

Nearby Businesses Selling and/or Giving Away Alcohol

It is anticipated that some individuals in the community may raise concerns about student visibility or access to alcohol if this application is granted. Notably, the granting of this application would not substantially increase either visibility or access for the students (an intended purpose of the minimum distance requirements). The following diagram shows the locations near the school—many within the 300-foot restriction that requires Torchy's to seek this waiver—wherein alcohol is currently sold or given away without additional school related restrictions.

² Should the City be willing to grant this variance subject to restrictions, Torchy's would propose a contract be entered between Torchy's Tacos and the interested third party beneficiaries of the restrictions, i.e. AISD and/or nearby Homeowners Associations. A proposed contract format can be provided upon request.



Based on Ms. Kirker's discussion with the Principal at Lively Middle School, it is her understanding that the selling of alcohol at Torchy's does not raise concerns for the Principal related to the limited increase in student visibility or access to alcohol. However, should Council determine that decreased visibility is appropriate, Torchy's would be amenable to property modifications that would inhibit the view of the outdoor seating area from the school grounds.

Community Support by Torchy's

Torchy's currently provides support to Lively Middle School in the form of in-kind donations as well as gift cards to the school and its associated PTA. This community involvement is not unique to this location as Torchy's is committed to each of the individual communities wherein we operate. In 2023, Torchy's provided more than \$800,000 in donated gift cards and food to schools and other non-profit organizations across the country.

Additionally, Torchy's Team Members, including CEO and Founder Mike Rypka and Cheryl Drummond, Senior Director Culinary Innovation, have been guest speakers in AISD Culinary Programs in years past. As a company committed to growth through the development of our community and individual team members, Torchy's can proudly say that the referenced property is currently operated by a Managing Partner that started as a cashier 12 years ago and a Kitchen Manager that began as a line cook 10 years ago. We can also proudly boast that in 2023, 65.1% of open management positions across the company nationally were filled by existing team members. We are a locally grown business that creates opportunities for underrepresented Central Texas residents.

DISCUSSION WITH OTHER INTERESTED PARTIES & PARTNERS

Bouldin Creek Neighborhood Association

Jessica Kirker spoke with a Zoning Committee Member³ for Bouldin Creek Neighborhood Association regarding the application included herein. Following that conversation, it is Ms. Kirker's understanding that the BCNA would not be opposed to the granting of a waiver as it relates to beer and wine but would be opposed to a waiver as it relates to spirits.

Phoenix House

Torchy's is committed to providing support to underrepresented communities, including supporting local recovery programs, providing second chances to those committed to their recovery from substance abuse, and assisting team members that may be actively suffering from substance use disorders. It is this unwavering commitment that allows an organization like The Phoenix House ("...dedicated to helping youth, families, and communities challenged by substance use disorders and related mental health conditions by promoting health and well-being.") to write a letter in support of Torchy's. See Exhibit E.

"Torchy's Tacos has consistently proven to be an engaged ally in our efforts to combat substance use disorders and promote access to care and recovery for those in need across the state."

--Drew Dutton, CEO of Phoenix House

³ Committee Member name can be provided upon request, but is not included for privacy reasons.

ALCOHOL BY THE NUMBERS AT TORCHY'S

In Central Texas, Torchy's alcohol related sales revenue, by store, ranges from 0.6 – 15.7% of total revenue. This equates to less than 0.3 drinks per check—noting that a single check could be as few as 1 guest or several thousand (e.g. a recent catering order that provided 18k meals across 3 checks), suggesting an even smaller drinks per check figure. Alcohol sales are not the bread and butter of Torchy's, but it is an additional revenue source afforded to nearby businesses which would greatly benefit Torchy's, its guests, its team members and all of the associated tax funds.

It is estimated that the State of Texas would receive an additional \$70,000+ in alcohol related tax revenue if the requested waiver were granted. Torchy's would also expect an increase in food revenue with the addition of alcohol to this location, thus resulting in increased tax revenue for the City of Austin.

CONCLUSION

The granting of the requested waiver (i) will not negatively impact the school generally or the safety of the students specifically, (ii) will allow for greater parity with nearby businesses that are permitted to sell or give away alcohol, and (iii) will increase revenue for the location, thereby increasing wages for existing workers as well as taxes collected by the City of Austin and State of Texas. As such, the granting of this waiver request is permissible under City of Austin Ordinance §4-9-5 (A)(1)-(6).

Your consideration of this application is greatly appreciated. If any additional information would be helpful please contact Jessica Kirker, Vice President of Legal.

APPENDIX -- EXHIBITS:

Attached hereto are the following documents for consideration:

- A. Completed Application
- B. Tax Plats showing all properties within 300 feet of the tract
- C. Certificate of Occupancy
- D. Site Plans
- E. Phoenix House Letter



To Whom It May Concern,

I am writing to express my enthusiastic support for Torchy's Tacos and their significant commitment to the mission of Phoenix House Texas. Torchy's Tacos has consistently proven to be an engaged ally in our efforts to combat substance use disorders and promote access to care and recovery for those in need across the state.

Torchy's Tacos has been more than just a corporate partner; they have been a beacon of hope for individuals and families grappling with addiction. Their dedication to prevention and treatment initiatives has been instrumental in raising awareness and fostering a supportive environment for those seeking help. Through their advocacy, they have helped break down the barriers of stigma surrounding substance use disorders, paving the way for more open and compassionate dialogue within our community.

Their generosity extends beyond financial contributions; they have been actively engaged on both a corporate and personal level, offering their time, resources, and expertise to further our mission. Their hands-on approach has strengthened our programs and allowed us to reach more individuals in need of assistance.

What sets Torchy's Tacos apart is their genuine compassion and commitment to making a difference in the lives of others. They prioritize access to care and recovery efforts not just as a corporate responsibility but as a deeply held value ingrained in their culture. Their dedication to our organization and the patients we serve is evident in their consistent support and unwavering advocacy.

I wholeheartedly endorse Torchy's Tacos and their invaluable contributions to the mission of Phoenix House Texas. Their tireless efforts to support prevention and treatment, fill funding gaps, and combat stigma have made a lasting impact on our community. We are immensely grateful for their partnership and look forward to continuing our work together to create a healthier, more supportive environment for all.

Best Regards,

Drew Dutton, President & CEO MEd, MBA, MAPP, LPC-S, LCDC, ACPS

Phoenix House Texas