

MEMORANDUM

TO: Claire Powell, City Manager

FROM: Marichelle Samples, Director of Economic Development & Tourism

DATE: February 2, 2026

SUBJECT: **Approval of the Third Amendment to Economic Development Agreement Between the City of Lewisville and Deck on Main, LLC, and Authorization for the City Manager, or Her Designee, to Execute the Agreement.**

BACKGROUND

Deck on Main, LLC (the “Developer”) purchased the property located at 191 W. Main Street from the City pursuant to an Economic Development Agreement executed on May 12, 2021 (the "Agreement").

The City Council ratified the first amendment to the Agreement on July 19, 2021. This amendment did not change any incentive amounts; it simply adjusted the timing of the Developer's land purchase reimbursement to occur at closing instead of after, and it corrected the legal description of the property.

On February 20, 2023, the City Council approved a second amendment. This amendment removed the performance and payment bond requirements because the Developer had trouble obtaining the bonds and had already secured full construction funding, which lowered the risk for the City. It also clarified the definition of "Commencement of Construction" and extended the deadlines for starting and completing the project due to delays. These delays were caused by extenuating circumstances, such as soft soil that made it difficult to get equipment on site to drill and pour concrete piers. Lastly, the amendment specified that annual public restroom costs would not exceed \$24,000 unless actual costs were higher and the Developer provided supporting documentation.

The Developer reached substantial completion in December 2025. Pursuant to the Agreement, the City will enter into a lease with the Developer for the public restrooms. This Third Amendment provides greater flexibility in the lease terms that benefit both parties, which must be approved prior to execution of the lease.

ANALYSIS

The Agreement, as amended, requires that the public restrooms be accessible to the public seven (7) days a week, 365 days a year, as well as during park hours for Wayne Ferguson Plaza and

during any City-permitted special events in Old Town. The Agreement contemplates that the City and Developer will enter into a lease agreement for the public restrooms for a term of twenty-five (25) years, with an option for the City to renew for an additional twenty-five (25) years. The second amendment to the Agreement specified that lease payments would be based on the cost of operations, maintenance, management, insurance, and taxes for the public restroom, and that such costs would be \$24,000, unless actual costs were higher and the Developer provided supporting documentation. The Agreement allows for an annual review of the annual budget, which is the basis of the lease payments.

The Third Amendment to the Agreement includes the following:

- Extends the deadline for the Developer to execute the required lease from 30 to 60 days after substantial completion and authorizes the City Manager to grant additional time as needed.
- Establishes a fixed first year rent payment of \$24,000 due within 30 days of lease execution, with a reconciliation after Year 1.
- Sets rent for subsequent years based on actual costs from the prior year, allows adjustments when costs are expected to change subject to City Manager approval, and grants the City Manager discretion to determine whether documentation supports the claimed actual costs, including a tolling provision during bona fide disputes.
- Allows the City to, at its sole discretion, and at any time and for any amount of time, assume responsibility for certain maintenance responsibilities regarding the public restrooms which are otherwise assigned to the Developer, and to reduce required payments to the Developer accordingly.
- Provides greater flexibility in the timing for submission and approval of the annual documentation required to support rent payments.

Funding is available in the Economic Development Incentives Capital Project.

CITY STAFF'S RECOMMENDATION

That the City Council approve the amendment and authorize the City Manager, or her designee, to execute the amendment as set forth in the caption above.