

**A RESOLUTION APPROVING THE MUNICIPAL RIVERFRONT
DEVELOPMENT DOWNTOWN DINING DISTRICT LIQUOR LICENSE**

WHEREAS, the City of Fort Wayne has created the Municipal Riverfront Development Project, known as the Downtown Dining District, to continue the current progress in the redevelopment of downtown; and

WHEREAS, Indiana Code 7.1-3-20, authorizes the issuance of certain, non-transferable permits to sell alcoholic beverages for on-premise consumption in a restaurant located on land or in a historic river vessel within a municipal riverfront development project; and

WHEREAS, to be considered for a recommendation for approval of a 221-3 Riverfront License from the Indiana ATC, an applicant submit a Downtown Dining District Liquor License Application and shall enter into a formal written agreement with the municipality; and

WHEREAS, Penny Drip, LLC has applied for a Downtown Dining District Liquor License, a copy of which is attached hereto as Exhibit 1 and is prepared to enter into a formal written agreement with the City of Fort Wayne, a copy of which is attached hereto as Exhibit 2; and

WHEREAS, the application and agreement meet the criteria established by Resolution R-105-15 as adopted by Common Council;

NOW, THEREFORE, BE IT RESOLVED, The Common Council of The City of Fort Wayne, Indiana:

Section1. That the City of Fort Wayne Common Council hereby approves the "Downtown Dining District" application and agreement between The City of Fort Wayne and Penny Drip, and hereby provides the required local recommendation to the Indiana Alcohol and Tobacco Commission for a 221-3 Riverfront license to be issued to Penny Drip, LLC; and

1 Section 2. That this resolution shall be in full force and effect from and after its
2 passage and approval by the Mayor, unless rescinded by resolution by this
3 legislative body.

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5 _____
6 Council Member

7 APPROVED AS TO FORM AND LEGALITY

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9 _____
10 Carol Helton, City Attorney
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**COMMUNITY DEVELOPMENT**

Thomas C. Henry, Mayor

Engage • Innovate • Perform

City of Fort Wayne
Community Development
200 East Berry Street, Suite 320
Fort Wayne IN 46802
260.427.1127

www.fwcommunitydevelopment.org**Downtown Dining District Liquor License Application**Business Entity Making this Application: PENNY DRIP LLCApplicant's Name: Trevor ScovelApplicant's Address: 1934 S Calhoun St. APT 203 City: Fort Wayne State: IN Zip: 46802Applicant's Phone (daytime): 260-444-1380 Email: trevor@bebetterhospitality.com

Please include a thorough narrative for each of the items below:

1. Provide description (including renderings) of plans you have to improve the facility in which you will operate
2. The expected timetable for work and business commencement
3. Explain the overall concept and unique features of the proposed establishment
4. Describe the level of control and participation the owners will have in the day-to-day operation of the business.
5. Explain how your operation plans to focus on a dining, entertainment or cultural experience rather than an alcohol consumption experience
6. Describe how your venue/operation will draw people to Downtown Fort Wayne
7. Provide information regarding the proposed permit holder's related experience

Permits are not transferable and any renewal is subject to compliance with the terms of the agreement with the City of Fort Wayne. The permits shall not be pledged as collateral or subject to any lien judgment, property settlement agreement, or third party claim.

An Equal Opportunity Employer

Downtown Dining District - Liquor License Application Eligibility Requirements and Evaluation Criteria

The Downtown Dining District is a project district where 3-way liquor licenses are made available to eligible dining, entertainment, and cultural establishments as a way to encourage dining in Downtown Fort Wayne. This District was made possible via state legislation and an Ordinance passed by the City of Fort Wayne Council that designated the District and adopted eligibility requirements.

Eligibility Requirements:

In addition to complying with all building, health, zoning laws, ordinances and all rules and regulations of the Indiana State Alcohol and Tobacco Commission (ATC), and local, state, and federal government's applicants must also meet the following local requirements annually in order to be eligible to apply or renew:

1. Applicant's establishment must be located within the Downtown Dining District boundaries.
2. The focus of operation must be on a dining, entertainment or cultural experience rather than solely an alcohol consumption experience.
3. The establishment cannot be a private club, nightclub, or adult entertainment venue.
4. Fees: Applicant must submit a \$1,000 non-refundable application fee with application.

District Requirements:

Applicants will enter into a formal written agreement with the City of Fort Wayne committing to ongoing compliance with the following district requirements, including annual reporting, and verification of compliance.

1. Establishments receiving Riverfront liquor licenses within the Downtown Dining District are required to maintain an annual ratio of non-liquor sales to total sales of at least 50%.
2. The licensed establishment will be actively open for business and fully operational during a minimum of three hundred (300) days per year, and a minimum of five evenings (5) per week.
3. The Applicant shall comply with all local and ATC application and renewal procedures.
4. Annual dues in the amount of \$2500 must be paid for membership in the *Downtown Dining Association*, payable through the Downtown Improvement District.

Evaluation Criteria:

The recommendation to support the state permit application will be based on how strongly the applicant meets the following criteria:

1. Granting of the license will benefit the purposes of the district, i.e. to become a cultural and dining destination in Downtown Fort Wayne.
2. Granting of the license and the business activity will not be detrimental to the property values and business interest of others in the district.

The above criteria will be evaluated on the following:

1. The Physical Location
2. The Business Plan
3. Reputation/Experience of Ownership

Attachments to include:

1. A copy of your completed Indiana State form entitled "Application for New or Transfer Permit" along with any attachments. (Please redact any personal Social Security numbers)
2. A signed copy of this Application, including the Applicant's Certification
3. A copy of your business plan
4. A check made payable to the City of Fort Wayne in the amount of \$1,000.

Submit this form and all attachments to: City of Fort Wayne – Community Development, Attention: Development Finance - Downtown Dining District, 200 E. Berry Street - Suite 320, Fort Wayne, IN 46802.

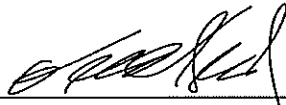
APPLICANT'S CERTIFICATION

I hereby certify that all information in this application and all information furnished in support of this application are true and complete to the best of the Applicant's knowledge and belief.

I understand that the project described in this Application may not receive a Downtown Liquor License.

I certify that I have read and understand and agree to the above eligibility requirements and evaluation criteria. I further understand and agree to enter into a formal written agreement regarding the aforementioned district requirements, to be approved by the City of Fort Wayne Common Council and the Mayor.

I hereby release and discharge the City of Fort Wayne, together with their respective subsidiaries, affiliates, employees, agents, directors and other related parties, from any and all rights and obligations, duties, claims, debts, actions, causes of action or liabilities arising out of, or relating to, the seeking or receipt of a Downtown Dining District Liquor License pursuant to this Project Application and related documents.

Applicant's Signature:  Date: 10/05/2021

Printed Name: Trevor Scovel Title: Owner

Penny Drip LLC
October 2021

Be Better Hospitality
Contact@BeBetterHospitality.com
260.444.1380



Downtown Dining Liquor License Application

October 2021

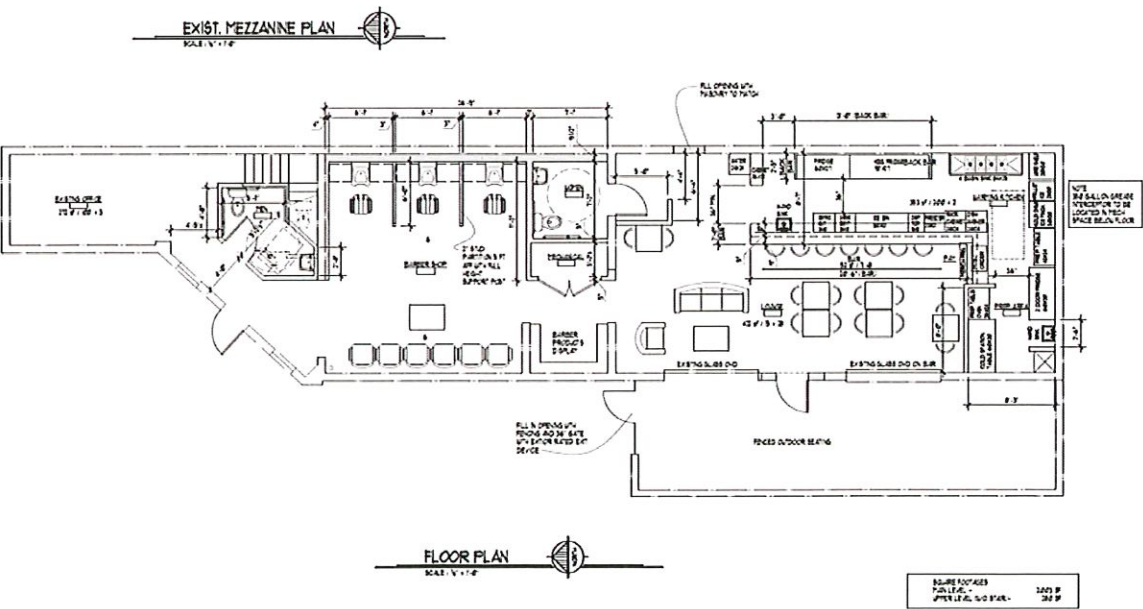
815 W Lafayette St
Fort Wayne, IN 46802

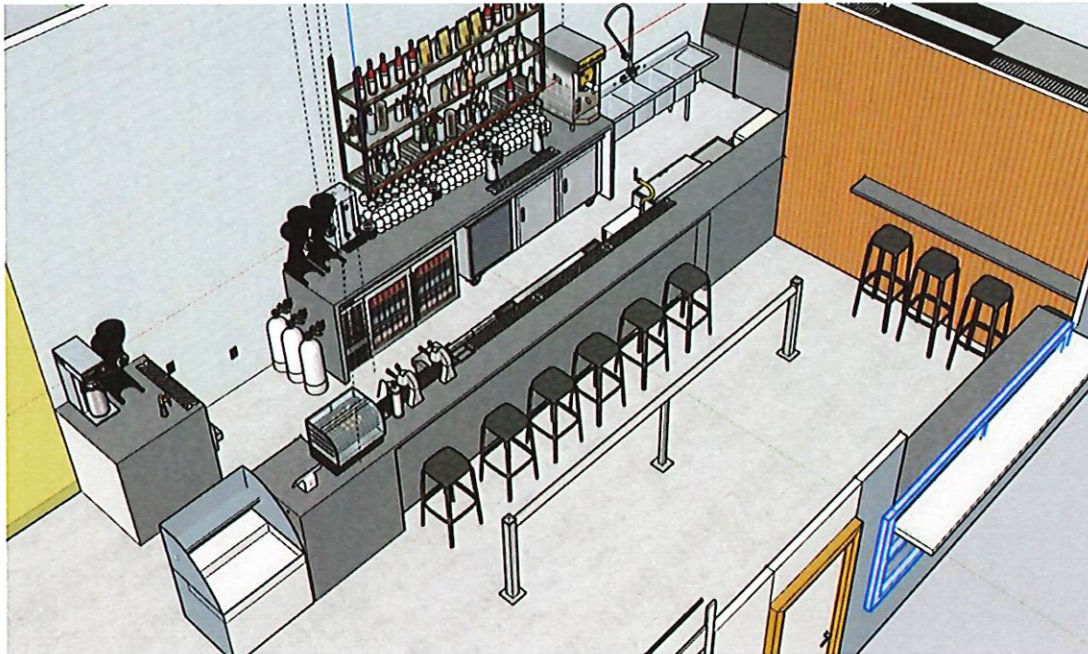
Be Better Hospitality
260.444.1380
Contact@BeBetterHospitality.com

1. The Building



Penny Drip will be housed in the historic property at 815 W Lafayette St Fort Wayne, IN 46802. The building deal will start as a lease then is being purchased by Timothy Harrigan from Jerry Henry. Construction is required to finish the interior and is facilitated by “Shawnee Construction” as of October of 2021. Below is the floorplan and renders of the café side.





Penny Drip will have a gorgeous subway tile back wall with a contrasting dark concrete bar. Expected seating is around 45 chairs, with an additional four barber chairs between downstairs and the private stall upstairs. This render is limited to the café side of Penny Drip.

Bright copper ceiling tiles will reflect natural sunlight onto the dark concrete bar. Leather-wrapped couches and polished metal bar stools fill the space with eclectic rugs on top of a polished concrete floor. The wooded back bar will have white subway tile accents of corrugated steel, emerald, and copper colors. The color theme is matte black lowers with white middles and shiny copper ceilings.

2. Construction Timeline & Schedule

Construction began October 4, 2021, with an expected completion date of December 23, 2021. The goal is to allow a 2-week buffer for construction to end and 2-weeks for hiring, training, and confirming equipment is delivered on time. Ideally, if the liquor permit and equipment are on schedule for delivery before January, the café would have an opening day on January 11, 2021.

Premier Bank is working with the Fort Wayne CDC board to finalize our Title IX funding program. Recently, the brand work has reached completion in partnership with One Lucky Guitar. They have taken their well-founded knowledge of the Downtown Fort Wayne demographics and meshed it with our concept to create a brand with a cohesive design and unique elements to give the Penny Drip a fresh look.

3. Concept Overview & Hours

Penny Drip will be the first of its kind in Fort Wayne, with a combination of three unique sides of the business. We're incredibly excited to be bringing the first Barbershop Café experience to the city! This idea is very European and something commonly found overseas. To have the environment and experience of a classic barbershop mesh with the vibes of a downtown coffee shop that can serve anything from incredible coffee and lattes and global phenomena like Espresso Martinis and Irish Coffees. The coffee cocktail bar concept is another commonality found typically in larger cities around the US. The world of coffee drinks can be expanded with unique liquors in harmony that should never be separated. All of that can exist almost seamlessly with classic barbershop vibes all in a very historic space!

Penny Drip will be Open 7 Days a week, from 7am-9pm (possibly 10 or 11pm on the weekends) and will be open to all ages! The bar rail will have a separation from the dining room via separation rail that will allow all ages to come in and order and enjoy in what will be a majority of the menu!

Penny Drip's menu offerings will encompass many unique things. The food program will be breakfast-heavy but offer hearty options that can last all day (though, who doesn't love a breakfast sandwich after 6 pm). We also want dessert to be an option, from house-made tiramisu with an Irish Coffee twist to ice cream, cake, and pie. Lunch and evening items will expand the idea of Tartine's to create an elevated kind of toast from the ever-familiar avocado toast to bagel + lox or tomato toast. The food will also have some simple grab-and-go options like chicken salad or overnight oats. The café will have a world-class beverage program, and there will be specialty coffee drinks like lattes, cortados, mochas, cold brew, hot and cold teas, batch brew coffee, and plain espresso. In blending the world of coffee cocktails with the use of unique liqueurs and liquors from around the world, like Irish Coffee's, Spanish Coffee's, Espresso Martini, and even more items not found around Fort Wayne or even around Indiana (yet!), Penny Drip sets itself apart from the competition. Other popular items will include Bergamot Latte, Salted Pistachio Macchiato, Chile Mocha, Vanilla Oat Cold Brew, Aperol Spritz, miniature cocktails like a Coffee Negroni, Coffee Almond Old Fashioned, and low-abv cocktails like different Amari and sodas or fernet and coke. Hospitality is one of the cornerstone philosophies that define Penny Drip. Penny Drip faces the challenge of being the neighborhood bar and packing in all of that to a busy morning coffee service. The key to Penny Drip will be taking all the guesswork out of ordering. So often, at coffee shops, you are often forced to pay right away, which makes it hard to order a second beverage. We want this to be a coffee shop where opening a tab is normal and creates a welcome environment where people can stay for a while and can enjoy the experience of a true barbershop café.

Penny Drip's service style will blend counter-style and tableside depending on the time of day. A bar section is for takeout drinks where guests can walk up and place orders, and for open tabs, the baristas will walk out to the floor and ask guests if they need another drink. By adding this style of service to the mix, we feel people will enjoy their time more and drink more; given that the café is relatively small, most of this experience can occur without too much pressure on the staff. During the summer months with the patio, we will staff additional members to make sure we can have more consistent table service on the patio. Our idea is to post signage if we're in a tableside or counter-style service situation.

The barbershop is in operation by seasoned pros in collaboration with The Executive Barber. It will offer best-in-class haircuts, beard trims, private groomsman packages, and even higher-end services like scalp-micropigmentation.

4. Owner Participation in Daily Operations

Ownership is between Timothy Harrigan and Trevor Scovel. Tim was born in Africa and was in the Marines during the Iraq war in the early 2000s. Tim is now a professional Barber and has been barbering for over 20 years in the Fort Wayne area. Tim has made a name for himself as the owner of The Executive Barbershop. Tim has experience in business and trade, having apprenticed many other barbers under him over the years.

Trevor's expertise comes on the café side, having almost 12 years of food and beverage experience under his belt. Trevor has made a name for himself over the last seven years as the Beverage Director and General Manager of Copper Spoon (formally Wine Down). Trevor climbed into some nationally-ranked bartender competitions and was able to bring global recognition to Copper Spoon, having his bar team nominated for World's Best Cocktail Menu and Best American Bar Team in 2019. The name 'Copper Spoon' was Trevor's, and he joined the business as a partner in 2018 with the name change. Trevor also founded Cubeicle – a clear ice manufacturing company in Fort Wayne that provides clear ice cubes for restaurants all over the state. Trevor is a formally trained barman and has many certifications in alcohol and technical skills.

Tim and Trevor have set themselves up for success with the combined experience in running a food and beverage establishment and barbershop between the owners and their overall business sense. With Trevor comes the company Be Better Hospitality Group, which will also help oversee the operations and management of the success of Penny Drip. A team of hospitality professionals with over 100 years of experience between them.

Trevor plans on stepping down from Copper Spoon and can hand off responsibility at Cubeicle. He will be running the daily operations of Penny Drip as Tim oversees the barbershop side of Penny Drip and will still be running The Executive Barbershop business as well, located on the 7th floor of the PNC tower.

5. Dining, Entertainment, and Cultural Experience Opportunities

Offering innovative, community-centered experiences in Downtown Fort Wayne is an area of expertise that the established team at Penny Drip has continuously sought to provide locals and travelers. Penny Drip is multifaceted, well-beyond coffee, cocktails, and barbering; it is a distinctively unique concept that offers unmatched product and service quality in a welcoming and historically rich environment. No one is doing what Penny Drip is in the Fort Wayne market, and the team at Penny Drip takes pride in the opportunity to be the first to break through with such a concept.

As a sunup-to-sundown establishment, Penny Drip has the identity of being a space that invites individuals from all walks of life at an hour that works best for them. Whether a person wants a quick coffee or bite to eat before work or needs a space to collaborate with others on a project over cocktails, Penny Drip provides a space that caters to all. No other cafes in town are open in the early evening or into the night, opening the market to untapped potential in the Downtown Fort Wayne area.

From students and professionals to individuals and family outings, Penny Drip becomes a space that is open to the possibility of more, not just for the few but the masses. This space is equally Instagram-worthy, from the decor to the products, as it is a solace for studying or social gatherings. The team at Penny Drip is eager to offer a one-stop shop when it comes to hospitality. We look forward to providing high-quality products and services that bring people together, no matter the intention.

All in all, with Downtown Fort Wayne development on the rise, our community continues to seek out experiences that offer value, something different than what anyone else is doing. To retain college graduates and attract business professionals from across the country, Downtown Fort Wayne must strive to establish itself as a mecca

for economic growth and opportunity while offering cultural experiences that add to the evolving urban landscape. Penny Drip will pave the way for attracting and retaining individuals of all demographics to live, work, and come together in the vibrant region of northeast Indiana.

6. Draw to Downtown

The Fort Wayne market has countless opportunities. Our city is known as the "city of restaurants," and we can step in with the city's first-ever standalone coffee-cocktail bar concepts. Every cocktail bar in Fort Wayne is a restaurant first, and every coffee shop closes too early and fails to deliver a unique coffee experience.

Overall, Downtown Fort Wayne targets young professionals in the 28–40-year range, with the most disposable income spent on dining and shopping. Indirectly, downtown will attract a wide variety of consumers, locally and those that are visiting. Penny Drip targets the 25-55-year crowd, looking for a place that fills many voids, from after-work drinks, dinner dates, and meetups with friends. All are offered within a space that feels more comfortable, modern, and accommodating than their local dive, less-frumpy-than-fine dining restaurants, and better than any other coffee shop in the surrounding area.

Our target market cares about the atmosphere, service, and quality of ingredients when choosing a place to go. 78% of people over 35 said quality ingredients are a deciding factor between one bar over another; 89% said the quality of atmosphere and service is more critical in deciding between one bar over another. Knowing these statistics, we can force our consumer product model to target these needs directly.

Fort Wayne has recently been nominated as one of the top 100 best cities to move to in 2020, alongside heavy hitters like Austin, Texas, and Denver, Colorado. Fort Wayne has consistently seen growth and has a metro population of roughly 430,000, with a city population of 275,000, an average household income of \$64,000, and a median age of 35. These average income numbers are higher than cities like Indianapolis, IN, by about 1.5x. Knowing that the 25-45-year range has the most significant spending in bars, Fort Wayne packs about 100,000 people that fall directly under this category alone. In 2019, 53% of alcohol purchased at bars was by the 35-64-year age group, with the most considerable disposable income.

7. Experience of Permit Holder & Operational Plan

As stated above, the Permit Holder, Trevor Scovel, has over a decade of alcohol serving experience. Initially working in the engineering field, Trevor found himself in the hospitality industry over the last five years- making a name for himself around the Midwest as a famed bartender, quickly becoming a managing partner and founder of Copper Spoon, Sidecar, and Cubeicle Ice & Co. At Copper Spoon and Sidecar, his day-to-day titles include beverage director and general manager. Cubeicle, a clear ice company founded in 2018, brings clear ice to Indiana for the first time. In 2018, Trevor advanced into the World Class national rank as a top 15 bartender in the United States, ultimately finishing top five. In 2020, he was accepted into the highly acclaimed BAR-5 DAY Spirit Education Program, securing a top 10 spot in the class. In 2020, under the direction of Trevor, Copper Spoon was recognized by the most respected industry professionals in the annual Spirited Awards. Copper Spoon earned a nomination for Best American Bar Team and World's Best Cocktail Menu – listing a Fort Wayne bar and restaurant next to iconic, industry heavyweights across the globe.

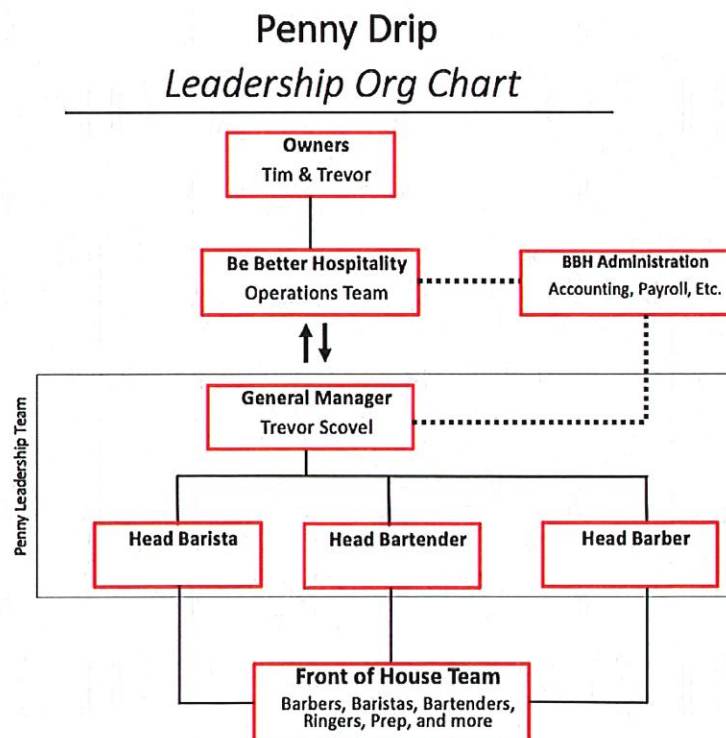
The primary operations and creative control will come from Be Better Hospitality Group, holding a management agreement with Penny Drip. Critical functions will take place with a few simple principles: Financials, Education, and Communication. As the General Manager, Trevor will work closely with the entire staff to control costs by running inventories and using inventory management systems that auto-sync with the POS system. The manager

will work closely with the team to continue education by holding frequent meetings that engage in hospitality, coffee, and alcohol education. The manager can bring in guest speakers and trainers to work closely with the staff on technical skills and spirits knowledge and use the Be Better team to facilitate additional education. Communication effectiveness will be achieved among the group with close communication & enterprise tools like Slack, Email, Dropbox, and Trello.

Mitigating risk is all about the constant review of reality vs. model. We can assume the three most significant risks are: occupancy, guest spending, and costs. Each one of these situations will bring its own set of mitigants. If occupancy isn't what we expected, we can investigate our targeted marketing efforts and see our shortfalls while also being conscious of reducing labor in situations where we have excess on slower nights. If guest spending is too low, we can look at product mix reports, review what items are selling well, and check our pricing models to see if prices need to adjust to encourage guest spending. Costs coming in too high are both preventative and reactive. We can prevent inflating costs by holding monthly financial meetings with not just Penny Drip leadership but with Be Better's team and keeping a close watch on inventory, labor, and any additional spending. By holding each department accountable for its costs, they should stay consistent. If we react to inflated prices, it is simple to reduce in each department by looking at reduced menu size, reducing labor, and, if needed, temporary reduction in management salaries. In the last case scenario, we can work with vendors to ensure we take advantage of the most savings possible.

Overall, on job creation and other help wise, we expect to require an average of 950 hours a month in hourly labor. We are open for just over 400 hours a month, which translates to an average of 2-3 hourly employees per hour to make operations smooth, roughly 300 hours a week between all positions. We expect to hire about 15 hourly employees at open and find a core of about six full-time (30-35 hours per week) and 6-8 part-time positions (15-25 hours per week). We will not be paying any position under \$15 an hour, including tipped baristas, as we do not believe the labor pool will support any wage less than \$15. We can quickly fill labor needs with talented individuals to add to better overall sales by offering higher wages.

Sample Org. Chart



**CITY OF FORT WAYNE
AGREEMENT
WITH Penny Drip LLC
REGARDING AN APPLICATION FOR A RIVERFRONT LIQUOR LICENSE**

This Agreement (the "Agreement") is entered as of the Effective Date (as hereinafter defined) by the City of Fort Wayne, Indiana (the "City") and Penny Drip LLC ("Applicant") (the City and Applicant being collectively referred to herein as the "Parties"), regarding the establishment proposed at 815 Lafayette Street, Fort Wayne, IN 46802. The Parties, in consideration of the mutual covenants, obligations and agreements set forth herein, agree as follows:

WHEREAS, Fort Wayne Common Council Ordinance R-106-15 (the "Ordinance") provides that all applicants seeking a Riverfront liquor license as described in Ind. Code 7.1-3-20-16 shall enter into a formal agreement with the City; and

WHEREAS, the Parties desire to enter into this Agreement to encourage: (a) downtown revitalization; (b) expansion and strengthening of the downtown dining landscape; and (c) riverfront development; and

WHEREAS, the Applicant will be investing in the development and construction of a dining establishment within the boundaries of the municipal riverfront development area;

NOW, THEREFORE, for and in consideration of the mutual considerations hereinafter set forth, the parties hereto agree as follows:

1. **Purpose of the Agreement.** The purpose of this Agreement is to establish the mutually contemplated and agreed upon requirements for initial and annual renewal recommendations for the Applicant's Riverfront liquor license.

2. **Definitions.**

a. The "Application" means the Downtown Dining District Liquor License Application, dated October 21, 2021, a copy of which is attached hereto as Exhibit 1 and incorporated hereby by reference.

b. "Permit" means the Applicant/Permit Holder's type 221-3 Riverfront Liquor License as issued by the Indiana Alcohol and Tobacco Commission.

c. "Effective Date" means the date on which the second of the Parties executes the Agreement.

3. **Term of the Agreement.** This Agreement shall commence on the Effective Date and shall continue until such time as the permit is lost, revoked, or not renewed.

4. **Responsibilities of Applicant.** Applicant has made certain representations and covenants to the City in the Application regarding the planned Permit premises, including the amount of private sector investment, and the type of establishment planned. Applicant represents and covenants that it will use its best efforts to continuously maintain in all material respects the following Eligibility Requirements and District Requirements:

Eligibility criteria:

- a. The focus of operation will be on a dining, entertainment or cultural experience rather than solely an alcohol consumption experience.
- b. The establishment is not and will not convert to be a private club, nightclub, or adult entertainment venue.

District Requirements:

- a. Establishments receiving permits within the Downtown Dining District are required to achieve within thirty-six (36) calendar months following the date on which applicant's business is open to the public, and thereafter maintain, an annual ratio of non-liquor sales to total sales of at least 50%.
- b. The licensed establishment will be actively open for business and fully operational a minimum of 300 (three hundred) days per year, and a minimum of 5 (five) nights per week.
- c. The Applicant shall comply with all local and ATC application and renewal procedures.
- d. The Applicant shall contribute to the Economic Improvement District for the Downtown Area of the City of Fort Wayne ("Downtown Improvement District"), annual dues in the amount of Two Thousand Five Hundred Dollars (\$2500.00).

5. Reporting Obligations of Applicant.

- a. The Applicant shall submit to the City documentation of compliance including the following reports:
 - i. A revenue report indicating the total annual non-liquor and liquor sales.
 - ii. A report indicating the total number of days open during the last year, along with a schedule of current operating hours.
 - iii. Proof of payment to the Downtown Improvement District for the annual Downtown Dining Association dues.
- b. Annual compliance reports will be submitted to the City during the term of the agreement, no later than 90 days prior to the annual renewal date of the establishment's permit.
- c. Applicant agrees to provide supplemental and/or clarifying information and data which the City may request in writing after reviewing the information submitted by Applicant pursuant to sub paragraph a. of this Section 5, within fifteen (15) days following City's request.

Applicant shall certify under oath the accuracy of all information submitted to the City under this Section 5.

6. **Non-Compliance:** If the City determines in its sole discretion that the Applicant is not in compliance with the requirements of this Agreement in any material respect, the City may, following thirty (30) days written notice to Applicant which shall provide the Applicant an opportunity to explain the reasons for the noncompliance and the opportunity to cure, take any action the City deems appropriate, including the following steps:

- a. Termination of this Agreement

- b. Notice to the Indiana Alcohol and Tobacco Commission of non-compliance with the agreement, including a request for non-renewal of the Applicant's permit.
- c. A copy of the notice in Section 6 item b., above provided to the local ATC board and Excise office, requesting a recommendation to the state ATC office for non-renewal of the Applicant's permit.

Applicant hereby forever releases the City and the Downtown Improvement District, their directors, officers, employees, agents, representatives, departments and divisions, from any and all claims, demands, liabilities or causes of action of every kind and nature, whether now existing or hereafter arising, both known and unknown, which Applicant has or may have against the City or the Downtown Improvement District which is in any manner related to the termination of this Agreement by the City or the Applicant for any reason.

7. **Notice to Parties.** Any notice, statement or other communications sent to the City or the Applicant shall be sent to the following addresses, unless otherwise specifically advised.

To the City of Fort Wayne:

City Attorney – City of Fort Wayne
200 East Berry St., Suite 430
Fort Wayne, IN 46802
PH:
e-mail:

To Trevor Scovel _____:

815 Lafayette Street

Fort Wayne, IN 46802
PH: (260) 444-1380
e-mail: trevor@bebetterhospitality.com

8. **Authority to Bind.** Notwithstanding anything in this Agreement to the contrary, the signatory for the Applicant represents that he/she has been duly authorized by the Applicant to execute this Agreement and to bind the Applicant to each of the representations, covenants, and obligations of Applicant contained herein.

9. **Amendment of this Agreement.** This Agreement or any portion hereof may only be amended by a writing executed by the Parties.

10. **Assignability.** The Applicant shall not assign this Agreement or any portion thereof without the prior written consent of the City, which consent may be withheld at the City's discretion.

11. **Remedies not impaired.** No delay or omission of any party in exercising any right or remedy available under this Agreement shall impair any such right or remedy, or constitute a waiver of any default or acquiescence thereto.

12. **Compliance with Laws.** The Applicant agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances and all provisions required thereby, whether now existing or hereafter enacted, which are included and incorporated by reference herein, in Applicant's performance under this Agreement.

Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, Applicant shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of such person's race, color, religion, sex, disability, national origin, handicap or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

The Applicant affirms under the penalties of perjury that the Applicant does not knowingly employ an unauthorized alien. The Applicant affirms under the penalties of perjury that the Applicant has enrolled and is participating in the E-Verify program as defined in IC 22-5-1.7-3. The Applicant agrees to provide documentation to the State of Indiana that the Applicant has enrolled and is participating in the E-Verify program. Additionally, the Applicant is not required to participate if the Applicant is self-employed and does not employ any employees. The City may terminate for default if the Applicant fails to cure a breach of this provision no later than thirty (30) days after being notified by the City.

13. **Governing Laws.** This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana, notwithstanding its choice of law rules to the contrary or any other state's choice of law rules. Suit, if any, shall be brought in a court of applicable jurisdiction situated in Allen County, Indiana.

14. **Entire Agreement.** This Agreement, entered into of even date herewith, and any attachments hereto, contain the entire understanding of the Parties and this Agreement supersedes all prior agreements and understandings, oral or written, with respect to the subject matter enclosed herein and contemplated hereby.

15. **Indemnification and Release.** The Applicant shall indemnify, defend and hold harmless the City and the Downtown Improvement District and their divisions, department, directors, officers, employees, representatives and agents (collectively, the "Indemnitees") from and against all claims, demands, charges, lawsuits, costs and expenses (including legal costs and attorney's fees) caused by or associated with any act or omission of the Applicant and/or any of its contractors, subcontractors, vendors, suppliers, employees, representatives, licensees, invitees and/or authorized agents in connection with (a) the design, development, construction, operation, management and control of the Facility and (b) any and all activities of every kind and nature which occur in, on or about the Facility. Neither the City nor the Downtown Improvement District shall provide any indemnification hereunder to the Applicant. The Applicant hereby forever releases Indemnitees and each of them from any and all claims, demands

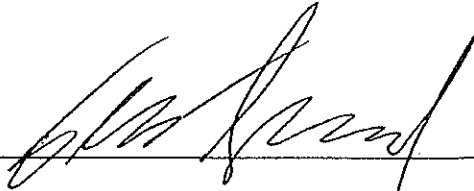
and charges, of every kind and nature, both known and unknown, whether now existing or hereafter arising, that Applicant has or may at any time in the future have against Indemnitees, or any of them, under this Agreement. In no event shall the City or the Downtown Improvement District be liable for any direct, indirect, special, incidental, consequential or punitive damages, costs or expenses arising from any act or omission to act by any party relating in any manner to this Agreement, the Application "as amended" or the activities described herein or therein or contemplated hereby or thereby. The covenants contained in this Section 18 shall survive the expiration or termination of the Agreement for any reason.

16. **Severability**. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses, or provisions of this Agreement.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement on the dates entered below.

The City of Fort Wayne

By: _____ Date: _____, 20____
Mayor



By: Trevor Scovel Date: 10/20/, 2021
owner